Limited-Profit Housing Companies	**PHFL Section 33(1) (a)**

Exemption Code(s):	Property used partly for purposes exempt under RPTL §422 and partly for housing for other low-income or middle-income tenants – code for portion of property used for housing for other low-income or middle-income tenants	4851_
	Property used for middle-income housing other than that eligible for any other exemption	4865_

Year Originally Enacted: 1955

Related Statutes: RPTL §§422, 490

SUMMARY: This exemption applies to two types of property:

1. Property owned by certain private housing companies and used both for housing for certain special groups specified in RPTL §422 and for housing for other low-income or middle-income persons (see Property Use Requirements below).

   For this type of property, the exemption under PHFL §33(1) (a) allows for a total or partial exemption from general municipal and school district taxes, as determined by local option, and a partial exemption from special ad valorem levies and special assessments. If 90% or more of the total property is used for one or more of the special groups covered by RPTL §422, the exemption under PHFL §33(1) (a) applies only to that portion of the property used for housing for other low-income or middle-income persons. If less than 90% of the total property is used for one or more of these special groups, the exemption under PHFL §33(1) (a) applies both to the portion used for the special groups and to the portion used for housing for other low-income or middle-income persons.

2. Property owned by limited-profit (Mitchell-Lama) housing companies and used for middle-income housing other than that eligible for any other exemption. For this type of property, the exemption under PHFL §33(1) (a) allows for a partial exemption from general municipal and school district taxes, if permitted by local option; no exemption from special ad valorem levies and special assessments is allowed.

A. ELIGIBILITY REQUIREMENTS:

1. **Ownership Requirements:**

   a. For property used partly for purposes exempt under RPTL §422 and partly for housing for other low-income or middle-income tenants:

   Ownership requirements vary according to the special group being served by the housing company project. The owners eligible for exemption are as follows:

Special Group and Type of Project	Owner
Aged or handicapped of low income (housing)	Housing development fund company (not-for-profit)
Aged or handicapped of low income, child-care institution residents or employees, educational institution students, faculty, or staff, hospital patients or staff, and medical research institute attendees or employees (housing and auxiliary facilities)	Limited-profit (Mitchell-Lama) housing company (not-for-profit)
Sick (nursing home or other health-related facility)	Nursing home company (not-for-profit)

   For each type of owner there are specific organizational requirements:

   Housing development fund company (not-for-profit):

   Laws under which incorporation required: PHFL Article 11 & NPCL or PHFL Article 11, PHFL Article 2, & NPCL.

   Restrictions on corporate purposes or activities as stated in certificate of incorporation: (1) Corporation must be organized exclusively to develop a housing project for persons of low income, (2) all income of corporation must be used exclusively for its corporate purposes, and (3) none of corporation's net income may inure to the benefit or profit of any private individual or organization.

Limited-profit (Mitchell-Lama) housing company (not-for-profit):

Laws under which incorporation required: PHFL Article 2 & NPCL.

Restrictions on corporate purposes or activities as stated in certificate of incorporation: (1) Company must be organized exclusively to provide (a) housing and auxiliary facilities for staff members, employees, or students of a college, university, hospital, or child-care institution and their immediate families, (b) housing and auxiliary facilities for aged or handicapped persons of low income, or (c) low-income housing financed or aided by a municipality, New York State, or the federal government, (2) if company is organized for purpose (a) above, its directors or trustees must be officers, directors, or trustees of the college, university, hospital, or child-care institution, (3) if company is organized for purposes (b) or (c) above, its directors or trustees must be officers, directors, or trustees of a corporation organized under the NPCL, and (4) none of the net income of the college, university, hospital, child-care institution, or not-for-profit corporation may inure to the benefit of any private individual.

Nursing home company (not-for-profit):

Laws under which incorporation required: Pub Hel L Article 28-A & NPCL.

Restrictions on corporate purposes or activities as stated in certificate of incorporation: (1) Company must be organized to plan, construct, acquire, alter, reconstruct, rehabilitate, own, maintain, and operate nursing homes and other health-related facilities for persons of low income subject to the supervision of the State Commissioner of Health, (2) all income of company must be used exclusively for its corporate purposes, and (3) none of company's net income may inure to the benefit or profit of any private individual or organization.

b. For property used exclusively for middle-income housing other than that eligible for any other exemption:

Owner must be a limited-profit (Mitchell-Lama) housing company. The specific organizational requirements are as follows:

Limited-profit (Mitchell-Lama) housing company (co-op):

Law under which incorporation required: PHFL Article 2.

Restrictions on corporate purposes or activities as stated in certificate of incorporation: (1) Company must be organized to plan, acquire, construct, own, maintain, and operate housing projects subject to the supervision of the State Commissioner of Housing or other appropriate agency, (2) no director or subscriber of company may receive, in repayment of his investment in the company's stock, any sum in excess of the par value of the stock, together with such dividends or other compensation permitted under PHFL Article 2, and (3) company's housing projects must, to the extent of at least 80%, be occupied by persons or families entitled to occupancy through ownership of shares in the company.

Limited-profit (Mitchell-Lama) housing company (other):

Law under which incorporation required: PHFL Article 2.

Restrictions on corporate purposes or activities as stated in certificate of incorporation: (1) Company must be organized to plan, acquire, construct, own, maintain, and operate housing projects subject to the supervision of the State Commissioner of Housing or other appropriate authority, and (2) no director or subscriber of company may receive, in repayment of his investment in the company's stock, any sum in excess of the par value of the stock, together with such dividends or other compensation permitted under PHFL Article 2.

In case of property used partly for purposes exempt under RPTL §422 and partly for housing for other low-income or middle-income tenants, a commitment must be made by the owning corporation providing that, upon dissolution of the corporation, title to the property will be assumed by a child-care institution, educational institution, medical research institute, or other not-for-profit corporation, as appropriate, (1) which is exempt under RPTL §420-a or §420-b and (2) which allows no part of its earnings to inure to the benefit of any private individual. If the organization taking title to the property fails to satisfy these two conditions, it may still take title but only upon payment to the municipality of a sum equal to the total of all accrued taxes, levies, and assessments from which the property has been exempt under RPTL §422.

2. **Property Location Requirements:** None.

3. **Property Use Requirements:**

   a. Property used partly for purposes exempt under RPTL §422 and partly for housing for other low-income or middle-income tenants:

   Part of the property must be used for one or more of the purposes described under section (a) of Ownership Requirements above and part must be used for housing for other low-income or middle-income tenants. In addition, for certain types of projects there are limits on tenant income: (1) housing for aged of low income owned by a not-for-profit housing development fund company, (2) housing and auxiliary facilities for aged of low income owned by a not-for-profit limited-profit (Mitchell-Lama) housing company, (3) housing for handicapped of low income owned by a not-for-profit housing development fund company, and (4) housing and auxiliary facilities for handicapped of low income owned by a not-for-profit limited-profit (Mitchell-Lama) housing company. For a description of the income limits, see Chart ID, PHFL Article 2, 31.

   b. Other property:

   Property must be used for housing for low-income or middle-income persons. The statute sets no limits on the income of middle-income tenants.

4. **Certification by State or Local Government:** Amount of tax exemption due to rental assistance payments under U.S. Housing Act 8 must be certified annually by the State Commissioner of Housing, the NYC Department of Housing Preservation and Development, or the comptroller or other chief fiscal officer of a municipality outside New York City, as appropriate.

5. **Required Construction Start Date or Other Time Requirement:** None.

B. LOCAL OPTION: Yes – For both types of property eligible for exemption.

a. For property used for purposes exempt under RPTL §422, see the Exemption Profile for that statute.

b. For other property: Each county, city, town, and village in which the property is located may choose (1) whether or not to allow the exemption for each project and (2) whether to allow exemption of all or part of the value authorized by state law. In addition, New York City has the option to choose among alternative limits on the minimum amount of taxes to be paid.

An existing exemption may be extended for an additional period following the expiration of the initial tax exemption period (see Limitations on Exemption below).

C. LIMITATION ON EXEMPTION:

1. **Property used partly for purposes exempt under RPTL §422 and partly for housing for other low-income or middle-income tenants :**

	General Municipal Taxes	School District Taxes	Special Ad Valorem Tax	Special Assessments
a. Amount	Local option may limit*	Local option may limit*	No limit	No limit
b. Duration	Yes**	Yes**	Yes**	Yes**
c. Taxing Jurisdiction				
1. County or County Special Districts	Ex***	NA	L	L
2. City	Ex***	NA	NA	Tax
3. Town or Town Special District	Ex***	NA	L	L
4. Village	Ex***	NA	NA	Tax
5. School District	NA	Ex***	NA	NA

	Ex-Exempt Tax-Taxable NA-Not Applicable
	L - Liable only for (1) county and town charges for capital costs of sewer systems, water supply systems, waterways and drainage improvements, and streets and highways, plus (2) special assessments for indebtedness contracted before 7/1/53

* Property acquired for rehabilitation purposes - local option may limit amount to part of total value of project; other property - local option may limit to part of the increase in assessed value over the value of the property at the time of acquisition by the housing company. In addition, minimum limits are set on the amount of taxes that must be paid. Outside New York City, general municipal and school district taxes paid must be no less than 10% of the annual shelter rent or carrying charges of the project. In New York City, either (1) general municipal and school district taxes paid may not be less than 10% of the annual shelter rent or carrying charges of the project or (2) if agreed to by the city, general municipal and school district taxes may be (a) no less than the taxes payable in 1973 or (b) if the project was not occupied in 1973, no less than 10% of the annual shelter rent or carrying charges first established as the maximum that tenants may be charged. ("Shelter rent" equals the total rents received from occupants of a project minus the cost of providing electricity, gas, heat, and other utilities. Total rents include rent supplements and subsidies received from the federal government, the state, or a municipality on behalf of the occupants, but do not include interest reduction payments received under 201(a) of the Federal Housing and Urban Development Act of 1968. In the case of co-op projects, carrying charges, rather than shelter rent, apply.)

** Duration of the exemption is limited to the period during which the mortgage loans of the housing company, including any additional mortgage loan, if approved by the State Commissioner of Housing & Community Renewal or other supervising agency, the proceeds of which are used primarily for the residential portion of the project, are outstanding. (The provision covering additional mortgage loans was enacted on June 30, 1989, became effective as of July 1, 1987, and applies to any projects whose tax exemption expired on or after July 1, 1987. Reinstatement of the exemption on affected assessment or tax rolls must be done through the correction of clerical errors or unlawful entries, whichever is appropriate, as described in RPTL Title 3, Article 5.)

After the tax exemption period has expired, each county, city, town and village in which the property is located may choose to grant an additional exemption period, of up to 50 years, or until such time as the project no longer complies with the operating requirements of the Mitchell-Lama Program, whichever is sooner.

*** If allowed by local option.

2. **<u>Property used exclusively for housing for other low-income or middle-income tenants</u>**:

	General Municipal Taxes	**School District Taxes**	**Special Ad Valorem Tax**	**Special Assessments**
a. Amount	Local option may limit*	Local option may limit*	No exemption allowed	No exemption allowed
b. Duration	Yes**	Yes**	No exemption allowed	No exemption allowed
c. Taxing Jurisdiction				
1. County or County Special Districts	Ex***	NA	Tax	Tax
2. City	Ex***	NA	NA	Tax
3. Town or Town Special District	Ex***	NA	Tax	Tax
4. Village	Ex***	NA	NA	Tax
5. School District	NA	Ex***	NA	NA
	Ex-Exempt	**Tax-Taxable**	**NA-Not Applicable**	

* Property acquired for rehabilitation purposes - local option may limit amount to part of total value of project; other property - local option may limit to part of the increase in assessed value over the value of the property at the time of acquisition by the housing company. In addition, minimum limits are set on the amount of taxes that must be paid. Outside New York City, general municipal and school district taxes paid must be no less than 10% of the annual shelter rent or carrying charges of the project. In New York City, either (1) general municipal and school district taxes paid may not be less than 10% of the annual shelter rent or carrying charges of the project or (2) if agreed to by the city, general municipal and school district taxes may be (a) no less than the taxes payable in 1973 or (b) if the project was not occupied in 1973, no less than 10% of the annual shelter rent or carrying charges first established as the maximum that tenants may be charged.

(Shelter rent" equals the total rents received from occupants of a project minus the cost of providing electricity, gas, heat, and other utilities. Total rents may or may not include rent supplements and subsidies received from the federal government, the state, or a municipality on behalf of the occupants, but do not include interest reduction payments received under 201(a) of the Federal Housing and Urban Development Act of 1968. In the case of co-op projects, carrying charges, rather than shelter rent, apply.)

** Duration of the exemption is limited to the period during which the mortgage loans of the housing company, including any additional mortgage loan, if approved by the State Commissioner of Housing & Community Renewal or other supervising agency, the proceeds of which are used primarily for the residential portion of the project, are outstanding and the project continues to be operated as a limited-profit housing project. (The provision covering additional mortgage loans was enacted on June 30, 1989, became effective as of July 1, 1987, and applies to any projects whose tax exemption expired on or after July 1, 1987. Reinstatement of the exemption on affected assessment or tax rolls must be done through the correction of clerical errors or unlawful entries, whichever is appropriate, as described in RPTL Title 3, Article 5.)

After the tax exemption period has expired, each county, city, town and village in which the property is located may choose to grant an additional exemption period, of up to 50 years, or until such time as the project no longer complies with the operating requirements of the Mitchell-Lama Program, whichever is sooner.

*** If allowed by local option.

D. PAYMENTS IN LIEU OF TAXES: None required.

E. CALCULATION OF EXEMPTION:

1. **General Municipal and School District Taxes:**

   a. Property used partly (90% or more) for purposes exempt under RPTL §422 and partly (10% or less) for housing for other low-income or middle income tenants:

   See Calculation of Exemption section of Exemption Profile for RPTL §422.

   b. Property used partly (less than 90%) for purposes exempt under RPTL §422 and partly (more than 10%) for housing for other low-income or middle-income tenants:

   Amount of property value eligible for exemption: % of property's assessed value allowed by local option – either the locally approved % of total property value (rehabilitation projects) or the locally approved % of increase in total property's assessed value over value at time of acquisition (other projects). See example on next page.

   Example 1:

   (a) Location of property: Any municipality in state
   (b) Type of project: Rehabilitation
   (c) Total assessed value of property = $600,000
   (d) % of assessed value allowed by local option for Use (f) below = 50% of total assessed value
   (e) % of property used for purposes exempt under RPTL §422 = 70%
   (f) % of property used for housing for other low-income or middle-income tenants = 20%
   (g) % of property used for other purposes = 10%

   Amount of property value eligible for exemption equals:
   c x d x (e + f) = $600,000 x 50% x (70% + 20%) = $270,000

   (subject to minimum limits on taxes payable described under Limitations on Exemption above)

   Example 2:

   (a) Location of property: Any municipality in state
   (b) Type of project: Non-Rehabilitation
   (c) Increase in assessed value over value of property at time of acquisition by housing company = $120,000
   (d) % of assessed value allowed by local option for Use (f) below = 80% of increase in assessed value
   (e) % of property used for purposes exempt under RPTL §422 = 70%
   (f) % of property used for housing for other low-income or middle-income tenants = 20%
   (g) % of property used for other purposes = 10%

   Amount of property value eligible for exemption equals:

c x d x (e + f) = $120,000 x 80% x (70% + 20%) = $86,400

(subject to minimum limits on taxes payable described under Limitations on Exemption above)

c. Property used for housing for other low-income or middle-income tenants:

Amount of property value eligible for exemption: % of property's assessed value allowed by local option - either the locally approved % of total property value (rehabilitation projects) or the locally approved % of increase in total property's assessed value over value at time of acquisition (other projects). See example on next page.

Example:

(a) Location of property: Any municipality in state
(b) Type of project: Rehabilitation
(c) Total assessed value of property: $600,000
(d) % of assessed value allowed by local option for Use (e) below = 50% of total assessed value
(e) % of property used for housing for other low-income or middle-income tenants = 60%
(f) % of property used for other purposes = 40%

Amount of property value eligible for exemption equals:
c x d x e = $600,000 x 50% x 60% = $180,000

(subject to minimum limits on taxes payable described under Limitations on Exemption above)

2. **Special Ad Valorem Levies and Special Assessments**:

a. Property used partly (90% or more) for purposes exempt under RPTL §422 and partly (10% or less) for housing for other low-income or middle-income tenants:

Those portions of the property used for these purposes are exempt from all levies and assessments except (1) charges levied to pay for the capital costs of sewer systems, water supply systems, waterways and drainage improvements, and streets and highways, and (2) special assessments for indebtedness contracted before 7/1/53. The exemption does not apply to special assessments imposed by cities or villages.

b. Property used partly (less than 90%) for purposes exempt under RPTL §422 and partly (more than 10%) for housing for other low-income or middle-income tenants:

Those portions of the property used for these purposes are exempt from all levies and assessments except (1) charges levied to pay for the capital costs of sewer systems, water supply systems, waterways and drainage improvements, and streets and highways, and (2) special assessments for indebtedness contracted before 7/1/53. The exemption does not apply to special assessments imposed by cities or villages.

c. Property used for housing for other low-income or middle-income tenants:

No exemption allowed.

F. CODING OF EXEMPTION ON ASSESSMENT ROLL:

Code	Description of Alternative Codes Possible
4851	Property used partly for purposes exempt under RPTL §422 and partly for housing for other low-income or middle-income tenants – code applies to portion of property used for housing for other low-income or middle-income tenants
4865	Property used for middle-income housing other than that eligible for any other exemption

Assessment Roll Section(s): Taxable (ARLM Section 1)

NOTE: These codes should not be used to identify property that is exempt under any of the statutes listed under Similar Exemptions below.

G. FILING REQUIREMENTS (Owner or Occupant of Property): None.

H. **REPORTING REQUIREMENTS (Assessor):** None.

I. **SIMILAR EXEMPTIONS:** See Chart IA and Chart IB.