

Blog Post

# Complexities Emerge for Property Owners Facing NYC's New "Pied-à-Terre Tax"

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New York City's "pied-à-terre tax," enacted on May 28, 2026, took effect on July 1, 2026. This new annual property tax surcharge targets certain high-value residential properties in New York City that do not serve as their owner's primary residence. Sources estimate the Surcharge will apply to roughly 10,000 properties citywide.

## Who Is Subject to the Surcharge?

The Surcharge applies to residential real property in New York City that is not the owner's primary residence. Covered property includes Class 1 properties (one-to-three-family homes) other than vacant land, Class 2 residential cooperative property in which at least one apartment meets the value threshold and is not a shareholder's primary residence, and Class 2 residential condominium apartments.

Importantly, a property is exempt if it serves as the primary residence of the owner, the owner's spouse, child, sibling, parent, grandparent, or grandchild. A property leased under an arm's-length lease of at least one year to a bona fide tenant who uses it as a primary residence also falls outside the Surcharge's scope.

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## How the Surcharge Is Implemented

New York City has implemented the Surcharge in two phases. Different valuation thresholds apply during Phase 1 depending on the property type:

For Phase One (fiscal years beginning on or after July 1, 2026, and before July 1, 2028), the Surcharge applies to:

- Class 1 properties (one-to-three-family homes) with a Phase One market value of \$5 million or more;
- Residential condominium dwelling units with a Phase One market value of \$1 million or more; and
- Residential cooperative dwelling units with a Phase One market value of \$1 million or more.

For Phase Two (fiscal years beginning on or after July 1, 2028), the Surcharge applies to all covered properties with market value of \$5 million or more.

In Phase 1, condos and co-ops are valued using an income-based approach tied to comparable rental buildings rather than actual sale prices, often producing assessed values well below open-market value. For example, a condo listed for nearly \$6 million on the open market may carry a DOF value of only about \$640,000 under this approach. Other property types, such as one-to-three-family homes, are valued using comparable sales.

For the fiscal year beginning July 1, 2026, the initial Surcharge will be due and payable on January 1, 2027.

## What Rates Apply?

The Surcharge rates are graduated based on property type and market value.

During Phase One, Class 1 properties (one-to-three-family homes) are subject to a graduated rate

starting at 0.8% for market values between \$5 million and \$15 million, increasing to 1.05% for values between \$15 million and \$25 million, and reaching 1.3% for values exceeding \$25 million. Condominium and cooperative units face significantly steeper rates during Phase One: 4.0% for market values between \$1 million and \$3 million, 5.25% for values between \$3 million and \$5 million, and 6.5% for values above \$5 million. The higher condo and co-op rates during Phase One reflect the fact that market valuations for these unit types are substantially lower than actual market value, and the legislature sought to capture a comparable revenue impact across property classes during the transition period.

For Phase Two, the rates converge. All covered properties, regardless of type, will be subject to the same graduated schedule: 0.8% for market values between \$5 million and \$15 million, 1.05% for values between \$15 million and \$25 million, and 1.3% for values above \$25 million.

### Challenging Residency Determinations and the Coop Wrinkle

The entire architecture of the Surcharge rests on whether a property qualifies as a “primary residence.” The New York City Department of Finance (DOF) will determine residency status in part by cross-referencing the address listed on a homeowner’s New York State personal income tax return. The DOF is required to notify owners of properties subject to the Surcharge no later than August 30, 2026, after which owners may contest the determination by submitting proof of primary residence. Residency is self-certified, but the DOF is authorized to impose penalties of up to 50% of the surcharge for negligent or bad-faith misrepresentations, following notice and an opportunity for a hearing.

Perhaps the most complex aspect of the new law involves its application to cooperative apartments. Unlike condominium or townhouse owners, co-op

shareholders do not receive individual property tax bills. Rather, the co-op's managing agent pays a single bill for the entire building. Under the legislation, the DOF will add the Surcharge to the co-op's overall property tax bill, meaning co-op boards will be responsible for collecting the Surcharge from shareholders who use their apartments as pieds-à-terre. During Phase One, the DOF market value of an individual cooperative apartment is calculated by multiplying the DOF market value of the entire cooperative building by the percentage of shares in the corporation representing the interest in the individual apartment. This presents a unique estimation challenge as, under the City's property tax system, assessed values for cooperatives are recorded at the building level, not the individual unit level. As the City Comptroller's report noted, per-unit values must be derived from building-level data using unit-level shareholders' stock information from the Real Property Assessment Database cooperative unit files.

This creates a host of potential practical and legal concerns for cooperative boards. If a tenant-shareholder fails to pay, DOF may place a lien on the entire building, potentially making the cooperative a de facto guarantor for a noncompliant shareholder. Such a lien could also trigger default provisions under the cooperative's underlying mortgage, and shareholders' lenders may require letters of indemnification from the corporation.

From a practical perspective, many cooperative boards restrict shareholders from renting out or subletting their units, so it may be more difficult for shareholders to fall under an exemption. Cooperative boards will need to create a process for identifying shareholders who are not using the property as a primary residence, which may require requesting sensitive personal information from shareholders. Boards may also need to evaluate whether existing proprietary leases give them adequate authority to compel payment of the

Surcharge, or whether amendments must be approved.

Ultimately, it seems likely that the new Surcharge will result in future litigation, especially in the case of cooperatives. While the original legislation does create a separate Tax Commission review process for the Surcharge that can be judicially reviewed, the Tax Commission has never handled individual co-op apartment valuation protests of this kind, and it remains unclear whether the Tax Commission has the capacity or procedural framework to adjudicate a wave of unit-level disputes arising from building-level assessments. The legislation itself does not specify how a co-op shareholder disputes the value imputed to their unit when that value is derived mechanically from a building-wide formula. Until DOF issues implementing regulations and the Tax Commission develops procedures for these novel questions, co-op shareholders face a system in which the right to challenge exists on paper but the practical infrastructure to support it remains largely unbuilt.

### Real Estate Industry Pushes Back at Pied-à-Terre Tax Hearing

On July 9, 2026, the DOF held a remote public hearing on its proposed rules for implementing the Surcharge, drawing testimony from real estate brokers, tax attorneys, and major industry groups in a session that is typically sparsely attended. Commenters, including the Real Estate Board of New York (REBNY) and the Council of New York Cooperatives & Condominiums, argued that the City's rules left major questions unanswered, with REBNY stating in written testimony that the City "must provide owners, shareholders, boards, and other market participants with the ability to understand how these values will be determined." This hearing marked the close of DOF's public comment period on the proposed rules, and the agency must now review the testimony and written comments it received before issuing final rules. DOF

has not indicated when final rulemaking will be completed. In the meantime, the statutory timeline continues to run: initial determinations notifying owners of their liability are still due by August 30, 2026, with the resulting tax bills due in January 2027.

As DOF works toward final rules and the first wave of notices approaches, property owners and cooperative boards would be well served to watch this legislation closely in the months ahead.