Changes To Co-op/Condo Tax Abatement Law Impact Thousands Of Owners

By Harris Bornstein, Douglas Elliman Property Management

In January 2013, New York City's Co-op and Condo Tax Abatement Law was extended until June, 2015. The good news is that most apartment owners in the City will continue to receive the property tax relief they've been getting since the "temporary" abatement was enacted in 1996. The bad news is that thousands of owners will no longer be eligible, and will see their property taxes, already grossly higher than those of one-, two- and three-family homeowners in the City, escalate by as much as 28%.

Addressing A Long-Term Tax Inequity

One of the City's greatest tax inequities has been the difference in property taxation on Class One and Class Two homes. Class One homes, which include single, two-family and three-family houses, have traditionally paid about one-third the taxes that co-op and condo owners have paid on their Class Two apartments. Rather than implementing a comprehensive solution to this inequity, as originally planned, the State Legislatures have continued to extend the 1996 "temporary" statute over and over again, a few years at a time.

But with the 2013 extension, the tax abatement was amended to reduce the number of eligible homeowners to only those using their apartments as their primary residence. Those who live elsewhere more than half the year began to see their abatement fade away starting in the 2012/13 tax year. By next year, these owners will have lost their entire abatement, which is 17.5% for the majority of apartment owners (anyone with a unit valued at more than $60,000). Units owned in trust remain eligible as long as the apartment is the primary resident of the trustee or beneficiary.

The Department of Finance estimates that there are about 366,000 co-op and condo owners in New York City, of whom as many as one-third may no longer be eligible for the tax break. In February 2013 letters were sent to those owners, informing them that in order to continue to receive the lower tax rate, they would need to prove that their apartment was their primary residence.

Failure To File The Paperwork Can Cost You

Now that the higher tax bills are appearing, many of these owners have realized that they missed the deadline and failed to secure their tax eligibility. As a result, property managers throughout the City have been getting calls and emails from residents trying to rectify the situation.

Unfortunately, if a resident failed to return the proof of primary residence form by the deadline, they will have to apply for corrected ownership status for the next tax year. However, the change in status will not be retroactive, so do not expect a refund. Those who find themselves in this predicament should contact their property management Account Executive in order to file the proper paperwork and obtain future tax benefits. The change forms must be submitted by February 15, 2015. For those who are not full-time primary residents, the higher tax rate is unavoidable unless the law is changed some time in the future.

Our biggest problem has been validating eligibility pertaining to the primary residency rule. The City has put property managers in the difficult position of being the "Primary Resident Police." Douglas Elliman has been proactive in this area since the law was passed in early 2013, and have added a box on our closing statements which designates whether a new shareholder is a primary resident or not. This information will be extremely helpful once the 2014/15 benefit reports are published, as we will be able to validate new purchasers' eligibility with the information in our database and will not need to guess or contact shareholders via letters to document their residency status. By instituting these internal controls and by following up on the loud and clear responses from shareholders who have been incorrectly phased out, we are hoping that our main objective — securing full abatement status for all those deserving it — will be met.

You May Be Eligible For Other Tax Relief

By the end of June 2015, the extension of the tax abatement is set to expire yet again. Will the City find a long-term solution to the property tax inequity between apartment owners and homeowners before then? Let's hope so, but if the past is any indication, it appears unlikely.

If you have any doubt about your eligibility, contact the Account Executive at your Managing Agent, or visit the City's website at nyc.gov/ccabatements. Whether or not you remain eligible for the co-op and condo property tax abatement, you may be eligible for other property tax abatements, such as Basic or Enhanced School Tax Relief (STAR), Disabled Homeowner, Senior Citizen Homeowner and Veterans. Applications for these exemptions are due by March 15 and are the responsibility of the resident.

About Harris Bornstein

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