



## **Don't raise your own real estate taxes: Avoiding massive property tax increases in a down market**

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These are challenging times for property owners. Rents are down. Vacancies are up. Tenants are defaulting. Financing is tight. Despite the obvious negative effects these factors have had on real estate value, most NYC property owners find their taxes continuing to rise. High property taxes further diminish value, make it difficult to attract new commercial tenants, and expose the owner to the threat of a tax lien sale or foreclosure.

The city has offered various explanations for rising taxes in a falling market, from the city's continued phase-in of assessment hikes from the boom years, to the city's tendency to assess on a basis that lags the true market, to the simple fact that property taxes are a critical revenue source when it comes to paying for the services the populace demands. Did you know, however, that an owner can cause their own taxes to go up? It is simply a matter of missing one critical tax filing.

The law requires most NYC property owners to annually disclose the income and expenses from the operation of their real estate. This filing is commonly known as Real Property Income & Expense (RPIE). The RPIE information you provide may be used by the city, in various ways, to determine your proposed tax assessment for the coming year.

RPIE filing is mandatory for most owners of income-producing property. Nevertheless, 30,000-plus owners fail to file RPIE each year. To combat this, the city several years ago introduced a most draconian penalty: RPIE non-filers saw their assessments double and even triple. When this punishment is combined with the standard RPIE non-filing penalty, the denial of a hearing on the tax protest case challenging that excessive re-assessment, the economic implications are disastrous. Interestingly, the city's ability to excessively tax non-filers is not even found in the RPIE law-it simply arises from the city's inherent power to assess real property.

Owners must file RPIE electronically, through the New York City Department of Finance website. Be sure to consult with a property tax lawyer concerning the content and presentation of your RPIE-remember that it has a bearing on your future assessment. This is most important in a declining market, where the 2008 calendar year income you are required to provide in this year's RPIE filing may not accurately reflect the current economic problems affecting your property.

Once an RPIE profile has been set up for each of your properties on the city's website, it must be determined whether you are entitled to an RPIE "exemption," such as for an owner-occupied building or vacant, non-income-producing land. Even if you are entitled to an RPIE exemption, a filing may still be required to have your exemption claim properly recognized or to provide certain information other than income and expense. Various other properties may be entitled to an RPIE "exception," which still requires that an RPIE be filed, but enables the owner to file less than a full year's income and expense if the property was operated for less than the full calendar year. There are also RPIE filing rules based upon property type. Some examples are coops, condominiums,

hotels, department stores and net-leased properties.

The RPIE filing is performed separately from the filing of a tax protest (aka tax certiorari case). Every prudent owner in New York City not only complies with the RPIE law, but also protests their taxes without fail, by invoking their legal right to commence a tax certiorari case. A property tax lawyer can advise you on appropriate tax protest strategies for your particular situation, and customize a year-round property tax management program designed to help stop your taxes from devaluing your property.

The RPIE filing deadline is September 1st. Be sure to have a property tax lawyer review a draft of your RPIE prior to filing, and be sure to retain a copy of your filed form with proof of filing. Proper compliance with the RPIE law will ensure that you don't raise your own taxes.

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