Exemption Administration Manual - Part 2
Multiple Dwellings

Section 4.07 - RPTL Section 421-a

New Multiple Dwellings in New York City **RPTL Section 421-a**

Exemption Code(s): 48800

Year Originally Enacted: 1971

Related Statutes: None

SUMMARY: To the extent allowed by the city, new multiple dwellings in New York City that are constructed during a certain time period (see Required Construction Start Date below) are partially exempt from taxation, but liable for special assessments, provided that (1) the property is not exempt from taxation under any other law, (2) the project is located on land that, 36 months prior to start of construction, was vacant, predominantly vacant, underutilized, or improved with a nonconforming use, and (3) if the new dwelling replaces a demolished residential building and contains more than 20 dwelling units, the new dwelling satisfies certain conditions regarding the type or size of dwelling units provided.

For purposes of this exemption, new multiple dwellings also include projects which consist of new construction and either rehabilitation of an existing multiple dwelling or conversion of non-residential space into residential space (or a combination of such rehabilitation and conversion), provided that at least 51 percent of the floor space in the completed project is new space. If such projects are located within a designated area of Manhattan south of 110th Street (as designated in RPTL §489 (1)(c)), the project must receive a grant, loan or subsidy from a federal, state or local agency. If such projects are located within a designated area of Manhattan south of 110th Street (as designated in RPTL §489 (1)(c)), the project must receive a grant, loan or subsidy from a federal, state or local agency. If such projects are located within the Williamsburg-Greenpoint waterfront exclusion area of Brooklyn (as defined in RPTL §421-a (6) (a) (ii)), the project must provide affordable housing for persons or families of low and moderate income.

Exemption is not allowed if (1) the dwelling is located in an area where exemption has been disallowed by the NYC Department of Housing Preservation and Development because a tax incentive in the area is not needed, the dwelling is four or more stories in height, and construction began on or after January 1, 1982 or two years or more after exemption in the area was disallowed, (2) the area in which the property is located has been designated by the NYC Department of Housing Preservation and Development as one to be preserved for mainly non-residential purposes, (3) the property includes land mapped as a public park (except in certain cases – see Property Use Requirements below), or (4) the property includes land used for 10 or more consecutive years prior to October 1, 1971 as a "private park," as defined under Property Use Requirements below.

Four types of exemption are authorized by this statute: (1) a 13-year exemption for all multiple dwelling projects that comply with the eligibility requirements, (2) an 18-year exemption for certain types of projects located in Manhattan south of or adjacent to either side of 110th Street and all other projects that comply with the eligibility requirements (if begun after January 1, 1975 and before December 28, 2010), and certain projects located partially within the Greenpoint-Williamsburg waterfront exclusion area and partially outside the exclusion area but within Brooklyn Community District Number One (see Property Location Requirements below), (3) a 23-year exemption for certain types of projects located in Manhattan south of or adjacent to either side of 110th Street (if begun after July 1, 1992 but before December 28, 2010), and (4) a 28-year exemption for projects which are located in neighborhood preservation program areas, certain projects located wholly within the Williamsburg-Greenpoint waterfront exclusion area (see Property Location Requirements below), and certain other areas or which are subject to certain financing or tenant occupancy conditions.

Note: Legislation was signed into law in 2007 and 2008 that continues the eligibility requirements for new construction. These changes involve among other matters expansion of geographic exclusion areas within the city, provision of affordable housing units outside of these geographic exclusion areas, billable exempt value caps, dedicated funding for affordable housing units, affordability and rent stabilization requirements, and prevailing wage requirements. These and other legislative and local rule changes can be found at the Internet website of the New York City Department of Finance. This site also has links to the website of the city Department of Housing and Preservation Development.

A. ELIGIBILITY REQUIREMENTS:

1. **Ownership Requirements:** Property must be owned by a private individual or organization.

2. **Property Location Requirements:** In the case of all four types of exemption, the property must be located in New York City. In addition, it must not be located in an area where exemption has been disallowed by the NYC Department of Housing Preservation and Development because a tax incentive in the area is not needed, unless (1) the dwelling is less than four stories in height and (2) construction began before January 1, 1982 or within two years of the date that exemption was disallowed.

The property location requirements specific to each type of exemption are as follows:

a. 13-Year Exemption - None.

b. 18-Year Exemption - Property must not be located in an area excluded by local law from eligibility for the 13?year exemption. If the property is located in Manhattan south of or adjacent to either side of 110th Street, or if the project is located partially within the Greenpoint-Williamsburg waterfront exclusion area and partially outside the exclusion area but within Brooklyn Community District Number One, it must comply with certain additional requirements (see Property Use Requirements below).

c. 23-Year Exemption - Property must be located in Manhattan south of or adjacent to either side of 110th Street.

d. 28-Year Exemption - Property must be located in a neighborhood preservation program area as determined by the local housing agency as of 6/1/85, a neighborhood preservation area as determined by the NYC Planning Commission as of 6/1/85, an area eligible for mortgage insurance provided by the Rehabilitation Mortgage Insurance Corporation, an area receiving funding for a neighborhood preservation project pursuant to the Neighborhood Reinvestment Corporation Act (42 USC 180 et seq.) as of 6/1/85, or another area provided that certain requirements are met (see Property Use Requirements below). Property must not be located (1) in an area excluded by local law from eligibility for the 13-year exemption or (2) in Manhattan south of or adjacent to either side of 110th Street.

3. **Property Use Requirements:** The following requirements apply to all four types of exemption:

a. Project must be located on land that, 36 months prior to start of construction, was vacant, predominantly vacant, underutilized, or improved with a nonconforming use.

b. If the new dwelling replaces a demolished residential building and contains more than 20 dwelling units, the new dwelling must contain at least 5 dwelling units for each Class A dwelling unit demolished.

c. If the new dwelling contains more than 100 dwelling units, at least 15% of the units must contain 3-1/2 rooms or more and at least 10% of the units must contain 4-1/2 rooms or more, unless this requirement has been waived by the NYC Department of Housing Preservation and Development.

d. The property must not include land mapped as a public park, unless (1) for at least 10 years after mapping, the land has not been acquired by the state or city, (2) the city Department of Parks and Recreation has determined that the land is not required for public park purposes, (3) that department has no intention of acquiring the land, and (4) no moneys have been allocated for its acquisition.

e. The property must not include land used for 10 or more consecutive years prior to October 1, 1971 as a "private park," defined as a privately owned zoning lot in a densely developed area having a maximum size of 4,000 sq. ft., free of developments and containing only trees, grass, benches, walkways, and passive recreational facilities, which has been used and maintained during such period for such passive recreational activity by the general public without charge and with the consent and participation of the owner.

f. If a local law exists providing for the stabilization of rents in multiple dwellings, the rents of the dwelling exempt under RPTL §421-a are subject to control under that local law, unless they are exempt from such control by reason of cooperative or condominium status, for the entire period during which the property is receiving §421-a benefits or for the period during which the local law is in effect, whichever is shorter. This period may be extended if rent-control provisions other than those contained in RPTL §421-a become applicable.

g. The property must not be used as a hotel.

h. A project which consists of new construction and either rehabilitation of an existing multiple dwelling or conversion of non-residential space into residential space (or a combination of such rehabilitation and conversion) must set apart at least 51 percent of the floor space as new space.

Certain additional requirements apply only to the 18-year, 23-year, and 28-year exemptions. In the case of a property with an 18-year exemption which is part of a project where at least one or more buildings are located within the Greenpoint-Williamsburg waterfront exclusion area and where one or more buildings are located within Brooklyn Community District Number One, the total number of affordable units in the project located outside the exclusion area may not be greater than 200. In the case of other 18-year exemptions, 23-year exemptions and property located in Manhattan south of or adjacent to 110th Street and in the case of the 28-year exemption and property located in an area to 110th Street and in the case of the 28-year exemption and property located in an area other than those described in Property Location Requirements above: (1) construction of the project must be carried out with the substantial assistance of grants, loans, or subsidies from a federal, state, or local agency or (2) 20% of the dwelling units must be affordable to families of low or moderate income. In the case of the 28-year exemption on property wholly located within the Greenpoint-Williamsburg exclusion area, generally no less than 20% of the dwelling units must be affordable to persons or families of low or moderate income. We suggest that you contact the New York City Department of Housing Preservation and Development for further details concerning project eligibility.

4. **Certification by State or Local Government:** The NYC Department of Housing Preservation and Development must annually certify the owner's eligibility for exemption **unless** the department exercises its option to rely on the certification of eligibility provided by a licensed architect or engineer that is submitted by the exemption applicant. The certificate of eligibility must be annually filed with the assessor. The certificate of eligibility must be annually filed with the assessor.

5. **Required Construction Start Date or Other Time Requirement:**

   13-Year, 18-Year, and 28-Year Exemptions - Construction must have begun after January 1, 1975 and before December 28, 2010. If a project consists of two or more multiple dwellings constructed on a contiguous site and contains a total of not less than 1,000 dwelling units, each of the multiple dwellings is entitled to exemption provided that construction was begun before January 1, 1978 and completed by the date fixed by the NYC Department of Housing Preservation and Development, which may be no later than four years after the start of construction. Construction is considered as begun when excavation or alteration has begun in good faith on the basis of approved construction plans.

   23-Year Exemption - Construction must have begun after July 1, 1992 but before December 28, 2010. There is no statutory limit on the completion date.

B. LOCAL OPTION: In the case of the 13-year exemption: No. In the case of the 18-year, 23-year, and 28-year exemptions: Yes – The local housing agency may choose whether or not to allow the exemption. This option must be exercised through adoption of rules and regulations. However, in the case of all four exemptions, the city may, by enacting a local law, further restrict the eligibility requirements, scope of exemption (including eligible areas), and amount of benefits under this statute.

C. LIMITATION ON EXEMPTION:

	General Municipal Taxes	School District Taxes	Special Ad Valorem Levies	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**	

* See Calculation of Exemption below.
** If allowed by local option (18-year, 23-year, and 28-year eexemptions)

D. PAYMENTS IN LIEU OF TAXES: None required.

E. CALCULATION OF EXEMPTION:

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

   a. 13-Year Exemption – Unless further limited by local law, the following percentages of assessed value are eligible for exemption:

      During construction period
      (no more than three years
      immediately following commencement

of construction):	100%
After completion of construction:	
Years 1 and 2	100%
Years 3 and 4	80%
Years 5 and 6	60%
Years 7 and 8	40%
Years 9 and 10	20%

b. 18-Year Exemption – Unless further limited by local law, the following percentages of assessed value are eligible for exemption:

During construction period (no more than three years immediately following commencement of construction):	100%
After completion of construction:	
Years 1 - 11	100%
Year 12	80%
Year 13	60%
Year 14	40%
Year 15	20%

c. 23-Year Exemption – Unless further limited by local law, the following percentages of assessed value are eligible for exemption:

During construction period (no more than three years immediately following commencement of construction):	100%
After completion of construction:	
Years 1 and 12	100%
Years 13 and 14	80%
Years 15 and 16	60%
Years 17 and 18	40%
Years 19 and 20	20%

d. 28-Year Exemption – Unless further limited by local law, the following percentages of assessed value are eligible for exemption:

During construction period (no more than three years immediately following commencement of construction):	100%
After completion of construction:	
Years 1 - 21	100%
Year 22	80%
Year 23	60%
Year 24	40%
Year 25	20%

In the case of all four exemptions, if non-residential use exceeds 12% of the total floor area of a building granted exemption, the exempt value must be reduced by an amount equal to the percentage of the aggregate floor area by which the aggregate floor area of commercial, community facility, and accessory use space exceeds 12% of the aggregate floor area of the building. Accessory use space in this calculation does not include accessory parking located 23 feet or less above the curb level. If the building consists of two or more separately assessed parcels, the reduction in exempt value is applied first to those parcels that are unrelated to the residential use of the building. Only after such unrelated parcels are fully taxable may the remainder of the tax reduction be apportioned pro rata among the other parcels.

While not affecting the calculation of exempt value for assessment roll purposes, there is one more limitation on the exemption. The owner is annually liable for the amount of taxes payable in the tax year preceding the start of construction without regard to any tax exemption or abatement in effect prior to the start of construction.

2. **Special Assessments:** No exemption allowed.

F. CODING OF EXEMPTION ON ASSESSMENT ROLL:

Code	Description of Alternative Codes Possible
48800	

Assessment Roll Section(s): Taxable

NOTE: This code 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): The assessor must annually certify to the collecting officer the amount of taxes to be abated.

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