DEPARTMENT OF FINANCE
AUDIT DIVISION

SAP 93-2-GCT/RPTT 3/1/93

STATEMENT OF AUDIT PROCEDURE

FAIR MARKET VALUATION OF REAL PROPERTY

I. BACKGROUND

In 1984, the Department of Finance ("Department") issued Policy Bulletin 3-84 ("3-84") relating to the valuation of real property for purposes of the General Corporation Tax. The bulletin established a presumption that, for purposes of computing the tax measured by capital and the property factor of the allocation formula, the fair market value of real property located within New York City would be presumed to be not less than twice the assessed valuation of the property on the assessment roll of the City for the period covered by the tax return. However, the taxpayer or the Commissioner of Finance may rebut the presumption by establishing a different valuation.

Pursuant to 3-84, a field or desk auditor computes the tax liability resulting from the use of this presumption and compares it with the liability reported by the taxpayer. If the results of the 3-84 computation exceeds the taxpayer's reported liability the auditor would assert an additional amount of tax as due. A similar procedure has also been used to value property for purposes of establishing the correct value of non-cash consideration for transfers subject to the New York City Real Property Transfer Tax.

Most commercial properties (including hotels, motels, and multi-family residential rental properties with eleven (11) or more units) are assessed at approximately 45% of their fair market value. Residential properties containing less than ten units, residential cooperatives and condominiums are subject to special assessment rules which may result in assessed values substantially less than 45% of fair market value. Therefore, for all tax years ending after December 31, 1991, the presumption established by 3-84, no longer provides a reasonable basis for establishing fair market value.

The Property Division of the Finance Department prepares an estimate of market value for every parcel of real property in the City. These values appear on the yearly Notice of Assessment (commonly known as a "Flak Notice"). They are identified on this Notice as the Estimated Market Value. These values are also readily available to the public in the borough offices of the Property Division.

II. PROCEDURE

When conducting a field or desk audit in which the value for commercial properties and one, two and three family homes may be an issue, the auditor should compare the value of the real property reported on the tax return to the Estimated Market Value of the property on the assessment roll of the City for the same period as covered by the return. If the value reported on the return is less than the Estimated Market Value, the auditor may presume that the property has been reported at less than its fair market value. A proposed deficiency in tax liability will be calculated on the basis of the difference between the reported value and the Estimated Market Value. The auditor may also seek to establish a value other than the Estimated Market Value by utilizing other relevant evidence.

A taxpayer may dispute a proposed deficiency based on this, or any other procedure used to determine fair market value, by submitting proof of a different value (e.g., an independent appraisal).