

DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT

Notice of Proposed Rules

Notice of Opportunity to Comment on Proposed Rules Governing Tax Exemption under §421-b of the Real Property Tax Law

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE Commissioner of Housing Preservation and Development by §1802 (6)(c) and in accordance with the requirements of §1043 of the New York City Charter that the Department of Housing Preservation and Development intends to modify the rules governing tax exemption under §421-b of the Real Property Tax Law of the State of New York. Additions to the rules are underlined and proposed deletions are [bracketed].

Written comments regarding these rules may be sent to the Department of Housing Preservation and Development, Attention: Elaine Toribio, TIP Director, 100 Gold Street, Room 3-Z1, New York, New York 10038, on or before. A public hearing shall be held from 9:00 am to 12:00 p.m. on September 15, 2009 at 100 Gold Street, 9th floor, Room 9P-10, New York, New York 10038. Persons seeking to testify are requested to notify the TIP Director at the foregoing address. Written comments and an audiotape of oral comments received at the hearing will be available for public inspection, within a reasonable time after receipt, between the hours of 9:00 A.M. and 5:00 P.M. at the office of the TIP Director.

The proposed rule amendments were not included in HPD's 2008-09 Regulatory Agenda because the need for them was not anticipated at the time the regulatory agenda was formulated.

Persons who request that a sign language interpreter or other form of reasonable accommodation for a disability be provided at the hearing are requested to notify the TIP Director at the foregoing address by September 1, 2009.

Material to be added is underlined. Material to be deleted is in [brackets].

Section one. Subdivisions (g) and (h) of section 7-05 of Chapter 7 of Title 28 of the Rules of the City of New York are amended to read as follows:

(g) All applicants for a Preliminary or Final Certificate of Eligibility must, in addition to the timely filing of an application, provide all of the required documentation for such application on or before December 31, [2009] 2010.

(h) Notwithstanding anything to the contrary contained in this section, the Department may waive the filing deadlines for an application for a Final Certificate of Eligibility set forth in Sections 7-05(d) and 7-05(e) of this chapter if (1) the Department, in its sole discretion, determines that the owner of such private dwelling reasonably relied upon a representation by the seller of such private dwelling that the seller would file or had filed the application for the Final

Certificate of Eligibility , and (2) the owner of such private dwelling provides all of the required documentation for such application on or before December 31, [2009] 2010.

Statement of Basis and Purpose. The RPTL section 421-b tax incentive program currently applies to residences which commence construction before July 1, 2006. The program was not extended by the Legislature, so its application has ceased with the exception of unfinished units, which were previously required to obtain a certificate of occupancy by July 1, 2009. However, the State Legislature recently extended the deadline for completion of projects eligible for RPTL § 421-b benefits from July 1, 2009 to July 1, 2010. The reason for this extension was that the downturn in the housing market coupled with the difficulty involved in obtaining construction financing had prevented some builders from completing projects which were commenced in compliance with the RPTL § 421-b program.

In 2006, HPD adopted rule amendments that allowed it to waive the filing deadline for RPTL § 421-b applications in certain instances in order to ensure that homeowners who purchase private dwellings with the reasonable expectation that their new homes will be eligible for 421-b benefits are not penalized due to the seller's misrepresentations regarding the filing of a 421-b application. The 2006 rule amendments also provided that all of the required documentation for any application for a Preliminary or Final Certificate of Eligibility must be filed on or before December 31, 2008. The State Legislature previously extended the completion deadline to July 1, 2009 and HPD amended its rules accordingly to extend the deadline for submission of documentation to December 31, 2009. Due to the above-mentioned additional completion extension, HPD is now proposing an extension of the deadline for filing required documentation for such tax exemption benefits from December 31, 2009 to December 31, 2010.

Rafael E. Cestero, Commissioner

August 13, 2009