

RULES OF THE CITY OF NEW YORK
TITLE 19. DEPARTMENT OF FINANCE.
CHAPTER 50. RULES RELATING TO THE PARTIAL TAX ABATEMENT FOR RESIDENTIAL REAL
PROPERTY HELD IN THE COOPERATIVE OR CONDOMINIUM FORM OF OWNERSHIP.

§50-02 Definitions.

Unless the context requires otherwise, as used in this chapter:

"Abatement" means the partial tax abatement for residential real property held in the cooperative or condominium form of ownership authorized by [§467-a of the Real Property Tax Law](#). As used in this chapter, the term "abatement" includes both the "primary residence abatement" and the "non-primary residence abatement."

"Administrative Code" means the Administrative Code of the City of New York.

"Assessed value" means the actual assessed value of real property, which is not reduced by any exemption from real property taxes.

"Authorized agent" means any person authorized by the board to act on the board's behalf with respect to an application for an abatement, including, but not limited to, a managing agent.

"Board" means, in the case of real property held in the cooperative form of ownership, the board of directors of the cooperative, and in the case of real property held in the condominium form of ownership, the board of managers of the condominium.

"Building service employee" means any person who is regularly employed at a building who performs work in connection with the care or maintenance of such building. "Building service employee" includes, but is not limited to, watchman, guard, doorman, building cleaner, porter, handyman, janitor, gardener, groundskeeper, elevator operator and starter, and window cleaner, provided that the classification of work performed by such person is identified on the building service employee schedule, and provided, further, that "building service employee" shall not include persons regularly scheduled to work fewer than eight hours per week in the building.

"Building service employee schedule" means the schedule of wage rates and supplemental benefit rates for building service employees published by the Comptroller on an annual basis pursuant to paragraph (a) of subdivision 1 of [§234 of the Labor Law](#).

"Commissioner" means the Commissioner of Finance of the City of New York and any employee of the Department of Finance authorized by the Commissioner to act on his or her behalf.

"Comptroller" means the Comptroller of the City of New York.

"Department" means the Department of Finance of the City of New York.

"Designated property" means real property designated as class two, pursuant to [§1802 of the Real Property Tax Law](#), held in the cooperative or condominium form of ownership.

"Dwelling unit" means a unit used primarily for residential purposes in residential real property designated as class two real property under [§1802 of the Real Property Tax Law](#) that is held in the cooperative or condominium form of ownership, and does not include a unit used primarily for professional or commercial purposes or used solely for parking vehicles or for storage.

"Fiscal year 2011/12" means the fiscal year that begins on July 1, 2011 and ends on June 30, 2012.

"Fiscal year 2012/13" means the fiscal year that begins on July 1, 2012 and ends on June 30, 2013.

"Fiscal year 2013/14" means the fiscal year that begins on July 1, 2013 and ends on June 30, 2014.

"Fiscal year 2014/15" means the fiscal year that begins on July 1, 2014 and ends on June 30, 2015.

"Fiscal year 2021/22" means the fiscal year that begins on July 1, 2021 and ends on June 30, 2022.

"Fiscal year 2022/23" means the fiscal year that begins on July 1, 2022 and ends on June 30, 2023.

"Fiscal year 2023/24" means the fiscal year that begins on July 1, 2023 and ends on June 30, 2024.

"Law enforcement officer" means anyone who is, or was, employed as a federal, state or local judge, prosecutor, state or local police or peace officer or federal law enforcement officer as defined by the United States Code.

"Owner" means the owner, in whole or in part, of a dwelling unit in real property held in the condominium form of ownership, or a tenant-stockholder of a cooperative apartment corporation who owns, in whole or in part, a dwelling unit, as represented by his or her shares of stock in such cooperative apartment corporation. For purposes of these rules, with respect to any dwelling unit, or the shares representing a dwelling unit, held in trust solely for the benefit of a person or persons who would otherwise be eligible for an abatement pursuant to these rules were such person or persons the owner or owners of such dwelling unit, such person or persons are each deemed to be an "owner" of the dwelling unit. With respect to any dwelling unit, or the shares representing a dwelling unit, held in trust, the trustee or trustees of the trust are each deemed to be an "owner" of the dwelling unit. The holder or holders of a life estate in a dwelling unit are deemed to be "owner(s)" of the dwelling unit. An "owner" can only be an individual and cannot be a corporation, limited liability company, partnership or other entity, unless a waiver is granted pursuant to subdivision (d) of section 50-05 for a limited liability company or limited partnership.

"Prevailing wage" means the rate of wages and supplemental benefits paid in the locality to workers in the same trade or occupation and annually determined by the Comptroller in accordance with the provisions of [§234 of the Labor Law](#).

"Primary residence" means the dwelling unit in which the owner of the dwelling unit actually resides and maintains a permanent and continuous physical presence.

"Qualified property" means (i) a designated property with an average unit assessed value of less than or equal to \$60,000; or (ii) a designated property with an average unit assessed value of more than \$60,000 and less than or equal to \$100,000, and less than 30 dwelling units; or (iii) a designated property with

respect to which an applicant has submitted an affidavit required under [§467-a of the Real Property Tax Law](#) certifying that all building service employees employed or to be employed at the property shall receive the applicable prevailing wage for the duration of such property's tax abatement.

"Regularly employed" means employed for a period of at least 90 days.

"Sponsors" means persons or business entities who make or take part in a public offering or sale of securities consisting primarily of shares or investments in real estate, including condominium units and other cooperative interests in realty. Sponsors will be deemed to include successors who succeed to the rights and assume the obligations of sponsors.

"Taxable status date" for a fiscal year means the January 5 that immediately precedes the commencement of such fiscal year. The taxable status date is the date as of which the condition and ownership of real property is considered for the purposes of determining the eligibility of a dwelling unit for the abatement for such fiscal year.

§50-07 Denial or Revocation of Abatement.

- (a) **Unpaid charges requiring denial or revocation of abatement.** An application for the abatement will be denied, and an abatement granted will be revoked retroactively, in the event that the Commissioner determines that there are arrears in real property taxes, water and sewer charges, assessments, payments in lieu of taxes and/or other municipal charges, including interest on any of the aforementioned amounts, and including tax liens that have been sold by the City:
- (1) on a condominium dwelling unit totaling in the aggregate at least \$1,000; or
 - (2) on cooperative apartment corporation property, totaling in the aggregate at least \$25,000. For purposes of this subdivision, taxes and/or charges that are in arrears do not include any taxes and/or charges that are included in a written agreement to pay such taxes and/or charges in installments with the Department of Finance or, in the case of water and sewer charges, the New York City Department of Environmental Protection or the New York City Water Board, if all payments that have become due under such agreement have been made.
- (a-1) **Denial or revocation of abatement upon a final determination of the Comptroller regarding the payment of prevailing wage for building service workers.**
- (1) The Comptroller shall have the power to conduct an investigation and hearing and file a final determination as to the payment of wages owed by an owner, successor, or any employer of building service employees as provided in subdivisions 1, 4, 5, 6, 8 and 9 of [§235 of the Labor Law](#).
 - (2) An application for abatement will be denied, and an abatement granted will be revoked retroactively, where the Commissioner is notified in writing that:
 - (A) the Comptroller has issued a final determination, pursuant to subdivision (10) of [§467-a of the Real Property Tax Law](#), as to the payment of wages owed by an owner, successor, or any employer of building service employees that (i) requires such owner, successor or other employer to make a payment, and such owner, successor or other employer has failed to make such payment within 120 calendar days of receiving such final determination; (ii) finds a willful failure to pay prevailing wage, and two or more such determinations have been issued within a six-year period for the same designated property; or (iii) finds a willful failure to pay prevailing wage that involves a falsification of payroll records or the kickback of wages or supplements; and
 - (B) there is no relevant proceeding for judicial review pending relating to such final determination, and the period for initiation of such proceeding has expired.

- (3) The written notification described in paragraph (2) of this subdivision may be in a form and manner as required by the Commissioner, including in an electronic form.
- (b) **Restoration of taxes upon revocation of abatement.** If an abatement is revoked retroactively pursuant to subdivision (a) or (a-1) of this section, then the real property taxes that were abated will be restored and must be paid to the Commissioner no later than the due and payable date provided on a notice of the amount payable, which may be in the form of a statement of account or an amended bill for real property taxes. Such notice will be mailed by the Commissioner to the address for the affected condominium unit or cooperative apartment corporation property on record with the Department for mailing statements of account or real property tax bills. The amount payable will constitute a tax lien on the affected cooperative apartment corporation property or condominium unit as of the due and payable date provided on such notice. If the amount payable is not paid by such due and payable date, interest at the rate applicable to delinquent real property taxes on the affected condominium unit or cooperative apartment corporation property will be imposed from the due and payable date provided on such notice to the date of payment, and such amount payable will be enforceable as a tax lien in accordance with provisions of chapters 3 and 4 of title 11 of the Administrative Code.
- (c) **Effective date of revocation of abatement.** In no event will revocation of an abatement pursuant to this section be effective prior to the earliest date on which any of the unpaid taxes or charges that are the basis for the revocation were first due and payable. A revocation based on a final determination of the Comptroller as described in this section shall apply to an abatement for the fiscal year or fiscal years that are the subject of such final determination.

§50-10 Required Affidavit for Qualified Property.

- (a) **Required affidavit.** (1) With respect to any application for an abatement, other than (i) an abatement for a designated property with an average unit assessed value of less than or equal to \$60,000; or (ii) a designated property with an average unit assessed value of more than \$60,000 and less than or equal to \$100,000, and less than 30 dwelling units; an officer or authorized agent of the designated property must submit an affidavit certifying that all building service employees employed or to be employed at the designated property shall receive the applicable prevailing wage for the duration of such abatement. The requirement to submit such affidavit applies regardless of whether the designated property employs or will employ any building service employees.
- (2) Such affidavit must be submitted to the Department as part of an application or renewal application for an abatement for fiscal year 2022/23 and all subsequent fiscal years, in a form and manner, including an electronic form or through a web-based application, as required by the Commissioner, on or before the due date for submission of the application for an abatement for such fiscal year as provided in subdivision (b-1) of §50-05 of this title.
- (3) The Department may accept an affidavit after the due date set forth in paragraph (2) of this subdivision, provided (i) a timely application for abatement for the designated property that is otherwise complete has been submitted and (ii) the board or the authorized agent has satisfied such other conditions as the Commissioner in his or her discretion may establish.
- (b) **Failure to submit affidavit.** If the affidavit required under subdivision (a) of this section is not submitted or is not submitted in a form and manner required by the Commissioner, the designated property with respect to which such affidavit is required shall not constitute a qualified property.
- (c) **Prevailing wage.** (1) The applicable prevailing wage and supplement rates for a building service employee are set forth in the building service employee schedule.
- (2) The obligation to pay prevailing supplemental benefits may be discharged either by the provision of:
- (A) bona fide fringe benefits that cost no less than the prevailing supplement rate in the applicable building service employee schedule;

- (B) a supplement to the hourly wage in an amount no less than such prevailing supplement rate; or
 - (C) a combination of bona fide fringe benefits and wage supplements that, collectively, costs no less than such prevailing supplement rate. The provision of a dwelling unit free of a charge to a building service employee shall be considered a bona fide fringe benefit with a cost of no more than the value of prevailing rentals in the locality for comparable dwelling units.
- (3) Notwithstanding any provision of paragraph (2) of this subdivision, the obligation to pay prevailing wage cannot be reduced or discharged through the provision of bona fide fringe benefits that cost more than the prevailing supplement rate in the building service employee schedule.
- (d) The obligation to pay prevailing wage applies to any building service employee who performs building services at a designated property regardless of whether the owner of such designated property employs such employee.