



Real Property Income & Expense (RPIE) filing has been legal for decades, yet it continues to confuse many - by Peter Blond

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Sometimes I wonder if taxpayers think the RPIE is a secret missile program... they aren't supposed to have any knowledge of. For the thousands of property owners apparently still in denial, or shrouded in unfamiliarity, the RPIE filing stands for Real Property Income & Expense. It has been a legally required filing for many decades, yet it continues to confuse taxpayers, accountants and certainly any new owner of real property in the five boroughs. More destructive than the confusion are the arguably confiscatory fines and penalties levied by the city, especially for repeat offenders.

The RPIE is required because New York City utilizes an income and expense approach to value when establishing annual assessments for most tax class 2 & 4 parcels. For many years, even though legal authority existed to penalize non-compliant property owners, the city did little to enforce the law. The city's former laissez-faire approach led to some unscrupulous landlords gaming the system by not reporting the property's income when it may have indicated an under-assessment to New York City DOF. Former DOF commissioner Martha Stark, around 2007, set out on a mission to not only obligate property owners to file their RPIE on-line only, but to enforce the long-standing RPIE penalties. By requiring taxpayers to enter their own data, the city saved a fortune on data entry and expedited their ability to identify and punish non-compliant property owners.

The next major RPIE overhaul took place just before the pandemic in 2019, when the city council voted to add more stringent requirements (rent roll and storefront registry) to the program. These changes were intended to serve multiple purposes. First, the brand-new storefront registry would provide the city with meaningful real-time updates as to vacancies and the rental marketplace by seeing new lease data well in advance of traditional RPIE methods (essentially trailing year collections and expenses only). Second, the rent roll would provide a clearer picture of potential gross income as opposed to collections only. This enables the city to participate in your potential gross income upfront as opposed to only on the back-end. Of course, this is infamously irritating to taxpayers who understandably complain annually about real estate taxes premised on imputed figures rather than actual performance.

The third and most intimidating of the city council's 2019 changes, the notorious three-strike rule. For rental properties required to file the full RPIE, should you fail to comply in three consecutive years, the city may penalize the owner 5% of the final actual assessed value of the property. This has happened to many property owners and the figures are excessive. As an example, based on the rules as enforced, Property X fails to file for three consecutive years and is assessed for \$1 million. While the annual non-compliance penalty is \$5,000 for this property, the three-strike fine would be an additional \$50,000! This is a property paying in the ballpark of \$100,000 to \$125,000 in real estate taxes annually. That is quite a surcharge for failing to file information that the city can simply choose to ignore anyway. While the taxpayers are obligated to report their annual performance, the city is under no reciprocal requirement to use said data. By law, the assessor can apply what they deem market rates rather than your actual collections.

Fast-forward to July 2024, and nearly 19,000 New York City property owners were still just deemed non-compliant by the New York City Department of Finance (DOF) as to their RPIE-23 filing requirements. When I wrote about this subject back in 2018, there were over 15,000 properties deemed non-compliant. It doesn't take NASA's top scientist to recognize the problem appears to be getting worse despite NYC DOF's efforts to educate and alert taxpayers to their obligations.

One must wonder why that is so when the fines can quickly prove devastating even for a modest sized property. Clearly the city is engaging in an easy money grab exercise under the guise of tax evasion. Nobody ever feels bad for a tax evader, so by branding the property owner as such, sympathy plays no role. For property owners, it is imperative that you handle your RPIE responsibilities by the annual June 1st deadline as well as all corresponding RPIE deadlines for the supplemental storefront registry, if applicable. If you are ever uncertain as to whether you have been deemed non-compliant, you can check every July at <https://www.nyc.gov/site/finance/property/property-rpie-non-compliance.page>

As is always the case, hiring a professional to assist with the annual filing provides built-in safeguards to hopefully prevent a disaster like the three-strike penalty.

Peter Blond, Esq. is a partner at Brandt, Steinberg, Lewis & Blond LLP, New York, N.Y.

New York Real Estate Journal - 17 Accord Park Drive #207, Norwell MA 02061 - (781) 878-4540