

## Exemption Administration Manual - Part 2 Industrial, Commercial, and Public Service

### Section 4.06 - RPTL 489-bbbbb

#### Mixed-Use Properties in New York City

#### RPTL 489-bbbbb

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**Exemption Code(s):** 47680

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**Year Originally Enacted:** 1995

**Related Statutes:** RPTL Title 2; §§489-ddd; 489-bbbb

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**SUMMARY:** Properties on which residential construction work or a combination of residential and commercial construction work is performed to create a building used for mixed residential and commercial purposes, which are located in a designated area of Manhattan, and which are certified by the NYC Department of Finance are partially exempt from taxation, but liable for special assessments. The amount and duration of the exemption depends on whether the project has been accorded landmark status. If the project is designated by local law as a landmark, 100% of the base amount is exempt during the first 9 years of the exemption, 80% is exempt in the 10th year, 60% is exempt in the 11th year, 40% is exempt in the 12th year and 20% is exempt in the 13th year. If the project is not so designated, 100% of the base amount is exempt during the first 8 years of the exemption, 80% is exempt in the 9th year, 60% is exempt in the 10th year, 40% is exempt in the 11th year and 20% is exempt in the 12th year. This exemption is not available for a new structure. Dwelling units in mixed-use buildings receiving benefits under this program are subject to rent stabilization during the benefit period. Application for a certificate of eligibility for this program must be made between July 1, 1995 and June 30, 1999, and all building permits must be issued by July 31, 1999. Benefits received under this program may not be combined with benefits received under other related statutes, as listed above, for the same tax lot.

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#### A. ELIGIBILITY REQUIREMENTS:

1. **Ownership Requirements:** Facility must be owned or operated by a private or public individual or organization.
2. **Property Location Requirements:** Property must be located in New York City within a mixed use construction exemption area" of Manhattan, as designated in RPTL §489-aaaaa (12). Any parcel which is partly located inside this designated area is considered to be entirely located inside this area.
3. **Property Use Requirements:**
  - a. Benefits under this exemption are reserved exclusively for: 1) residential construction work, other than dwelling units in a hotel, or 2) a combination of residential and commercial construction work which, after completion of the construction work, will qualify as mixed-use property. Projects that involve construction work exclusively for commercial purposes are not eligible for this exemption.
  - b. Following completion of construction work on a mixed-use property, more than 25% of the aggregate floor area of the building or structure (sum of the gross areas of the floors of the building or structure) must be used or held out for use as commercial (including hotel services), community facility or accessory use space.
  - c. No new buildings or structures are eligible for this exemption.
  - d. The building or structure cannot be used in whole or in part for those entertainment activities that the NYC Department of Finance has determined not to be in the public interest.
  - e. Construction work on any condominium unit is ineligible, unless such unit is in a building or structure which, if viewed as a whole and as if it were under single ownership, would qualify as a mixed-use property.
  - f. If a local law exists providing for the stabilization of rents in multiple dwellings, the rents of the dwelling exempt under this program are subject to control under that local law for the entire period during which the eligible multiple dwelling receives benefits under this program, unless they are exempt from such control by reason of cooperative or condominium status. This period may be extended if rent-control provisions other than those contained in this program become applicable.
4. **Certification by State or Local Government:** Project must be certified for eligibility by the NYC Department of Finance.

5. **Required Construction Start Date or Other Time Requirement:** The minimum required expenditure is an amount equal to 20% of the "initial assessed value," defined as the lesser of (1) the taxable assessed value of the real property appearing on the assessment roll on the effective date of the recipient's certificate of eligibility or (2) the assessed value as reduced by the NYC Tax Commission or court order. The Department of Finance may establish by rule a higher percentage of initial assessed value, not to exceed 50% thereof, if it determines that a greater expenditure is required to encourage significant development of mixed-use property.

The minimum required expenditure for any recipient of a certificate of eligibility for construction work on a condominium unit is equal to the minimum required expenditure which would apply if a certificate of eligibility were issued for construction work on the entire property where the unit is located. (NOTE: Owners of condominium units on the same property may form an association to be a recipient of this exemption.) A recipient with a certificate of eligibility with an effective date of July 1, 1995 or after must make ½ of the minimum required expenditure within 18 months of the certificate's effective date, and must make the total minimum required expenditure within 36 months of the effective date. Application for a certificate of eligibility under this program may be made between July 1, 1995 and June 30, 1999, but no benefits under this program may be granted for construction work performed under a building permit issued after July 31, 1999.

B. **LOCAL OPTION:** No.

C. **LIMITATION ON EXEMPTION:**

	General Municipal Taxes	School District Taxes	Special Ad Valorem Tax	Special Assessments
1. Amount	Yes*	Yes*	NA	No exemption allowed
2. Duration	Yes*	Yes*	NA	No exemption allowed
3. Taxing Jurisdiction				
a. City	Ex	NA	NA	Tax
b. School District	NA	Ex	NA	NA
	Ex-Exempt	Tax-Taxable	NA-Not Applicable	

\*Limitation on amount and duration vary by type of project – see Calculation of Exemption below.

D. **PAYMENTS IN LIEU OF TAXES:** None required.

E. **CALCULATION OF EXEMPTION:**

1. **General Municipal and School District Taxes:** The amount of exemption is calculated as a percentage of the exemption base," as indicated below:

Year following Issuance of Certificate of Eligibility	Exemption Base
1 - 5	Assessed value of improvements made since the effective date of such certificate which are attributable exclusively to residential construction work or a combination of residential and commercial construction work described in approved plans
All later years	Assessed value of such improvements made before the 6th taxable status date following issuance of the certificate

The percentage and duration of the exemption vary by type of project, as follows:

- a. Mixed-Use Construction Project (except designated landmarks):

Year following Issuance of Certificate of Eligibility	Percentage of Exemption
1 - 8	100

9	80
10	60
11	40
12	20

b. Mixed Use Construction Project Designated as a Landmark:

<u>Year following Issuance of Certificate of Eligibility</u>	<u>Percentage of Exemption</u>
1 - 9	100
10	80
11	60
12	40
13	20

Note: Building or structure must be designated as a landmark before the date the recipient is required to complete the minimum required expenditure.

2. Special Ad Valorem Levies and Special Assessments: No exemption allowed.

F. **CODING OF EXEMPTION ON ASSESSMENT ROLL:**

<u>Code</u>	<u>Description of Alternative Codes Possible</u>
47680	

**Assessment Roll Section(s):** Taxable.

**NOTE:** This code should not be used to identify property that is exempt. See the exemption profile for the statute that applies.

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

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

I. **SIMILAR EXEMPTIONS:** See Charts [IA](#) and [IB](#) under Multiple Dwellings

<u>Subject</u>	<u>Statute</u>
Branch banks in banking development districts	RPTL §485-f
Business investment property	RPTL §485-b
Commercial properties in designated areas of Manhattan (New York City)	RPTL §499-b
Commercial properties in New York City except designated areas of Manhattan	RPTL §499-bb
Industrial and commercial properties in New York City (project certified by NYC Department of Finance)	RPTL §489-bbbb
Industrial and commercial properties in New York City (project certified by NYC Department of Finance after June 30, 2008)	RPTL §489-bbbbbb
Mixed-use Property in certain municipalities	RPTL §485-a
Municipal industrial development agencies	RPTL §412-a & Gen Muny L §874
NYS Urban Development Corporation (industrial project)	McK U Con L §6272
Property improvements in empire zones	RPTL §485-e

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