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Assessor's Manual, Volume 4, Exemption Administration

Exemption Administration Manual - Part 1 Residential - Other Than Multiple Dwellings

Section 4.01 - RPTL Section 457

RPTL Section 457

First-time Homebuyers of Newly Constructed Homes

Exemption Code(s): 4411_ Year Originally Enacted: 2001

Related Statutes: None

SUMMARY: To the degree allowed by local option, owner-occupied, primary residential property that is newly constructed or reconstructed under certain other conditions (see below) is exempt from taxation and special ad valorem levies to the extent of an annually declining percentage for at least some portion of the assessed value of the property. No exemption is allowed for special assessments.

A. ELIGIBILITY REQUIREMENTS:

1. **Ownership Requirements:** Property must be owned by a private individual or individuals who: (1) have not owned property which served as their primary residence during the three-year period prior to their applying for this exemption, (2) is not married to a person who owned residential property during the three-year period prior to their applying for this exemption, and (3) do not own a vacation or investment home. Furthermore, if title to the property is transferred to someone other than the heirs or distributees of the owner(s) during the term of the exemption, the exemption will be discontinued.

The combined income of all the owners, and of any owners' spouses residing on the property, for the income tax year immediately preceding the date of application for exemption may not exceed the income limits defined by the State of New York Mortgage Agency (SONYMA) Low Interest Rate mortgage program for the non-target, one- and two-person household category in the county where the property is located and in effect on the contract date for the purchase and sale of the property. The applicable SONYMA limits are available on that agency's Internet website www.nyhomes.org/. SONYMA may also be contacted at 641 Lexington Avenue, New York, New York 10022 or by telephone (toll free) at 1-800-382-4663.

For the purpose of this exemption, income means the "adjusted gross income" for federal income tax purposes as reported on the applicant's latest available federal or state income tax return, subject to any subsequent amendments or revisions, reduced by distributions, to the extent included in federal adjusted gross income, received from an individual retirement account or an individual retirement annuity; provided that if no such return was filed within the one year period preceding taxable status date, income means the adjusted gross income that would have been so reported if such a return had been filed. The "latest available return" means the federal or state income tax return for the tax year immediately preceding the date of making application, provided however, that if the tax return for such year has not been filed, then the income tax return for the tax year two years preceding the date of making application will be considered the latest available.

2. **Property Location Requirements:** None.
3. **Property Use Requirements:** Property must be a newly constructed or reconstructed one- or two-family house, townhouse or condominium that is owner occupied. Additionally, other than for reconstruction projects, the home must never have been occupied previously. No portion of an otherwise eligible single-family home may be leased or used primarily for non-residential purposes while the exemption is being granted. In either case, the exemption will be discontinued.

Unless a taxing jurisdiction adopts a local law or resolution raising the maximum sales price of an eligible newly constructed residence (see B. Local Option), that sales price must not exceed 115 percent of the maximum eligible sales price established by the State of New York Mortgage Agency (SONYMA) Low Interest Rate Mortgage program in the non-target, one-family new category for the county where the property is located and in effect on the contract date for the purchase and sale of the property. However, the maximum exemption amount would be limited to 100 percent of those SONYMA-established sales prices.

The exemption for reconstructed, altered or improved residential property is limited solely to the increase in assessed value attributable to such reconstruction, alteration or improvement, provided that the total assessed value of the property after the project completion does not exceed 115 percent of the purchase price limits set by SONYMA (see above). To be eligible for this exemption on existing homes, the first-time homebuyer must have provided for such reconstruction, alteration or improvement as part of the sale contract of the home or entered into a written contract within 90 days of the sale of the property. Lastly, the value of such reconstruction, alteration or improvement must be greater than \$3,000 and cannot include the value of ordinary maintenance and repairs.

4. **Certification by State or Local Government:** None required.
5. **Required Construction Start Date or Other Time Requirement:** Property must be constructed or reconstructed by a first-time homebuyer: (1) on or before December 30, 2010, unless such purchase is made pursuant to a binding written contract entered into on or before such date and (2) after November 28, 2001. First-time homebuyers who first received this exemption prior to December 31, 2010 will continue to receive the exemption according to the established schedule (see E. Calculation of Exemption). First-time homebuyers of existing homes seeking the exemption on the basis of reconstruction, alteration or improvement of the property must enter into a written contract within 90 days after the sale of the home.

B. LOCAL OPTION: Yes. local taxing jurisdictions are allowed certain choices:

1. **Exemption** - To allow the exemption, a county, city, town or village, through its governing board, must enact a local law. A school district, other than one subject to Article 52 of the Education Law, is authorized to allow the exemption, through adoption of a local resolution by its governing board. In all cases, the taxing jurisdiction must hold a public hearing before acting to allow the exemption.

- 2. **Duration of Exemption** - Any taxing jurisdiction allowing the exemption may limit the term of the exemption to less than the maximum term allowed (5 years).
- 3. **Maximum Value of Purchase** - Any taxing jurisdiction allowing the exemption may raise the exemption limit on eligible homes to an amount up to 125 percent of the purchase price limits set by the SONYMA Low Interest Rate Mortgage program in the non-target, one-family new category for the county where the property is located and in effect on the contract date for the purchase and sale of the property. While the maximum exempt amount allowed would be up to 125 percent of these limits, the maximum sales price of an eligible newly constructed residence could be 15 percent greater than the locally adopted exemption limit.

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C. LIMITATION ON EXEMPTION:

	General Municipal Taxes	School District Taxes	Special Ad Valorem Tax	Special Assessments
1. Amount	Yes*	Yes*	Yes*	No exemption allowed
2. Duration	Up to 5 years	Up to 5 years	Up to 5 years	No exemption allowed
3. Taxing Jurisdiction a. County or County Special Districts	Ex**	NA	Ex**	Tax
b. City	Ex**	NA	NA	Tax
c. Town or Town Special District	Ex**	NA	Ex**	Tax
d. Village	Ex**	NA	NA	Tax
e. School District	NA	Ex**	NA	NA
	Ex - Exempt	Tax - Taxable	NA - Not Applicable	

*See Calculation of Exemption below.
 **If allowed by local option.

D. PAYMENTS IN LIEU OF TAXES: None required.

E. CALCULATION OF EXEMPTION:

- 1. **General Municipal and School District Taxes:** Although the maximum sales price of an eligible newly constructed residence may be as much as 115 percent of the purchase price limit set by SONYMA, the exemption amount is limited to the actual purchase price limit set by SONYMA (see above, Table 1. SONYMA Income and Purchase Price Limits). Likewise, if the taxing jurisdiction adopts the local option allowing an exemption limit of up to 125 percent of the SONYMA-established limits, the maximum sales price of an eligible newly constructed residence could be as high as 15 percent more than this locally adopted purchase price limit, however the exemption amount would be limited up to 125 percent of the SONYMA limit. For reconstructed, altered or improved residential property the exemption is limited to the increase in assessed value attributable to such reconstruction, alteration or improvement, so long as the resultant total assessed value of the property does not exceed 115 percent of the purchase price limit set by SONYMA. In both instances, unless the term of exemption is reduced by local law or resolution, the exemption schedule is as follows:

Years of Exemption	Percentage of Exemption
1	50
2	40
3	30
4	20
5	10
6 or more	0

A taxing unit may reduce the term of the exemption by local law or resolution.

2. Special Ad Valorem Levies and Special Assessments:

Special Ad Valorem Levies: See General Municipal School District Taxes above.

Special Assessments: No exemption allowed.

F. CODING OF EXEMPTION ON ASSESSMENT ROLL:

Code Description of Alternative Codes Possible

4411_

Assessment Roll Section(s): Taxable (RPS Section 1).

NOTE: This code should not be used to identify property that is exempt under any of the statutes listed under similar exemptions below. For coding of such property, see the Exemption Profile for the statute that applies.

G. FILING REQUIREMENTS (Owner or Occupant of Property):

Form RP-457 (1/02)-- Application for Real Property Tax Exemption for First-time Homebuyers of Newly Constructed Homes.

See sample form and instructions following Exemption Profile.

H. REPORTING REQUIREMENTS (Assessor):

If the assessor determines that this exemption should be discontinued, he or she must mail a notice so stating to the owner or owners of the property, in accordance with the provisions for notifying owners of increased assessments under RPTL 510. The owner or owners may seek administrative and judicial review of such an assessment increase; however, the burden of proof is on the owner or owners to establish eligibility for this exemption.

I. SIMILAR EXEMPTIONS:

Subject	Statute
Home improvements	RPTL 421-f

Multiple dwellings converted to owner-occupied residences in certain cities	RPTL 421-h, 421-i, 421-j, 421-k
Private one- and two-family dwellings and certain multiple dwellings in New York City	RPTL 421-b
Residential improvements incities with populations of less than 200,000 and more than 150,000	L. 1986, Ch. 889
Residential investment in certain municipalities	RPTL 485-h, 485-i, 485-j, 485-k, 485-l, 485-m

Exemption Application Forms:

[Form RP-457](#)

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Please send general questions or comments to [Jerome McCall](#).