



**TAX COMMISSION OF THE CITY OF NEW YORK  
1 Centre Street, Room 936, New York, NY 10007**

**TC70  
2009**

**NOTICE OF OFFER AND ACCEPTANCE AGREEMENT**

This notice of offer and acceptance agreement consists of five pages. Four pages present standard terms governing all offers. The fifth page is a signature page that identifies the property, states the proposed final determination of the Tax Commission on your application for correction, and states the date the offer expires. There may be additional pages if the offer covers multiple parcels.

**1. Instructions for acceptance.** Read this notice of offer and acceptance agreement, including the information on page 4 on the procedure for judicial review of the assessment if you do not accept the offer. If you sign the acceptance agreement, you agree to all of the stated terms and waive your rights to further review of the current and prior assessments, including further review of claims relating to determinations by the Department of Finance of exemption and classification. To accept the offer, date, sign, print your name, and specify your authorization on the signature page. For example, state whether the signer is the applicant, designated representative or officer of a corporation, cooperative or condominium. Do not write anything else on the signature page. Additional writing on the signature page will make the attempt to accept ineffective. Return the entire original signature page, together with any other papers required, as described below. If the offer notice is sent to a representative using a firm name, an authorized individual must sign and print his or her name. Using the firm's name alone will make the attempt to accept ineffective.

**2. No reduction without complete acceptance, timely received at the Tax Commission.** The proposed assessment correction will be implemented only if you accept it by returning the whole signature page to the Tax Commission, with all required papers as set forth in parts 10-12 below, so that the entire package is received no later than the expiration date. Staple all papers together securely. If your signature page is not timely received, together with all required papers, the offer will lapse, and the assessment will be confirmed. Mailing does not ensure receipt. The only acceptable proof of receipt is the Tax Commission receipt Form TC10 with a date stamp acknowledging receipt.

Requests for extension of time to accept, to cure a defective acceptance, or to accept an offer whose acceptance is lost in the mail, will not be entertained. However, upon receipt before the offer expires of a letter requesting an extension of time to accept, with a copy of a motion to change attorneys or compel discontinuance, with proof of service and filing with RJI, attached to Form TC159, and a copy of the offer notice, the Tax Commission will extend the time to accept until the court issues its determination.

**3. Rejecting the offer.** If you do not want to accept the offer, do not respond to this notice. Do not return the signature page. Refer to the information on page 4 on the procedure for judicial review.

**4. Required disclosures of sales and other material facts.** The applicant represents that, except as disclosed in writing in the application, at the hearing, or other time before the offer was issued, the application, hearing testimony and all supplemental submissions are free of material errors or omissions and that there has been no sale of the property, transfer of the applicant's interest in the property, contract to sell, or new net lease of the property negotiated or executed within the past year.

If a required disclosure has not been made, or if a material error or omission in the original application, supplemental submissions or hearing testimony remains uncorrected, do not accept the offer. Disclose the facts in a supplemental affidavit, Form TC159, not on the acceptance agreement. Use Form TC159 with Form TC230, to disclose a sale, or Form TC200 for a sale between related persons. If disclosure is timely, request a re-offer before the acceptance deadline. A request for a re-offer tolls the original acceptance deadline while the Tax Commission reviews the matter. The time remaining of the original 45 days to accept will govern the acceptance deadline for a re-offer. Staple a copy of the offer notice to

your re-offer request. Discovery of a failure to make required disclosures before acceptance will result in denial of Tax Commission approval of the offer, or revocation when discovery occurs after approval.

5. **No modifications.** The printed terms of this agreement may not be modified. Attempts to modify, delete, insert or incorporate attachments to the signature page will make the attempt to accept ineffective.

6. **Binding effect.** This agreement is binding on the applicant when delivered to the Tax Commission. The applicant may withdraw the acceptance only with the written consent of the Tax Commission.

7. **Approval.** This agreement is contingent upon approval by the Tax Commission. The Tax Commission will notify the applicant in writing of its withdrawal of the offer if approval is denied. If the assessment has already been changed on the assessment roll, the Department of Finance will send you another *Notice of Revised Assessment*, the original assessment will be reinstated on the assessment roll, and additional taxes may be imposed. The applicant will be released from the provisions of this agreement restricting the right to commence or continue an assessment review proceeding. The Tax Commission will return any stipulations of discontinuance you submitted. For purposes of the statute of limitations, the withdrawal of the offer upon denial of approval will be deemed the filing of the final assessment on the date printed on the notice of withdrawal. Notwithstanding sections 165 and 166 of the New York City Charter, within 30 days of the date of the notice of withdrawal, the Tax Commission will consent to commencement of an assessment review proceeding, nunc pro tunc.

8. **Revocation.** If, after approval of this agreement, the Tax Commission discovers fraud or intentional misrepresentation in the application, hearing testimony or supplemental submissions, illegality in the offer, or that the applicant or any individual or entity acting on the applicant's behalf is convicted of, or pleads guilty to, a crime related to the assessed value of the property, the agreement will be revoked, the original assessment will be reinstated, additional taxes may be imposed, and the applicant shall forthwith return any refund paid as a result of the offer. Consent to commence an assessment review proceeding, nunc pro tunc, will not be granted.

9. **No proceeding to be commenced.** The applicant accepts the assessment proposed by this offer and will not commence a proceeding to review the current assessment. Upon acceptance, the application for correction is deemed withdrawn, effective as of the date it was filed. A withdrawn application cannot serve as the predicate for a judicial proceeding. Commencement of a proceeding to review the current assessment after acceptance of an offer may result in denial of approval, or revocation when discovery follows approval.

10. **Proceedings to be discontinued.** All open proceedings to review the current or prior assessments are to be discontinued without costs or interest. All assessments for past years are confirmed without adjustment, except to the extent this offer adjusts last year's assessment, and except to the extent that a prior year's assessment is the subject of a combined offer as described in part 13, below.

11. **Submit stipulations of discontinuance with acceptance.** The Tax Commission must receive, stapled to the signed acceptance, stipulations of discontinuance for all proceedings commenced or maintained by or on behalf of: the applicant; persons related to the applicant; current owners (if the applicant no longer is the owner); and lessees, mortgagees, receivers or other persons who have a continuing interest in the property and its assessment in the current year. Submit an original stipulation and three copies. The requirement to submit stipulations of discontinuance includes proceedings to review the current year's assessment, commenced before acceptance. Submission of stipulations at a different time will make the attempt to accept ineffective, the offer will lapse, and the papers will be rejected. If there are multiple proceedings for any year for which a proceeding must be discontinued, the applicant will provide discontinuances for all the proceedings for that year. The obligation to provide a stipulation of discontinuance of any open proceeding is not limited by its omission from those listed on the signature page. The applicant will not commence, maintain, assist or participate in any proceeding to review the current or prior assessments. Any interest the applicant has or later obtains in such a proceeding is assigned to the City of New York.

**12. Proper form for stipulations of discontinuance.** Stipulations of discontinuance required by this agreement must be signed by petitioner's attorney of record and in proper form for filing in court. The stipulation must recite the caption of the proceeding, index number, tax year, borough, block and lot of the property, and the name, address and telephone number of the attorney. The stipulation must state that the proceeding is discontinued without costs or interest; it must not contain any limitations or conditions, except that for a proceeding covering more than one lot, discontinuance may be expressly limited to the applicable lot(s). The applicant or representative is deemed to represent that all stipulations of discontinuance submitted are duly authorized by the attorney of record. The attorney of record is the attorney who originally commenced the proceeding on petitioner's behalf, or another attorney who has been substituted in accordance with Civil Practice Law and Rules section 321(b).

**13. Combined offers.** The requirement of discontinuance of pending proceedings does not apply to proceedings specified in a combined offer, where settlement terms proposed by the Law Department and accepted by the petitioner are expressly referred to in the Tax Commission's notice of offer. Notwithstanding prior submission at a hearing with Form TC140, attach a copy of the proposed offer and order to allow judgment, in proper form and signed by the petitioner's attorney of record, to the signature page referring to a combined offer.

**14. Correcting mistaken acceptance notice.** If the notice of offer and acceptance agreement contains a clerical error, arithmetical miscomputation, or mistake in proceedings to be discontinued, do not accept the offer. Inform us of the issue before the acceptance deadline and request a revised offer. Attach a copy of the notice of offer and documents showing the error. A request for a revised offer tolls the original acceptance deadline while we review the matter. The time remaining of the original 45 days to accept will govern the acceptance deadline for a revised offer. A request for a revised offer may not be granted to correct a mistake in proceedings to be discontinued resulting from an error or omission on Form TC140 or the failure to file Form TC140 as instructed.

**15. Recomputing transition assessments and exemptions.** Unless the acceptance agreement provides otherwise, assessment adjustments reduce the actual total assessment. If the property has a transition assessment or partial exemption, the Department of Finance will recalculate the taxable assessed value by substituting the actual assessment determined by the Tax Commission for the original actual assessment and then applying the same methods of calculation as were used to determine the original transition and exempt values.

Except when expressly denominated as land or physical changes, reductions apply to the improvement component of the assessment and reflect equalization, not physical, adjustments. The Department of Finance will follow adjustments expressly denominated in this acceptance agreement as changes in the land assessment or physical changes in the computation of transition assessments and exemptions.

Partial exemptions for partial use for an exempt purpose, unless otherwise specified, apply the ratio between the original actual exemption and the actual total assessment to the proposed actual total assessment. For exemptions of assessment increases over a base amount, the exemption will be reduced to the extent that the Tax Commission's reduction reverses increases granted exemption. Where increases were granted exemption dollar for dollar, a Tax Commission reduction will not reduce taxable assessed value or your tax bill.

**16. Class changes.** Changes in a property's tax class designation or subclass designation are implemented in the same manner as corrections of assessed values. If a property is reassigned to a class or subclass that is not eligible for transition assessments or has a higher tax rate, the taxable assessed value or tax liability may increase. If the correction occurs after the preparation of the final assessment roll, the Department of Finance may impose additional taxes after July 1.

**17. Department of Finance implements Tax Commission determinations.** There are two procedures for implementing assessment changes ordered by the Tax Commission: adjustments on the final assessment roll and remissions of tax. Corrections appearing on the final assessment roll, which is

published on or about May 25, are reflected in the tax bill for the fiscal year starting July 1. If you accept a current-year correction before May 20, the Department of Finance may implement the reduction on the final assessment roll; however, the Tax Commission cannot guarantee this. If the correction is not made on the final assessment roll, or the prior year's assessment is adjusted, the Department of Finance will implement the reduction by remission and will mail a *Notice of Revised Assessment*. The amount of tax attributable to the excess taxable assessed valuation will be cancelled, and, if the taxes were paid, the Department of Finance will calculate a credit. The *Notice of Revised Assessment* includes instructions on how to request a refund or transfer of the credit.

**18. Future assessments and market value estimate.** The Tax Commission notifies the Department of Finance of all accepted offers. A reduction this year does not restrict the determination by the Department of Finance next year of the property's market value or assessment. Each year's assessment is a separate determination.

**19. Power of attorney.** If a representative signs this agreement for the applicant, but was not named on the original or amended application form, the representative must attach a power of attorney, signed by the applicant and notarized.

**20. Additional information.** For further information about how to accept this offer to correct the assessment, write to the Tax Commission or call (212) 669-4410. Direct questions on assessments, transition assessments, exemptions, market value, tax refunds, credits, bills and remissions to the Department of Finance, Taxpayer Assistance Unit at 311 or to your borough assessment office.

**21. Judicial review.** If you do not accept this offer, you may obtain judicial review under Article 7 of the Real Property Tax Law. Consult Tax Commission publication *TC707 Judicial Review of Assessments* for additional information on judicial review. The last day for commencing a proceeding is October 23, 2009.

**22. Small claims review for owner-occupied Class 1 property.** If you do not accept this offer and you are the owner of a one, two or three family structure and reside there, you may seek judicial review of your assessment either under Title 1 of Article 7 of the Real Property Tax Law, or the small claims assessment review provided by Title 1-A of Article 7 of the Real Property Tax Law. Consult publication TC708 Small Claims Assessment Review for additional information. The last day for commencing a proceeding is October 23, 2009. Forms and instructions for small claims assessment review may be obtained in the offices of the county clerk in each borough.

**23. Definitions:**

*Assessment* means a determination by the Department of Finance of (a) the taxable status of real property, (b) the valuation of real property, including the valuation of exempt real property, and where such property is partially exempt, the valuation of both the taxable and exempt portions, (c) the class designation of real property pursuant to section 1802 of the Real Property Tax Law, and (d) the application and amount of any partial exemption, transition assessment or assessment limitation prescribed by law.

*Current assessment* means the assessment on the final assessment roll published in the same calendar year as the filing of the application for correction under review.

*Physical reductions* adjust increases for construction or reflect damage to the structure; they have no transition phase-in.

*Proceeding* means any administrative or judicial action or proceeding which seeks a change in an assessment or any substantially similar or related relief, including injunctive or declaratory relief, and including proceedings based entirely on issues of law. A proceeding is open if no final order has been entered or an appeal is pending, unless it is deemed abandoned pursuant to law.

*Related persons* include individuals related by blood, marriage or adoption, individuals and the business entities they control, business entities under common control, and fiduciaries and the beneficiaries for whom they act. A person includes a corporation or other business entity.