



Guide to Understanding the Penalty for Failure to File the Real Property Income and Expense Statement (the “RPIE”)

Overview

Owners of income-producing property are required by law to file an annual Real Property Income and Expense (“RPIE”) statement. The RPIE must be filed to enable the Department of Finance to accurately value property for property tax purposes. The Department of Finance uses the owner’s RPIE statement and RPIE statements of other similar properties to estimate the market value of the owner’s property.

The failure to timely file a complete and accurate RPIE is subject to penalty. Property owners should also be aware that they will lose the right to a hearing at the New York City Tax Commission if they do not file the RPIE on time.

Legal Authority

Section 11-208.1 of the Administrative Code of the City of New York requires owners of income-producing real property and utility property with actual assessed values of more than \$40,000 to submit annually a Real Property Income and Expense Statement by electronic means unless a waiver of the electronic filing requirement was granted. Utility property owners can only file electronically. Rules governing the filing of RPIE statements can be found in sections 33-01 through 33-06 of the Rules of the City of New York.

Basic Filing Requirements

A substantially complete and accurate income and expense statement must be filed by June 1st of each year. An RPIE statement must be filed in an electronic format, unless a request to file a paper RPIE statement has been made and postmarked by May 2nd (or 30 days prior to the RPIE filing deadline) and a waiver has been granted. Note: Utility property owners can only file electronically.

How to Get a Waiver to Let You File Using a Paper Form

Waiver requests can be obtained by calling 311 or by printing a copy from the Department of Finance webpage www.nyc.gov/rpie. A waiver from electronic filing may be granted to property owners who are disabled or who are senior citizens who would have difficulty completing the RPIE statement on line. Property owners who have been granted a waiver must file a complete and accurate paper RPIE by June 1st of every year. The Department of Finance will only make paper RPIE forms available to property owners with approved waivers.

Electronic Filing of Your Claim of Exclusion

If a property owner qualifies for one of the exclusions from the RPIE filing requirements, that owner must file a Claim of Exclusion annually. See Real Property Income & Expense (RPIE) Filing Information, <http://www1.nyc.gov/assets/finance/downloads/pdf/rpie/rpiefilinginfo.pdf>, for more details about who is excluded from the RPIE filing requirements, and for a list of owners who are not required to file either an RPIE statement or Claim of Exclusion. Most owners must file a Claim of Exclusion electronically. Property owners may request a waiver in order to file a Claim of Exclusion using a paper form, and may file a Claim of Exclusion in paper form if the waiver is granted. Utility property owners cannot file a Claim of Exclusion.

Why will I be notified of a possible penalty for failure to file the RPIE?

1. For failing to submit an RPIE statement electronically by the deadline. If you do not have a waiver from the electronic filing requirement, mailing a paper RPIE statement is not a substitute for submitting the RPIE statement electronically.
2. For filers with an approved waiver, for failing to file a paper RPIE statement or Claim of Exclusion by mail by the deadline.
3. For filers with an approved waiver, for failing to complete a paper RPIE statement in a legible manner.

4. For failing to file a separate RPIE statement for each property you own, unless you meet specific requirements that allow you to file them together.
5. For failing to submit an addendum, such as a rent roll, if required.
6. For failing to file a substantially complete and accurate RPIE statement that includes information for the correct accounting period and an itemized list of Income and expense items and costs for utility properties.

What if I don't file a Claim of Exclusion?

Owners of properties that are required to file a Claim of Exclusion will be charged a penalty of \$100 if they do not file the exclusion within 30 days of being reminded to file. If you do not have a waiver from the electronic filing requirement, mailing a Claim of Exclusion using a paper RPIE statement is not a substitute for submitting the Claim of Exclusion electronically. Utility property owners cannot file a Claim of Exclusion.

Penalty for Failure to File

Required filers who do not submit the RPIE statement electronically by the June 1st due date (or required filers who have been given a waiver from the electronic filing requirement who do not submit a paper RPIE form by the June 1st due date) and do not electronically file within 30 days of being reminded to file in a Non-Compliance Notice (explained in more detail in the section about how to file a cure below) are subject to the following penalties:

Final Assessed Value From	To	Penalty Amount
\$40,001	\$99,999	\$300
\$100,000	\$249,999	\$750
\$250,000	\$499,999	\$1,500
\$500,000	\$999,999	\$3,000
\$1,000,000	\$4,999,999	\$5,000
\$5,000,000	\$9,999,999	\$20,000
\$10,000,000	\$14,999,999	\$40,000
\$15,000,000	\$24,999,999	\$60,000
\$25,000,000+		\$100,000

Owners of income-producing property who fail to file an income and expense statement for three consecutive years may be subject to a penalty of five percent of the final actual assessed value of the property.

<http://www1.nyc.gov/site/finance/taxes/property-rpie.page>

Special Notice for First –Time Filers

In the first year that any property is subject to the requirement to file an RPIE statement, property owners will not be subject to any penalty for failure to file. They will be sent a Non-Compliance Notice reminding them that they must file the RPIE which asks them to file within 30 days. The Non-Compliance Notice for first-time required filers says that in general, failure to file a timely RPIE statement may result in a penalty. However, no penalty is proposed for first-time required filers, and none will be billed even if they don't file within 30 days of the reminder.

How to “Cure” and Avoid a Proposed Penalty for Failure to File

Required filers who do not file by June 1st deadline are sent a Non-Compliance Notice telling them about the proposed penalty. The Non-Compliance Notice reminds property owners that they must file the RPIE or be subject to the penalty amount shown in the Non-Compliance Notice. The Non-Compliance Notice gives them another 30 days in which to file, known as the Cure Period. Filers who submit a complete RPIE (either electronically or on paper for approved filers) statement during the Cure Period do not get assessed a penalty.

Right to Petition to Challenge a Proposed Penalty for Failure to File

In the Non-Compliance Notice in which property owners are told about the Cure Period, they are also given the ability to petition and challenge the possible imposition of a penalty for failure to file the RPIE. The petition is sent with the Non-Compliance Notice and must be filed with the Department of Finance during the Cure Period. Any possible penalty is suspended while the petition is heard by an Administrative Law Judge at the Office of Administrative Tax Appeals, whose recommendation may be modified by the Finance Commissioner. A Final Determination about the penalty will then be sent to the property owner. The penalty stated in that decision will appear on the property tax bill.

Assessment of the Penalty for Failure to File

Required filers who fail to submit a complete RPIE statement or applicable claim of exclusion during the Cure Period will be assessed the penalty shown on the Non-Compliance Notice unless they have filed a petition to challenge the imposition of the penalty. The penalty will appear on their property tax bill. If a penalty is not paid, it may result in a lien against the property.

How can a Property Owner Find Out More About a Penalty on the Bill?

Once an RPIE non-filing penalty has been assessed, property owners and/or their representatives can contact Finance via 311, mail or by email to rpie@finance.nyc.gov (non-REUC filers) or utilityrpie@finance.nyc.gov (REUC filers) if they have questions about the penalty.

If the owner or representative does not think a filing was required, or thinks that an RPIE statement was actually filed, the RPIE Unit will review the matter. In these limited circumstances, the penalty may be cancelled if we find that there was a mistake in Finance's records.

The RPIE Unit will determine if there is any basis for the property owner not having to file an RPIE, such as a wrong tax or building class on record. If the RPIE Unit determines that a filer was mis-categorized, and not actually required to file, the penalty will be cancelled. The RPIE Unit will also double-check to see if an RPIE return was filed, and if in fact an RPIE return was filed, the penalty will be cancelled. The RPIE Unit will send an email response to the party who raised the issue.

Please note that requests to remove a penalty for "reasonable cause" such as forgetting to file, loss of documents, etc. will not be granted because there is no exception for reasonable cause in the RPIE law.

Is There A Way to Appeal the Final Determination of the RPIE Penalty?

Yes. After the Final Determination is mailed to the property owner, the property owner may apply for judicial review in the manner provided by article 78 of the New York Civil Practice Law and Rules. Article 78 proceedings must generally be commenced within four months of the Final Determination.