

## Exemption Administration Manual - Part 2

### Multiple Dwellings

#### Section 4.07 - PHFL Section 36-a(4)

**Municipally Owned Housing Projects Sold or Leased  
to Housing Development Fund Company or  
Limited-Profit Housing Company**

**PHFL Section 36-a(4)**

Exemption Code(s): 3860\_\_

Year Originally Enacted: 1968

Related Statutes: PHFL Article 11

**SUMMARY:** A municipally owned housing project that is (1) sold or leased for not more than 99 years to a housing development fund company or a limited-profit (Mitchell-Lama) housing company and (2) used for low-income, moderate-income, or middle-income housing is exempt from taxation to the extent allowed by local option, but is liable for special ad valorem levies and special assessments.

#### A. ELIGIBILITY REQUIREMENTS:

1. **Ownership Requirements:** Property must have been owned by a municipality and subsequently sold or leased for not more than 99 years to a housing development fund company or a limited-profit (Mitchell-Lama) housing company. The specific organizational requirements for each of these housing companies are as follows:

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.

Housing development fund company (other):

Laws under which incorporation required: PHFL Article 11 & Bsns Corp L.

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, (3) none of corporation's net income may inure to the benefit or profit of any private individual or organization, and (4) each of corporation's housing projects must be operated exclusively for the benefit of persons or families entitled to occupancy in the project through ownership of shares in the corporation.

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

Laws 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, (2) no director or subscriber of the 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):

Laws 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 the 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

the stock, together with such dividends or other compensation permitted under PHFL Article 2.

2. **Property Location Requirements:** None.
3. **Property Use Requirements:** Property must be used for housing for low-income, moderate-income, or middle-income persons. For a description of the income limits on low-income tenants, see Chart ID, PHFL Article 2, §31, and Article 11, §§576, 577-a. The statute sets no limits on the income of moderate-income or middle-income tenants.
4. **Certification by State or Local Government:** None required.
5. **Required Construction Start Date or Other Time Requirement:** None.

**B. LOCAL OPTION:** Yes – Local option is authorized with respect to general municipal and school district taxes, but not special ad valorem levies or special assessments. The local legislative body of each county, city, town, village, and school district may choose (1) whether or not to allow the exemption for each project and (2) whether to allow the exemption of all or part of the value of the project.

**C. LIMITATION ON EXEMPTION:**

|                                       | General Municipal Taxes        | School District Taxes          | Special Ad Valorem Tax | Special Assessments  |
|---------------------------------------|--------------------------------|--------------------------------|------------------------|----------------------|
| 1. Amount                             | May be limited by local option | May be limited by local option | No exemption allowed   | No exemption allowed |
| 2. Duration                           | Yes*                           | Yes*                           | No exemption allowed   | No exemption allowed |
| 3. Taxing Jurisdiction                |                                |                                |                        |                      |
| a. County or County Special Districts | Ex**                           | NA                             | Tax                    | Tax                  |
| b. City                               | Ex**                           | NA                             | NA                     | Tax                  |
| c. Town or Town Special District      | Ex**                           | NA                             | Tax                    | Tax                  |
| d. Village                            | Ex**                           | NA                             | NA                     | Tax                  |
| e. School District                    | NA                             | Ex**                           | NA                     | NA                   |
|                                       | Ex-Exempt                      | Tax-Taxable                    | NA-Not Applicable      |                      |

\* Exemption is limited to the period during which the capital 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.)

\*\* If allowed by local option.

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

**E. CALCULATION OF EXEMPTION:**

1. **General Municipal and School District Taxes:** % of assessed value allowed by local option.
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> |
| 3860_       |  |

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

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

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

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

I. **SIMILAR EXEMPTIONS:** See [Chart IA](#) and [Chart IB](#).

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