

MEMORANDUM | CLIENT ALERT

New York's Pied-à-Terre Tax: What Every Home Owner Needs to Know

Date: June 23, 2026

Introduction:

Effective July 1, 2026, and currently scheduled to expire on June 30, 2031 (unless extended or amended), New York Tax Law Article 30-C and NYC Administrative Code Title 11, Chapter 32 (together, the "Pied-à-Terre Tax" or the "Surcharge") impose an annual surcharge on certain high-value residential properties in New York City that are not used as a primary residence. The surcharge applies to one-to-three family homes with a market value of \$5 million or more and initially to condominium and cooperative ("co-op") units valued at \$1 million or more. The surcharge is implemented in two phases: Phase One (July 1, 2026 through June 30, 2028¹) applies these thresholds using the City's current valuation methods for assessing real estate taxes; Phase Two (July 1, 2028 through June 30, 2031) raises the condominium and co-op threshold to \$5 million and shifts to a valuation method based on sales of comparable homes. Properties owned through LLCs, partnerships, or trusts are subject to look-through rules that attribute ownership to natural persons. The NYC Department of Finance ("DOF") will administer the tax as a surcharge added to the real estate taxes assessed against the affected properties, issuing initial notices of assessment by August 30, 2026.

Am I Affected?

A property owner may be subject to the Pied-à-Terre Tax if all of the following apply:

- The property is a one-to-three family house, condominium unit, or co-op unit in NYC;
- The property's market value (as determined by DOF) meets or exceeds the applicable threshold: \$5 million for houses; \$1 million for condos/co-ops during Phase One, rising to \$5 million in Phase Two (effective for the fiscal year beginning July 1, 2028);
- The property is NOT occupied as a primary residence for more than half of the year by the owner, an immediate family member, or a qualifying tenant under a lease of at least one year; and
- The property is not otherwise excluded (as further explained below).

¹ New York City's fiscal year runs from July 1 through June 30.

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1. Covered Properties

The Surcharge applies to residential properties in NYC that exceed certain value thresholds and are not used as a primary residence:

- A. One-to-three family houses (Class 1). During Phase One, houses with a market value of \$5 million or more (as determined by DOF) are subject to the Surcharge. The \$5 million threshold remains unchanged in Phase Two.
- B. Condominiums and co-op units (Class 2). During Phase One, condominium and co-op units with a market value of \$1 million or more are covered. For co-ops, the unit's value is calculated by multiplying the building's total assessed value for real estate taxes by your percentage of shares. In Phase Two (beginning July 1, 2028), the threshold rises to \$5 million, and DOF will value these properties based on actual comparable sales which may result in significantly higher valuations for many units.

2. Covered Owners

Many high-value NYC residential properties are owned not by individuals directly, but through legal entities such as limited liability companies (LLCs), partnerships, corporations, or trusts. The Surcharge addresses this through "look-through" rules that identify the natural person who is treated as the "Covered Owner" for purposes of the law. These rules determine both liability for the Surcharge and eligibility for the primary residence exemption.

LLCs, Partnerships, and Corporations. Where a covered property is owned by a partnership, corporation, or LLC, the partner, shareholder, or member who holds a "majority interest" in the entity is treated as the Covered Owner. The statute does not distinguish between domestic and foreign entities, nor does it explicitly address whether the look-through rules apply to tiered or layered ownership structures (e.g., an individual who owns an LLC that owns another LLC that owns the property). Where no single partner, shareholder, or member holds a majority interest, the statute does not identify a Covered Owner. In such cases, it appears that no individual may claim the primary residence exemption on behalf of the entity, even if one of the owners lives in the property as their primary home. Further, because the methods prescribed by the statute for proving one's primary residence (i.e., NYS resident income tax return, STAR exemption, homeowner tax credit; see Section 5 below) are available primarily only to New York State residents, foreign owners may face practical challenges establishing primary residence status.

Trusts. Where a covered property is owned by a trust, the beneficiary of the trust is treated as the Covered Owner, but only if that beneficiary is the sole beneficiary of the trust. A trust with a single beneficiary who uses the property as his or her primary home may therefore qualify for the primary residence exemption. Trusts with multiple beneficiaries present a challenge. In the case of a trust with multiple beneficiaries, because no individual beneficiary qualifies as the sole beneficial owner, it appears that no one may claim the primary residence exemption on behalf of the trust even if one of the beneficiaries actually lives in the property full time. For example, a family trust

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that names three children as beneficiaries would not have an identifiable Covered Owner under the statute, potentially subjecting the property to the Surcharge regardless of occupancy.

Further legislative or regulatory guidance may be required to clarify the application of the look-through rules.

3. Properties Not Subject to the Pied-à-Terre Tax

The Pied-à-Terre Tax applies only to properties that are not used as a primary residence. Under the statute, if a covered property is occupied as a primary residence for more than half of the year by the owner, an immediate family member of the owner (spouse, child, sibling, parent, grandparent, or grandchild), or a qualifying tenant under a bona fide lease with a term of at least one year, no tax is imposed. In addition, certain properties are excluded from coverage entirely: (1) properties for which a certificate of occupancy has not yet been issued; and (2) residential co-op and condominium units that remain unsold by the sponsor of such condominium or co-op under an offering plan filed with the NY State Attorney General's Office.

The statute requires occupancy as a primary residence for "more than half of the year," but does not define how days of occupancy are counted or documented. Owners who use their property periodically (e.g., several weeks or months per year) but do not meet the primary residence threshold should be aware that they may be subject to the tax. DOF has not yet clarified how occasional or seasonal use will be treated.

4. How the Pied-à-Terre Tax Is Calculated

The tax is calculated based on DOF's determination of your property's "market value". During Phase One (July 1, 2026 through June 30, 2028), the Surcharge is calculated based on the property's "Phase One Market Value" i.e., the market value as determined by DOF under current City Charter valuation practices. For Class One properties and condominium units, this is simply the DOF market value of the property or unit. For co-ops, the value is imputed by multiplying the building's total DOF market value by the unit's share percentage in the co-op corporation. For example, if you own a co-op apartment with an ownership percentage of 1%, and the building in which the apartment is located is assessed by DOF as having a market value of \$150,000,000, then the apartment's imputed Phase One market value would be \$1,500,000 ($\$150,000,000 \times 1\%$). Because this value exceeds the \$1 million threshold and falls between \$1 million and \$3 million, the applicable surcharge rate is 4.0%, resulting in a surcharge of \$60,000 ($\$1,500,000 \times 4.0\%$). Currently, DOF values condominium and co-ops based on their income-producing potential as rental properties. This methodology results in apartments being valued by DOF at amounts well below their actual values on the open sales market.

During Phase Two (July 1, 2028 through June 30, 2031), DOF will value condos and co-ops based on actual comparable sales and not based on the artificially low values currently used for property tax purposes. This will likely result in significantly higher valuations for many apartments. For this reason, the State has raised the threshold for condominium and co-ops to \$5 million in Phase Two. **Important:** DOF has not yet issued guidance on how it will implement this new valuation

method, so there is significant uncertainty about Phase Two. Houses will continue to be valued using DOF’s current methods. Notably, existing property tax benefits (like J-51 or 421-a tax abatements for building improvements) cannot be used to reduce this tax.

For the first fiscal year of the Surcharge (commencing July 1, 2026), the Surcharge is due and payable in full on January 1, 2027.

Phase One Surcharge Rates (July 1, 2026 – June 30, 2028)

| | Class One (1-3 Family Homes) | Class Two (Condominium and Co-op) |
|------------------------------|---|--|
| Threshold | \$5 million (or more) of current DOF “market value” | \$1 million (or more) of current DOF “market value” |
| Valuation Basis | DOF market value for unit | DOF market value (condominium units); Imputed value based on total building “market value” unit share percentage (Co-op units) |
| Surcharge Rate Tier 1 | 0.80% (\$5M-\$15M) of “market value” | 4.0% (\$1M-\$3M) of “market value” |
| Surcharge Rate Tier 2 | 1.05% (\$15M-\$25M) of “market value” | 5.25% (\$3M-\$5M) of “market value” |
| Surcharge Rate Tier 3 | 1.30% (\$25M+) of “market value” | 6.5% (\$5M+) of “market value” |

Phase Two Surcharge Rates (July 1, 2028 – June 30, 2031)

| | Class One (1-3 Family Homes) | Class Two (Condominium and Co-op) |
|------------------------------|---------------------------------------|---|
| Threshold | \$5 million (or more) | \$5 million (or more) |
| Valuation Basis | DOF “market value” for unit | Market value determined using comparable sales methods |
| Surcharge Rate Tier 1 | 0.80% (\$5M-\$15M) of “market value” | 0.80% (\$5M-\$15M) of fair market value (based on comparable sales method) |
| Surcharge Rate Tier 2 | 1.05% (\$15M-\$25M) of “market value” | 1.05% (\$15M-\$25M) of fair market value (based on comparable sales method) |
| Surcharge Rate Tier 3 | 1.30% (\$25M+) of “market value” | 1.30% (\$25M+) of fair market value (based on comparable sales method) |

5. Administration and Collection

Annual Determination of Primary Residence. Each year, DOF will determine whether your property qualifies as a primary residence, based on factors such as whether you (or an eligible family member or tenant) occupied the property for most of the year. This determination is made as of January 5 of each year.

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Notice to Owners. DOF must provide notice to any property owner of DOF's initial determination that a property is not a primary residence. For the first fiscal year (FY 2026–2027), this notice must be sent no later than August 30, 2026. The notice will include the property's Phase One or Phase Two Market Value and an opportunity for the owner to submit proof of primary residence within a specified period of time established by DOF rules. Owners may rebut DOF's non-primary-residence determination by submitting specified proofs of primary residency, including:

- A. A prior-year New York State resident income tax return listing the property as the owner's permanent home address;
- B. Evidence of a prior-year STAR exemption or homeowner tax credit for the property; or
- C. Documentation that the property is the primary residence of a qualifying tenant under a bona fide lease of at least one year, or of an immediate family member of a Covered Owner.

If you disagree with DOF's decision, you can challenge it before the NYC Tax Commission. You can contest: (1) the property's market value as determined by DOF; (2) an initial finding that the property is not a primary residence (if combined with a market value challenge); or (3) a final determination that the property is not a primary residence. Tax Commission decisions can be further appealed in court.

Penalties. DOF may impose penalties of up to 50% of the Surcharge if, after notice and a hearing, it determines that an owner submitted inaccurate or misleading information that was material to the Surcharge determination and was submitted negligently or in bad faith.

Billing and Collection. For houses and condos, DOF bills the tax directly to the owner. For co-ops, DOF adds the Surcharge attributable to non-primary units to the building's master bill; the co-op corporation is then responsible for collecting the Surcharge from the applicable tenant-stockholder.

This tax is separate from your regular property taxes.

Lien. Unpaid taxes become a lien on the property, which the City can enforce or foreclose.

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Key Dates

- July 1, 2026: Pied-à-Terre Tax takes effect (Phase One begins)
- August 30, 2026: Deadline for DOF to issue initial notices to affected owners
- January 1, 2027: First Pied-à-Terre Tax payment due (for FY 2026–2027)
- July 1, 2028: Phase Two begins (higher thresholds and comparable sales valuation for condos/co-ops)
- June 30, 2031: Pied-à-Terre Tax currently scheduled to expire (unless extended)

How Much Will You Owe? Pied-à-Terre Tax Examples

Example 1 (Phase One; Co-op Below Threshold):

A co-op that is not used as a primary residence, with 750 shares (1.6% of the building) in a pre-war building on Park Avenue with a total DOF market value of \$52,000,000, has an Imputed Phase One Market Value of \$832,000 ($\$52,000,000 \times 1.6\%$). Because this is below the \$1 million Phase One threshold for co-ops, **no Surcharge is imposed**. However, in Phase Two (beginning July 1, 2028), DOF will value co-op units using comparable sales methods, which may result in a significantly higher valuation and potential Surcharge liability.

Example 2 (Phase One; Co-op Above Threshold):

A co-op that is not used as a primary residence, with 2,500 shares (4% of the building) in a building with a total DOF market value of \$75,000,000, has an Imputed Phase One Market Value of \$3,000,000 ($\$75,000,000 \times 4\%$). This falls in the \$1M–3M bracket. Annual Surcharge = $4.0\% \times \$3,000,000 = \mathbf{\$120,000}$.

Example 3 (Phase One; Condominium):

A non-primary-residence condominium unit with a Phase One Market Value of \$4,200,000 falls in the \$3M–\$5M bracket. Annual Surcharge = $5.25\% \times \$4,200,000 = \mathbf{\$220,500}$.

Example 4 (Phase Two; Co-op):

The same co-op from Example 1 (Park Avenue, 1.6% share), still not used as a primary residence, is revalued in Phase Two using comparable sales methods. If comparable units have sold for approximately \$4,500 per square foot and the unit is 2,000 square feet, the Phase Two Market Value would be \$9,000,000. This falls in the \$5M–15M bracket. Annual Surcharge = $0.8\% \times \$9,000,000 = \mathbf{\$72,000}$.

Example 5 (Phase One; One-to-Three Family House):

A brownstone in Brooklyn with a DOF market value of \$7,500,000 that is not used as a primary residence falls in the \$5M–\$15M bracket for Class 1 properties. Annual Pied-à-Terre Tax = $0.8\% \times \$7,500,000 = \mathbf{\$60,000}$. Note that Class 1 properties use the same \$5 million threshold and the same rates in both Phase One and Phase Two.