

New York City, N.Y., Rules, Tit. 28, Ch. 31, Refs & Annos
NEW YORK CITY CHARTER, CODE, AMENDMENTS & RULES
NEW YORK CITY RULES & REGULATIONS
TITLE 28. HOUSING PRESERVATION AND DEVELOPMENT
CHAPTER 31. TAX EXEMPTIONS UNDER § 420-C OF THE REAL PROPERTY TAX LAW.

Rules & Regulations of the City of New York are current with files received through December 31, 2022.

* Chapter added City Record Mar. 7, 1997 eff. Apr. 6, 1997. Note: There was no Statement of Basis and Purpose.
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New York City, N.Y., Rules, Tit. 28, § 31-01
NEW YORK CITY CHARTER, CODE, AMENDMENTS & RULES
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TITLE 28. HOUSING PRESERVATION AND DEVELOPMENT
CHAPTER 31. TAX EXEMPTIONS UNDER § 420-C OF THE REAL PROPERTY TAX LAW.

Rules & Regulations of the City of New York are current with files received through December 31, 2022.

§ 31-01. General Provisions.

(a) Scope. Sections 31-01 through 31-06 of this chapter shall govern the grant of tax exemption pursuant to [§420-c of the Real Property Tax Law](#), including the procedure for filing an application for tax exemption and the issuance of Certificates of Eligibility by the Office, for all such applications approved by the Department before September 28, 2004. Except as otherwise provided for in the definitions of “Housing Accommodations” in Sections 31-01 and 31-07 of this chapter, Sections 31-07 through 31-12 of this chapter shall govern the grant of tax exemption pursuant to [§420-c of the Real Property Tax Law](#), including the procedure for filing an application for tax exemption and the issuance of Certificates of Eligibility by the Office, for all such applications approved by the Department on or after September 28, 2004.

(b) Definitions.

Aggregate Floor Area. “Aggregate Floor Area” shall mean the sum of the gross areas of the several floors of a building, measured from the exterior faces of exterior walls or from the center lines of walls separating two buildings.

Allocation Document. “Allocation Document” shall mean a document issued by the Housing Credit Agency with respect to Real Property indicating either (i) that such Real Property has received a determination of credit eligibility, (ii) that such Real Property has received a binding reservation for tax credits or (iii) that such Real Property has been allocated tax credits pursuant to § 42 of the Code.

Application Date. “Application Date” shall mean the date of submission to the Office of a completed application (including all required documentation), as determined by the office for benefits under §§31-01 through 31-06 of this chapter.

Certificate of Eligibility. “Certificate of Eligibility” shall mean the certificate issued by the Office pursuant to § 31-04(d) of these Rules.

City. “City” shall mean the City of New York.

Code. “Code” shall mean the United States Internal Revenue Code of 1986, as amended.

Commissioner. “Commissioner” shall mean the commissioner of the Department of Housing Preservation and Development or the commissioner of any successor agency or department thereto or her or his designee.

Controlling Interest. “Controlling Interest” shall mean: (i) in the case of a corporation, direct or indirect ownership of a majority of shares of each class of voting stock in such corporation, and (ii) in the case of a partnership, a majority ownership in each general partner in such partnership.

Department. “Department” shall mean the Department of Housing Preservation and Development of the City or any successor agency.

Department of Finance. “Department of Finance” shall mean the Department of Finance of the City or any successor agency or department thereto.

Eligible Property. “Eligible Property” shall mean Real Property containing Housing Accommodations and conforming to the criteria listed in § 31-02(a) of these rules. Real property not containing Housing Accommodations is not Eligible Property. If a portion of Real Property is not Eligible Property, tax exemption shall be apportioned in accordance with § 31-03(b) of this chapter. Eligible Property shall be exempt if a Regulatory Agreement with the City or the State or the Housing Trust Fund Corporation is in effect and contemplates construction or rehabilitation of such property for use for housing for persons of low income by a date certain.

Housing Development Fund Company or HDFC. “Housing Development Fund Company or HDFC” shall mean a corporation organized pursuant to Article XI of the Private Housing Finance Law and incorporated pursuant to [§ 402 of the Not-For-Profit Corporation Law](#).

Housing Accommodations. “Housing Accommodations” shall mean Real Property used for (i) residential purposes including dwelling units, common sanitary and cooking and dining facilities, common recreation areas including outdoor recreation

areas and public areas such as cellars, basements, public halls and stairs and roofs; (ii) ancillary residential purposes including management, administrative and social service offices and facilities used to provide social services (including Job Training) primarily for Persons or Families of Low Income residing in such Housing Accommodations; or (iii) for projects with an Initial Filing Date on or after July 1, 2004 and before the effective date of the rule adding §§31-07 through 31-12 of this chapter, community facility uses that (A) provide services to individuals who reside in the area, (B) limit any fees charged for such community facility uses to fees that are affordable to individuals whose household incomes do not exceed sixty percent (60%) of the area median income adjusted for family size, and (C) are located on the same Real Property as the dwelling units that constitute such Housing Accommodations. Notwithstanding the foregoing, any portion of the combined floor area of such ancillary residential purposes and/or community facility uses which exceeds twenty-five percent (25%) of the Aggregate Floor Area of the Real Property shall not qualify as Housing Accommodations.

Housing Corporation. "Housing Corporation" shall mean a non-profit housing corporation as defined in Article XI of the Private Housing Finance Law which is not incorporated as an HDFC as defined in such Article XI.

Housing Credit Agency. "Housing Credit Agency" shall mean the New York State Division of Housing and Community Renewal or the City's Department of Housing Preservation and Development or such other agency as shall be designated as a housing credit agency in the city by the State of New York under §42 of the Code.

Housing Trust Fund Corporation. "Housing Trust Fund Corporation" shall mean the corporation established pursuant to [§ 45-a of the Private Housing Finance Law](#).

Initial Filing Date. "Initial Filing Date" shall mean the date an initial application is submitted to the Office.

Job Training. "Job Training" shall mean programs, services and commercial activities occurring within an Eligible Property in space occupied by a not-for-profit corporation. Such programs, services and commercial activities must be for the benefit primarily of Persons or Families of Low Income residing in the Housing Accommodations.

Loan "Loan" shall mean a loan for the acquisition and/or construction and/or rehabilitation and/or permanent financing of Housing Accommodations provided by the City, the State or the Housing Trust Fund Corporation.

Office. "Office" shall mean the Tax Incentive Programs Unit of the Department of Housing Preservation and Development or any successor thereto authorized to administer these rules.

Participant. "Participant" shall mean an owner of Real Property that is the subject of an Allocation Document.

Persons or Families of Low Income. "Persons or Families of Low Income" shall mean persons or families who are in low income groups and who cannot afford to pay enough to cause private enterprise in their municipality to build a sufficient supply of adequate, safe and sanitary dwellings as set forth in [§ 2 of the Private Housing Finance Law](#).

Qualified Owner. "Qualified Owner" shall mean an entity: (a) which is either (i) an HDFC, or (ii) a Housing Corporation, or (iii) is a wholly owned subsidiary of such a company or corporation, or (iv) a limited partnership in which the Controlling Interest is held by (A) an HDFC or Housing Corporation or (B) a wholly owned subsidiary of an HDFC or Housing Corporation, or (v) a corporation sponsored or formed by such an HDFC company or Housing Corporation and (b) in which no officer, director, shareholder, member, partner or employee shall receive any pecuniary profit, income or other distributions from the Eligible Property except (i) low income housing tax credits and non-cash tax benefits available pursuant to the Code and (ii) reasonable compensation for services rendered and (c) which is a participant in the federal low income housing tax credit program pursuant to § 42 of the Code and has not defaulted in its obligations thereunder. An example of a qualified owner is a limited partnership in which the Controlling Interest is held by: (a) an HDFC or Housing Corporation or (b) a wholly owned subsidiary of an HDFC or Housing Corporation. Housing Corporations are only eligible if in existence on the effective date of chapter 647 of the Laws of 1994 (August 2, 1994).

Real Property. "Real Property" shall mean the land, buildings and other improvements subject to taxation pursuant to [§ 102 of the Real Property Tax Law](#) which are the subject of an application under § 31-04 of these Rules.

Regulatory Agreement. "Regulatory Agreement" shall mean an agreement with the City, the State or the Housing Trust Fund Corporation (i) restricting the use of Real Property to Housing Accommodations for Persons or Families of Low Income and (ii) imposing the rental and occupancy restrictions established by § 42 of the Code on at least seventy percent (70%) of the dwelling units in such Real Property. Such agreement may be contained in the mortgage securing the Loan or may be a separate agreement recorded of record against the Real Property.

Rules. "Rules" shall mean §§31-01 through 31-06 of this chapter.

State. "State" shall mean the State of New York.

HISTORICAL NOTE

Section added City Record Mar. 7, 1997 eff. Apr. 6, 1997.

- Subd. (a) amended City Record Aug. 21, 2015 §1, eff. Sept. 20, 2015. [See Note 4]
- Subd. (a) amended City Record Oct. 22, 1999 § 1, eff. Nov. 21, 1999. [See Note 1]
- Subd. (b) Aggregate Floor Area added City Record Oct. 22, 1999 § 2, eff. Nov. 21, 1999. [See Note 1]
- Subd. (b) Allocation Document amended City Record Apr. 14, 2010 § 1, eff. May 14, 2010. [See Note 3]
- Subd. (b) Application Date amended City Record Aug. 21, 2015 §2, eff. Sept. 20, 2015. [See Note 4]
- Subd. (b) Department amended City Record Aug. 21, 2015 §2, eff. Sept. 20, 2015. [See Note 4]
- Subd. (b) Housing Accommodations amended City Record Aug. 21, 2015 §2, eff. Sept. 20, 2015. [See Note 4]
- Subd. (b) Housing Accommodations amended City Record Feb. 20, 2008 § 1, eff. Mar. 21, 2008. [See Note 2]
- Subd. (b) Allocation Document amended City Record Oct. 22, 1999 § 3, eff. Nov. 21, 1999. [See Note 1]
- Subd. (b) Commissioner amended City Record Oct. 22, 1999 § 4, eff. Nov. 21, 1999. [See Note 1]
- Subd. (b) Controlling Interest amended City Record Oct. 22, 1999 § 5, eff. Nov. 21, 1999. [See Note 1]
- Subd. (b) Department added City Record Oct. 22, 1999 § 2, eff. Nov. 21, 1999. [See Note 1]
- Subd. (b) Housing Accommodations amended City Record Oct. 22, 1999 § 7, eff. Nov. 21, 1999. [See Note 1]
- Subd. (b) Housing Credit Agency amended City Record Aug. 21, 2015 §2, eff. Sept. 20, 2015. [See Note 4]
- Subd. (b) Housing Development Fund Corporation amended City Record Oct. 22, 1999 § 6, eff. Nov. 21, 1999. [See Note 1]
- Subd. (b) Initial Filing Date amended City Record Aug. 21, 2015 §2, eff. Sept. 20, 2015. [See Note 4]
- Subd. (b) Job Training added City Record Oct. 22, 1999 § 2, eff. Nov. 21, 1999. [See Note 1]
- Subd. (b) Office amended City Record Oct. 22, 1999 § 8, eff. Nov. 21, 1999. [See Note 1]
- Subd. (b) Qualified Owner amended City Record Oct. 22, 1999 § 9, eff. Nov. 21, 1999. [See Note 1]
- Subd. (b) Real Property amended City Record Aug. 21, 2015 §2, eff. Sept. 20, 2015. [See Note 4]
- Subd. (b) Regulatory Agreement amended City Record Oct. 22, 1999 § 10, eff. Nov. 21, 1999. [See Note 1]
- Subd. (b) Rules amended City Record Aug. 21, 2015 §2, eff. Sept. 20, 2015. [See Note 4]

NOTE

1. Statement of Basis and Purpose in City Record Oct. 22, 1999:

[Section 420-c of the Real Property Tax Law](#) authorizes the Department of Housing, Preservation and Development to promulgate rules governing tax exemption. The proposed changes are intended to assist the City in its effort to authorize benefits for the types of projects contemplated by the Rules in a more clear and precise manner.

2. Statement of Basis and Purpose in City Record Feb. 20, 2008:

[Section 420-c of the Real Property Tax Law](#) was originally enacted in 1993 to provide tax exemption for eligible owners who develop affordable housing by syndicating federal low income housing tax credits. Under [Real Property Tax Law § 420-c](#), eligible owners are corporations, partnerships or limited liability companies in which at least 50% of the controlling interest is held by a charitable or social welfare organization formed under [501\(c\)\(3\)](#) or [501\(c\)\(4\) of the Internal Revenue Code](#). They also must own legal and beneficial title or a legal and beneficial leasehold interest with a term of at least 30 years. Furthermore, the municipality must sign or approve a regulatory agreement requiring that the real property be used to provide low income housing for the entire term of the tax exemption (i.e., even after the tax credits have expired).

Currently, only ancillary residential purposes that primarily serve the residents of such housing accommodations can receive [Real Property Tax Law § 420-c](#) benefits. The rule amendments extend this important tax exemption to community facility uses that meet eligibility criteria similar to those provided for in the tax credit program. Any project that has this type of community facility use as of July 1, 2004 or thereafter can now receive [Real Property Tax Law § 420-c](#) benefits for such facility. This amendment recognizes the importance of such community facility uses to the entire community in which the housing accommodations are located and not just to the residents thereof. Collectively, the ancillary residential purposes and community service facilities in such housing accommodations cannot exceed 25% of the aggregate floor area of the real property. The portion that does will be ineligible for the [Real Property Tax Law § 420-c](#) tax exemption.

3. Statement of Basis and Purpose in City Record Apr. 14, 2010:

[Section 420-c of the Real Property Tax Law](#) was originally enacted in 1993 to provide tax exemption for eligible owners who develop affordable housing by syndicating federal low income housing tax credits. Under [Real Property Tax Law § 420-c](#), eligible owners are corporations, partnerships or limited liability companies in which at least 50% of the controlling interest is held by a charitable or social welfare organization formed under [501\(c\)\(3\)](#) or [501\(c\)\(4\) of the Internal Revenue Code](#). They

also must own legal and beneficial title or a legal and beneficial leasehold interest with a term of at least 30 years. Furthermore, the municipality must sign or approve a regulatory agreement requiring that the real property be used to provide low income housing for the entire term of the tax exemption (i.e., even after the tax credits have expired).

[RPTL § 420-c\(2\)](#) provides that an exemption granted pursuant to such section shall commence as of the effective date of the regulatory agreement with the municipality, the state or the housing trust fund corporation established pursuant to section forty-five-a of the private housing finance law or any successor corporation regardless of when the application for such exemption is approved. It further provides that HPD may promulgate rules and regulations to carry out the provisions of [§ 420-c of the Real Property Tax Law](#), and may require a reasonable filing fee in an amount provided by such rules and regulations.

The rule amendment would better track the statutory language noted above by providing that the effective date rather than the date of execution of the regulatory agreement triggers the commencement of these real property tax benefits, provided that the project is owned by an eligible entity and has demonstrated participation in the tax credit program. It also would require participation in the Federal Low Income Housing Tax Program to be proven by an allocation document. The definition of allocation document is amended to account for the fact that projects receiving as of right tax credits initially get a determination of credit eligibility rather than a binding tax credit reservation. HPD will accept this document for purposes of determining eligibility for [RPTL § 420-c](#) benefits, but will still require the United States Treasury Form 8609 to be submitted within 36 months of the initial filing date for the [RPTL § 420-c](#) benefits.

4. Statement of Basis and Purpose in City Record Aug. 21, 2015:

[New York Real Property Tax Law \(RPTL\) §420-c](#) was originally enacted to provide tax exemption for non-profit sponsors which develop affordable housing with federal low income housing tax credits. In 2004, [RPTL §420-c](#) was amended by Chapter 522 of the Laws of 2004 to require that at least 50% of the controlling interest in an entity owning the property be held by a charitable or social welfare organization formed under [501\(c\)\(3\)](#) or [501\(c\)\(4\)](#) of the federal [Internal Revenue Code](#). The 2004 amendments eliminated the prior governmental loan requirement for [RPTL §420-c](#) benefits and provided that the municipality must sign or approve a regulatory agreement requiring that the real property be used to provide low income housing for the entire term of the [RPTL §420-c](#) tax exemption. The 2004 amendments also authorized existing eligible projects to start receiving [RPTL §420-c](#) tax benefits if they terminated any current tax benefits and executed new regulatory agreements.

The rule amendments add the 2004 statutory amendments to the current rules since the amendments apply to all [RPTL §420-c](#) applications approved by HPD on or after September 28, 2004, the effective date of the amendments. They also make some technical changes to the existing [§420-c](#) regulatory provisions.

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§ 31-02. Eligibility Requirements.

(a) Eligible Property. Real Property may be eligible for an exemption from Real Property taxes as set forth in § 31-05 if:

- (1) It has been acquired and/or rehabilitated and/or constructed, and/or otherwise financed with a Loan; and
- (2) It is bound by a Regulatory Agreement; (i) restricting the use of Real Property to Housing Accommodations for Persons or Families of Low Income and (ii) imposing the rental and occupancy restrictions established by § 42 of the Code on at least seventy percent (70%) of the dwelling units in such Real Property. Such agreement may be contained in the mortgage securing the Loan or may be a separate agreement recorded of record against the Real Property; and
- (3) An Allocation Document has been issued for the Eligible Property; and
- (4) It is owned, at the Application Date and for the duration of such exemption, by a Qualified Owner; and
- (5) It constitutes Housing Accommodations for Persons or Families of Low Income as set forth in the Regulatory Agreement or Allocation Document.

(b) Time Requirements.

- (1) In order to receive retroactive tax exemption pursuant to § 31-05(a)(2) hereof, the Initial Filing Date of an application for a Certificate of Eligibility must have been on or before October 24, 1993, unless application is made under Chapter 513 of the Laws of 1993 in which case application must be made ninety days after the effective date of said chapter (July 26, 1993).
- (2) An application for a Certificate of Eligibility must contain all documentation required by § 31-04(b) and be completed within twenty-four months of the Initial Filing Date with the Office or the application may be deemed withdrawn.
- (3) If the Allocation Document submitted with the application for the Certificate of Eligibility was either a determination of credit eligibility or a binding reservation for tax credits, then a United States Treasury Form 8609, Part I of which is to be completed by a Housing Credit Agency, must be submitted for the Real Property to the Office within thirty-six months of the Initial Filing Date of the application.

HISTORICAL NOTE

Section added City Record Mar. 7, 1997 eff. Apr. 6, 1997.

Subd. (a) amended City Record Oct. 22, 1999 § 12, eff. Nov. 21, 1999. [See T28 § 31-01 Note 1]

Subd. (b) par (3) amended City Record Aug. 21, 2015 §3, eff. Sept. 20, 2015. [See T28 §31-01 Note 4]

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§ 31-03. Ineligible Projects and Portions of Projects.

- (a) Ineligible Projects. Tax exemption is not available and shall not be granted with respect to the Real Property if, at the time application is made for a Certificate of Eligibility, the owner of the Real Property is in default under the terms of the Loan and/or the Regulatory Agreement.
- (b) Ineligible Portions of Real Property. Tax exemption is not available for portions of Real Property not used for Housing Accommodations for Persons or Families of Low Income, as determined by the Office.

HISTORICAL NOTE

Section added City Record Mar. 7, 1997 eff. Apr. 6, 1997.

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§ 31-04. Application Procedure and Documentation.

- (a) Application forms and filing for certificate of eligibility. Prescribed forms and applications are available from the Office. All applications must be submitted to the Office on forms approved by the Office.
- (b) Documentation required of all applicants. All completed applications for tax exemption must include the following documentation:
- (1) Original and two copies of the fully completed application form;
 - (2) Copy of the deed for the Real Property;
 - (3) Copy of all mortgages and notes evidencing the Loan(s) for the Real Property;
 - (4) Copy of the Regulatory Agreement binding the Real Property;
 - (5) Copy of the Allocation Document for the Real Property;
 - (6) Copy of the filed Certificate(s) of Incorporation, stock certificates, filed Certificate(s) of Limited Partnership and partnership agreements, as applicable, evidencing that the applicant is a Qualified Owner.
 - (7) Schematic drawings of all proposed or completed buildings or improvements to the Real Property, including all floors thereof, which schematic drawings identify those portions of the Real Property which are not dwelling units and clearly specify (i) areas used for common residential or ancillary residential purposes which qualify as Housing Accommodations for Persons and Families of Low Income and (ii) all areas used for commercial and otherwise ineligible purposes which do not qualify as Housing Accommodations; indicate the square footage of each such space, all drawn to a scale acceptable to the Office which scale is clearly indicated on each drawing, provided, however, that the Office may waive schematics if there is no space not used for dwelling units or other residential purposes;
 - (8) A certification from the City, the State or the Housing Trust Fund Corporation indicating that the applicant is not in default under the terms of the Loan and the Regulatory Agreement with respect to the Real Property which is the subject of the application if requested by the Office; and
 - (9) A copy of the Temporary or Permanent Certificate of Occupancy, if issued.
 - (10) Any such additional documentation which the Office may require.
 - (11) An application may contain more than one building provided that each such building is part of a project, and is specified in the deed, mortgages and notes and the Regulatory Agreement(s) for such project; and provided further that there is a final Allocation Document for each such building.
- (c) Completion of application. An application for a Certificate of Eligibility must contain all documentation required by § 31-04(b) and be completed within twenty-four months of the Initial Filing Date with the Office or the application may be deemed withdrawn. An application for a Certificate of Eligibility shall be deemed complete if the application includes all the documentation required in § 31-04(b). The requirements of § 31-04(b)(5) may be temporarily satisfied as provided in § 31-02(b)(3) by a binding or non-binding reservation or a credit carry over allocation issued pursuant to [§ 42\(h\)\(i\)\(E\) of the Internal Revenue Code](#) pending compliance with § 31-02(b)(3) hereof or proof of application for such reservation or allocation. Applicants must notify the Office of any change of address and/or change of ownership of the premises and any change in the designated filing agent.
- (d) Issuance of a certificate of eligibility.
- (1) It is the applicant's responsibility to complete the application within twenty-four months, or, where applicable, within thirty-six months of the Initial Filing Date as provided in 31-04(c). The Office shall issue a Certificate of Eligibility for all approved applications.
 - (2) Failure to produce documentation satisfactory to the Office or failure to comply with these Rules may result in the denial of a Certificate of Eligibility, and rejection of the application.

(3) Notwithstanding the issuance of a Certificate of Eligibility, the tax exemption may be revoked or revised pursuant to chapter thirty-nine of this title.

(e) Implementation of benefit. Upon issuance of a 420-c Certificate of Eligibility and payment of outstanding fees, the Office will transmit the Certificate of Eligibility to the Department of Finance

HISTORICAL NOTE

Section added City Record Mar. 7, 1997 eff. Apr. 6, 1997.

Subd. (b) opening par amended City Record Oct. 22, 1999 § 13, eff. Nov. 21, 1999. [See T28 § 30-01 Note 1]

Subd. (b) par (7) amended City Record Oct. 22, 1999 § 13, eff. Nov. 21, 1999. [See T28 § 30-01 Note 1]

Subd. (b) par (11) added City Record Oct. 22, 1999 § 13, eff. Nov. 21, 1999. [See T28 § 30-01 Note 1]

Subd. (c) amended City Record Oct. 22, 1999 § 14, eff. Nov. 21, 1999. [See T28 § 30-01 Note 1]

Subd. (d) par (3) amended City Record July 12, 2011 § 4, eff. Aug. 11, 2011. [See T28 § 5-07 Note 3]

Subd. (d) par (3) amended City Record Mar. 16, 2010 § 9, eff. Apr. 15, 2010. [See T28 § 39-01 Note 1]

Subd. (e) amended City Record Oct. 22, 1999 § 15, eff. Nov. 21, 1999. [See T28 § 30-01 Note 1]

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§ 31-05. Tax Exemption: Effective Date, Duration and Amount.

(a) Effective date of exemption. Tax exemption under §§31-01 through 31-06 of this chapter shall commence on the latter of: (i) the date of acquisition of the eligible property by the qualified owner, (ii) the effective date of a regulatory agreement, or (iii) the date of issuance of an Allocation Document, except as follows:

(1) Where Eligible Property acquired after January 5 was exempt from Real Property taxation on the date of such transfer, the property shall remain exempt for the balance of the tax year in progress and for the next full tax year.

(2) Duration of exemption. The exemption shall expire upon the expiration or termination of the Regulatory Agreement or thirty years from commencement of exemption if the Regulatory Agreement exceeds thirty years. If the extended use period as defined in the Code is terminated in accordance with § 42 of the Code, the Regulatory Agreement shall be deemed terminated.

(3) Amount of tax exemption. With respect to the portions of Real Property which are not Eligible Property, the Department of Finance will apportion assessed value between exempt portions of Real Property and non-exempt portions thereof (both as determined by the Office) based upon each portion's relative percentage of the entire parcel's full market value.

HISTORICAL NOTE

Section amended City Record Oct. 22, 1999 § 18, eff. Nov. 21, 1999. [See T28 § 30-01 Note 1]

Section added City Record Mar. 7, 1997 eff. Apr. 6, 1997.

Subd. (a) open par amended City Record Aug. 21, 2015 § 4, eff. Sept. 20, 2015. [See T28 § 31-01 Note 4]

Subd. (a) open par amended City Record Apr. 14, 2010 § 2, eff. May 14, 2010. [See T28 § 31-01 Note 3]

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§ 31-06. Fees and Declaratory Rulings.

- (a) Reserved.
- (b) Reserved.
- (c) Reserved.
- (d) Reserved.
- (e) Reserved.
- (f) Reserved.
- (g) Reserved.

(h) Fees and Declaratory Rulings. The Office shall charge a filing fee of one hundred (\$100) dollars per Application. In addition, there shall be a charge of eighty (\$80) dollars per Class A dwelling unit and sixty (\$60) dollars per Class B dwelling unit, as applicable, due at the time of issuance of a Certificate of Eligibility. Such fee shall be non-refundable under any circumstances, including but not limited to the subsequent revocation or revision of a Certificate. A declaratory ruling with respect to an analysis of a specific fact pattern, document or organizational structure or an interpretation of the applicability of a specific provision of the 420-c statute or Rules to an actual or hypothetical site, project, fact pattern, document or organizational structure or any other issue related to eligibility may be given by the Office upon payment of a non-refundable fee of two hundred fifty (\$250) dollars payable at the time such declaratory ruling is requested in writing. In no event shall a prior ruling bind the Office as to the overall eligibility of a project for 420-c benefits.

HISTORICAL NOTE

Section amended City Record Mar. 16, 2010 § 10, eff. Apr. 15, 2010. [See T28 § 39-01 Note 1]

Section added City Record Mar. 7, 1997 eff. Apr. 6, 1997.

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§ 31-07. Definitions.

For purposes of §§31-07 through 31-12 of this chapter, the following terms shall have the following meanings:

Aggregate Floor Area. “Aggregate Floor Area” shall mean the sum of the gross areas of the several floors of a building, measured from the exterior faces of exterior walls or from the center lines of walls separating two buildings.

Allocation Document. “Allocation Document” shall mean a document issued by the Housing Credit Agency with respect to Real Property indicating either (i) that such Real Property has received a determination of credit eligibility, (ii) that such Real Property has received a binding reservation for tax credits or (iii) that such Real Property has been allocated tax credits pursuant to §42 of the Code.

Application Date. “Application Date” shall mean the date of submission to the Office of a completed application (including all required documentation), as determined by the Office, for benefits under §§31-07 through 31-12 of this chapter.

Certificate of Eligibility. “Certificate of Eligibility” shall mean the certificate issued by the Office pursuant to §31-10(d) of these Rules.

Charitable Organization. “Charitable Organization” shall mean (i) an entity formed for purposes that include providing Housing Accommodations for Persons and Families of Low Income and that has received written recognition of exemption pursuant to section 501(c)(3) or section 501(c)(4) of the Code, from the United States Internal Revenue Service, or any successor agency, or (ii) a corporation, partnership or limited liability company wholly owned and wholly controlled by an entity formed for purposes that include providing Housing Accommodations for Persons and Families of Low Income and that has received written recognition of exemption pursuant to section 501(c)(3) or section 501(c)(4) of the Code, from the United States Internal Revenue Service, or any successor agency.

City. “City” shall mean the City of New York.

Code. “Code” shall mean the United States Internal Revenue Code of 1986, as amended, or any successor statute.

Commissioner. “Commissioner” shall mean the commissioner of HPD or the commissioner of any successor agency or her or his designee.

Department of Finance. “Department of Finance” shall mean the Department of Finance of the City or any successor agency.

Eligible Entity. “Eligible Entity” shall mean a corporation, partnership or limited liability company at least fifty percent of the controlling interest of which is held by a Charitable Organization.

Eligible Owner. “Eligible Owner” shall mean one or more Eligible Entities that holds (i) legal and beneficial title to Eligible Real Property, or (ii) a legal and beneficial leasehold interest with a term of not less than thirty years in Eligible Real Property.

Eligible Real Property. “Eligible Real Property” shall mean Real Property that (i) provides Housing Accommodations for Persons and Families of Low Income, and (ii) participates in or has participated in the Tax Credit Program. If a portion of Real Property is not Eligible Real Property, tax exemption shall be apportioned in accordance with §31-09(b) of this chapter.

Housing Accommodations. “Housing Accommodations” shall mean Real Property used for (i) residential purposes including dwelling units, common sanitary and cooking and dining facilities, common recreation areas including outdoor recreation areas and public areas such as cellars, basements, public halls and stairs and roofs; or (ii) ancillary residential purposes including management, administrative and, for projects with an Initial Filing Date on or after the effective date of the rule adding this section, community facility uses that are authorized under use groups 3 and 4 of the Zoning Resolution. Notwithstanding the foregoing, any portion of the combined floor area of such ancillary residential purposes which exceeds twenty-five percent (25%) of the Aggregate Floor Area of the Real Property shall not qualify as Housing Accommodations.

Housing Credit Agency. “Housing Credit Agency” shall mean the State Division of Housing and Community Renewal or HPD or such other agency as shall be designated as a housing credit agency in the City by the State under §42 of the Code.

HPD. “HPD” shall mean the Department of Housing Preservation and Development of the City or any successor agency. Initial Filing Date. The term “Initial Filing Date” shall mean the date an initial application is submitted to the Office. Office. “Office” shall mean the Tax Incentive Programs Unit of HPD or any successor thereto authorized to administer these Rules.

Persons and Families of Low Income. “Persons and Families of Low Income” shall mean persons or families who are in low income groups and who cannot afford to pay enough to cause private enterprise in their municipality to build a sufficient supply of adequate, safe and sanitary dwellings as set forth in [§2 of the Private Housing Finance Law](#).

Real Property. “Real Property” shall mean the land, buildings and other improvements subject to taxation pursuant to [§102 of the Real Property Tax Law](#) which are the subject of an application under §31-10 of these Rules.

Regulatory Agreement. “Regulatory Agreement” shall mean a regulatory agreement with or approved by the City that requires the provision of Housing Accommodations for Persons and Families of Low Income; requires units currently or formerly assisted under the Tax Credit Program be rented in accordance with the income requirements of the Tax Credit Program; imposes the income and occupancy restrictions established by the Tax Credit Program on at least seventy percent (70%) of the dwelling units in such Eligible Real Property; provides that any of the dwelling units in such Eligible Real Property that are not subject to the income and occupancy restrictions established by the Tax Credit Program must be rented, upon vacancy, to persons and families whose incomes do not exceed one hundred sixty-five percent (165%) of area median income; and is recorded against the Eligible Real Property and binds all parties in interest to the Eligible Real Property and their respective successors and assigns. A regulatory agreement may include such other terms and conditions as the City shall determine, including, but not limited to, provisions requiring payments in lieu of taxes.

Tax Credit Program. “Tax Credit Program” shall mean the federal low-income housing tax credit program established pursuant to §42 of the Code.

Rules. “Rules” shall mean §§31-07 through 31-12 of this chapter.

State. “State” shall mean the State of New York.

Zoning Resolution. “Zoning Resolution” shall mean the Zoning Resolution of the City, as amended.

HISTORICAL NOTE

Section added City Record Aug. 21, 2015 § 10, eff. Sept. 20, 2015. [See T28 § 31-01 Note 4]

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TITLE 28. HOUSING PRESERVATION AND DEVELOPMENT
CHAPTER 31. TAX EXEMPTIONS UNDER § 420-C OF THE REAL PROPERTY TAX LAW.

Rules & Regulations of the City of New York are current with files received through December 31, 2022.

§ 31-08. Eligibility Requirements.

(a) Eligibility. Real Property may be eligible for an exemption from real property taxes as set forth in §31-11 if:

- (1) It is bound by a Regulatory Agreement; and
- (2) An Allocation Document has been issued for the Real Property; and
- (3) It is owned, at the Application Date and for the duration of such exemption, by an Eligible Owner; and
- (4) It constitutes Housing Accommodations for Persons and Families of Low Income as set forth in the Regulatory Agreement or Allocation Document; and
- (5) It participates in or has participated in the Tax Credit Program.

(b) Time Requirements.

- (1) An application for a Certificate of Eligibility must contain all documentation required by §31-10(b) and be completed within twenty-four months of the Initial Filing Date with the Office or the application may be deemed withdrawn.
- (2) If the Allocation Document submitted with the application for the Certificate of Eligibility was either a determination of credit eligibility or a binding reservation for tax credits, then a United States Treasury Form 8609, Part I of which is to be completed by a Housing Credit Agency, must be submitted for the Real Property to the Office within thirty-six months of the Initial Filing Date of the application.

HISTORICAL NOTE

Section added City Record Aug. 21, 2015 § 10, eff. Sept. 20, 2015. [See T28 § 31-01 Note 4]

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§ 31-09. Ineligible Portions of Projects.

Tax exemption is not available for portions of Real Property not used for Housing Accommodations for Persons and Families of Low Income, as determined by the Office.

HISTORICAL NOTE

Section added City Record Aug. 21, 2015 § 10, eff. Sept. 20, 2015. [See T28 § 31-01 Note 4]

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§ 31-10. Application Procedure and Documentation.

- (a) Application forms and filing for Certificate of Eligibility. Prescribed forms and applications are available from the Office. All applications must be submitted to the Office on forms approved by the Office.
- (b) Documentation required of all applicants. All completed applications for tax exemption must include the following documentation:
- (1) Original fully completed application form;
 - (2) Copy of the deed for the Real Property;
 - (3) Copy of any former and current Regulatory Agreements binding the Real Property to the Tax Credit Program income and other restrictions;
 - (4) Copy of the Allocation Document for the Real Property;
 - (5) Copy of the filed Certificate(s) of Incorporation, stock certificates, filed Certificate(s) of Limited Partnership and Limited Liability Companies, and partnership agreements, as applicable, evidencing that the applicant is an Eligible Owner;
 - (6) Schematic drawings of all proposed or completed buildings or improvements to the Real Property, including all floors thereof, that identify those portions of the Real Property which are not dwelling units and clearly specify (i) areas used for common residential or ancillary residential purposes which qualify as Housing Accommodations for Persons and Families of Low Income and (ii) all areas used for commercial and otherwise ineligible purposes which do not qualify as Housing Accommodations; indicate the square footage of each such space, all drawn to a scale acceptable to the Office which scale is clearly indicated on each drawing, provided, however, that the Office may waive schematics if there is no space not used for dwelling units or other residential purposes;
 - (7) A copy of the Temporary or Permanent Certificate of Occupancy, if issued;
 - (8) Written recognition of exemption for the applicable Charitable Organization pursuant to Section 501(c)(3) or Section 501(c)(4) of the Code, from the United States Internal Revenue Service, or any successor agency; and
 - (9) Any such additional documentation which the Office may require.
- (c) An application may concern more than one building provided that each such building is part of a project, and is specified in the Regulatory Agreement(s) for such project; and provided further that there is a United States Treasury Form 8609, Part I of which has been completed by the Housing Credit Agency, for each such building.
- (d) Completion of application. An application for a Certificate of Eligibility must contain all documentation required by subdivision (b) of this section and be completed within twenty-four months of the Initial Filing Date with the Office or the application may be deemed withdrawn. An application for a Certificate of Eligibility shall be deemed complete if the application includes all the documentation required in subdivision (b) of this section. Applicants must notify the Office of any change of address and/or change of ownership of the premises and any change in the designated filing agent.
- (e) Issuance of a Certificate of Eligibility.
- (1) The Office shall issue a Certificate of Eligibility for all approved applications.
 - (2) Failure to produce documentation satisfactory to the Office or failure to comply with these Rules may result in the denial of a Certificate of Eligibility, and rejection of the application.
 - (3) Notwithstanding the issuance of a Certificate of Eligibility, the tax exemption may be revoked or revised pursuant to chapter 39 of this title.
- (f) Implementation of benefit. Upon issuance of a 420-c Certificate of Eligibility and payment of outstanding fees, the Office will transmit the Certificate of Eligibility to the Department of Finance.

HISTORICAL NOTE

Section added City Record Aug. 21, 2015 § 10, eff. Sept. 20, 2015. [See T28 § 31-01 Note 4]

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§ 31-11. Tax Exemption: Effective Date, Duration and Amount.

- (a) Effective date of exemption. Tax exemption under §§31-07 through 31-12 of this chapter shall commence on the latter of: (i) the date of acquisition of the Eligible Real Property by the Eligible Owner or, (ii) the effective date of a Regulatory Agreement, or (iii) the date of issuance of an Allocation Document, except as follows:
- (1) Where Eligible Real Property acquired after January 5 was exempt from Real Property taxation on the date of such transfer, the property shall remain exempt for the balance of the tax year in progress and for the next full tax year.
 - (2) Where dwelling units in the Real Property were formerly assisted under the Tax Credit Program and the Eligible Owner has agreed to continue to rent such units in accordance with the income and other requirements of the Tax Credit Program, the tax exemption under §§3-07 through 3-12 of this chapter shall commence on the latter of: (i) the date of acquisition of the Eligible Real Property by the Eligible Owner or, (ii) the effective date of a Regulatory Agreement in which such Eligible Owner has agreed to continue to subject the dwelling units in such Real Property to the restrictions of the Tax Credit Program.
- (b) Duration of exemption. The exemption shall expire upon the expiration or termination of the Regulatory Agreement but in no event shall exceed sixty years.
- (c) Amount of tax exemption. With respect to the portions of Real Property which are not Eligible Real Property, the Department of Finance will apportion assessed value between exempt portions of Real Property and non-exempt portions thereof (both as determined by the Office) based upon each portion's relative percentage of the entire parcel's full market value.

HISTORICAL NOTE

Section added City Record Aug. 21, 2015 § 10, eff. Sept. 20, 2015. [See T28 § 31-01 Note 4]

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§ 31-12. Fees and Declaratory Rulings.

(a) The Office shall charge a filing fee of one hundred dollars (\$100) per Application. In addition, there shall be a charge of eighty dollars (\$80) per Class A dwelling unit and sixty dollars (\$60) per Class B dwelling unit, as applicable, due at the time of issuance of the Certificate of Eligibility. Such fees shall be non-refundable under any circumstances, including, but not limited to, the subsequent revocation or revision of a Certificate of Eligibility.

(b) A declaratory ruling with respect to an analysis of a specific fact pattern, document or organizational structure or an interpretation of the applicability of a specific provision of [Real Property Tax Law Section 420-c](#) or the Rules to an actual or hypothetical site, project, fact pattern, document or organizational structure or any other issue related to eligibility may be given by the Office upon payment of a non-refundable fee of two hundred fifty dollars (\$250) payable at the time such declaratory ruling is requested in writing. In no event shall a prior ruling bind the Office as to the overall eligibility of a project for [Real Property Tax Law Section 420-c](#) benefits.

HISTORICAL NOTE

Section added City Record Aug. 21, 2015 § 10, eff. Sept. 20, 2015. [See T28 § 31-01 Note 4]

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