

New York City Department of Finance

Notice of Adoption of Final Rules

Pursuant to the authority vested in the New York City Department of Finance (“DOF”) by sections 1043(a), and 1503 of the New York City Charter (“Charter”), as well as Chapters 3 and 4 of Title 11 of the Administrative Code of the City of New York (as amended by Local Law 82 of 2024), DOF hereby adopts rules related to a new local law governing the enforcement of property tax collection. This rule establishes how qualified property owners can renew a property tax hardship installment agreement through self-certification of income and primary residence, apply for removal from a tax lien sale and appeal a denial of an application for removal, demonstrate that they are qualified for a tax lien certificate surcharge waiver, and apply for a program that allows property owners to participate in the DOF Preservation Track program. These rules will go into effect on Feb 12, 2025, pursuant to section 1043(f)(1)(d) of the Charter.

Statement of Basis and Purpose

The New York City Department of Finance (“DOF”) is adopting the following rule change pursuant to its authority as set forth in Charter §§ 1043(a), and 1503 of the City Charter, as well as Chapters 3 and 4 of Title 11 of the Administrative Code of the City of New York. A proposed version of these rules was published in the City Record on January 2, 2025. See City Record at 12-14 (Jan. 2, 2025). A hearing for public comment was held on February 3, 2025. DOF received written comments. One comment expressed concern regarding the effect of this rule on the Disabled Homeowner Exemption program. This rule has no direct effect on such program.

Local Law 82 of 2024 (“LL82”) amended Chapters 1 through 4 of Title 11 of the Administrative Code of the City of New York (“Administrative Code”). LL82 imposed new DOF reporting and notification requirements for real property tax collection and authorized DOF to conduct sales of tax liens through calendar year 2028. LL82 also modified and expanded real property tax payment plan programs available to certain property owners. In addition, LL82 authorized programs that allow qualified real property taxpayers to seek removal of tax liens on their properties from a tax lien sale or elect to participate in the real property Preservation Track program. Under the Preservation Track program, a real property owner authorizes the City to foreclose upon their property, the City transfers the property directly to a qualified preservation purchaser, and the purchaser, in turn, leases the property back to the former owner. The foreclosure of the property extinguishes the outstanding tax liens on the property; as a result, the property that the qualified preservation purchaser leases to the former owner would not be burdened by any liens arising from outstanding real property taxes.

Section 17 of LL82 amended section 11-322.1(h) of the Administrative Code to authorize DOF to promulgate rules establishing a self-certification process for property owners seeking to renew real property tax payment plan agreements made as part of the property tax and interest deferral (PT-AID) program with DOF. Section 24 of LL82 added a new section 11-412.3 to the Administrative Code, establishing an “Easy Exit” program that allows certain property owners to request that DOF remove their tax liens from a tax lien sale, provided that certain requirements are met. Specifically, applicants must demonstrate that: (1) the property in question is their primary residence or they have received other specified exemptions that demonstrate that such property is their primary residence; (2) their household income is below the Enhanced School

Tax Relief (E-STAR) threshold; and (3) they do not own other real property located in the City of New York. Subdivision (d) of section 11-412.3 requires that DOF promulgate rules establishing a procedure for an owner to make a request to remove tax liens from a tax lien sale and to appeal a denial of such requests. Specifically, the subdivision specifies that such rules may include the timeframe within which the department must respond to requests and appeals.

Section 23 of LL82 added two new subdivisions (c) and (d) to section 11-332 of the Administrative Code, which would limit a tax lien certificate holder's authority to collect a surcharge, provided that the applicable property owner meets certain qualifications and submits sufficient documentation to DOF and such holder receives all other amounts that the holder is entitled to receive without commencing a foreclosure proceeding. The qualifications for an owner with respect to this limitation on the collection of surcharges are similar to those for the "Easy Exit" program: applicants must demonstrate that: (1) the property in question is their primary residence or they have received other specified exemptions that demonstrate that such property is their primary residence; (2) their household income is below the E-STAR threshold; and (3) they do not own other real property located in the City of New York.

Section 24 of LL82 added sections 11-412.4 and 11-412.5 to the Administrative Code, which establish the Preservation Track program and provide that property owners can apply for the program using forms developed by DOF.

Section 1 of this rule adds a new subdivision (o) to section 40-03 of title 19 of the Rules of the City of New York to permit applicants for PT-AID hardship installment agreements to self-certify, for the purpose of annual renewal, that they satisfy the statutory requirements set forth in paragraph 2 of subdivision (h) of section 11-322.1 of the Administrative Code. LL82 amended section 11-322.1 to specifically provide for such a rule. Self-certification eases the burden on both applicants and DOF to submit and process documentation, respectively, and thereby improve the efficiency of the PT-AID program. This section also authorizes DOF to void an installment agreement in certain circumstances in which the DOF Commissioner determines that an applicant has intentionally made a material misstatement in such a self-certification. This authority does not limit DOF's existing authority to terminate an agreement for any reason set forth in subdivision (k) of section 11-322.1 of the Administrative Code.

Section 2 of this rule amends subdivision (n) of section 40-03 of Title 19 of the Rules of the City of New York to elaborate on the definition of "extenuating circumstances" that is used in determining eligibility for hardship installment agreements and how DOF makes a finding of extenuating circumstances.

Section 3 of this rule adds new sections 40-04, 40-05 and 40-06 to Title 19 of the Rules of the City of New York. Section 40-04 establishes an application and appeals process for the new "Easy Exit" program. This section requires a designated reviewer to respond to "Easy Exit" applications no later than 30 days after receipt. If a designated reviewer denies an application, this rule permits the applicant to appeal a denial of an application. This section also establishes a definition of "household income" to determine "Easy Exit" program eligibility.

Section 40-05 of this rule creates an application process allowing property owners to submit documentation demonstrating their eligibility for a tax lien surcharge waiver. This section requires DOF to respond to such applications no later than 30 days after receipt. This section also establishes a definition of "household income" to determine surcharge waiver program eligibility.

Section 40-06 of this rule creates an application process allowing property owners to submit application forms required for participation in the new Preservation Track program. This section requires DOF to respond to such applications no later than 30 days after receipt. This section also establishes a definition of “household income” to determine Preservation Track program eligibility.

The final version of this rule differs from the proposed version of this rule in that the final version of sections 40-04, 40-05 and 40-06 each establish a 30-day time period for applicants to provide additional requested information upon request by DOF.

Pursuant to a finding that there is a substantial need for the earlier implementation authorized by Charter § 1043(f)(1)(d), this rule takes effect on February 12, 2025.

New material is underlined.

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. Section 40-03 of chapter 40 of Title 19 of the Rules of the City of New York is amended by adding a new subdivision (o), to read as follows:

(o) Hardship installment payment renewal self-certification. An applicant seeking renewal of their hardship installment agreement may, in their application, self-certify that they are eligible to renew their agreement and meet the requirements set forth in paragraph (2) of subdivision (h) of Administrative Code section 11-322.1. In addition to the termination provisions set forth in subdivision (k) of such section, the Commissioner or a designee of the Commissioner may void any installment agreement where the Commissioner or a designee of the Commissioner determines that an applicant has intentionally made a material misstatement in their application and the Department of Finance relied on such misstatement in good faith in approving such application.

§2. Subdivision (n) of section 40-03 of chapter 40 of Title 19 of the Rules of the City of New York is amended by adding a new paragraph (3), to read as follows:

(3) For the purpose of subdivision (n) of section 11-322.1 of the Administrative Code, “extenuating circumstances” has the meaning set forth in subparagraphs (i) and (ii) of paragraph (4) of subdivision (e) of this section. An application for a finding of extenuating circumstances submitted pursuant to subdivision (n) of section 11-322.1 of the Administrative Code is subject to the requirements and procedures set forth in subparagraph (iii) of paragraph (4) of subdivision (e) of this section.

§3. Chapter 40 of Title 19 of the Rules of the City of New York is amended by adding new sections 40-04, 40-05 and 40-06, to read as follows:

§ 40-04 Removal of Tax Liens from a Tax Lien Sale.

(a) Request for removal. (1) Submission of Request. An owner of a property or a dwelling unit, as such terms are defined in subdivision (a) of section 11-412.3 of the Administrative Code,

may request removal of a tax lien from a tax lien sale pursuant to subdivision (b) of such section by submitting an application in a paper or electronic format determined by the Department.

(2) Response by the Department. When a request is submitted pursuant to paragraph (1) of this subdivision, an individual designated by the Commissioner will respond to such request no later than 30 calendar days after the date of receipt of such request, by approving the request, denying the request, or instructing such property or dwelling unit owner to provide additional documentation if such designated individual determines that additional documentation is necessary to evaluate the request. When such designated individual instructs such owner to provide additional documentation, such additional documentation must be provided no later than 30 days from the date of such instruction and such designated individual will respond to the request for removal no later than 30 calendar days from the date of receipt of the additional documentation.

(3) Required documentation. Such designated individual will not approve a request submitted pursuant to this subdivision unless the documentation submitted with the request demonstrates that the owner satisfies the requirements set forth in paragraphs (1) through (3) of subdivision (c) of section 11-412.3 of the Administrative Code.

(4) Appeal of denial. If a request submitted pursuant to this subdivision is denied, the property or dwelling unit owner may appeal such denial by filing an appeal with the Commissioner within ten calendar days from receipt of the denial. Such appeal must be in writing and must briefly state all the facts or other basis upon which such owner contests the finding of ineligibility. The Commissioner or a designee of the Commissioner will respond to such appeal in writing no later than 60 calendar days from the date of receipt of the appeal. Any such designee will not be the same individual who made the finding of ineligibility that served as the basis of the denial of the application. The denial of an appeal is a final agency determination reviewable pursuant to Article 78 of the New York Civil Practice Law and Rules.

(b) Household income definition for application of the income threshold. For the purpose of determining eligibility for removal of a tax lien from a tax lien sale pursuant to section 11-412.3 of the Administrative Code, the term "household income" means the combined income of all owners, including both residents and non-residents, and any owner's spouse who resides at the property or dwelling unit.

§ 40-05 Exemption from Tax Lien Surcharges.

(a) Application process.

(1) Submission of Request. An owner of a property may request an exemption from a tax lien surcharge pursuant to subdivision (c) and (d) of section 11-332 of the Administrative Code by submitting an application in a paper or electronic format determined by the Department.

(2) Response by the Department. When a request is submitted pursuant to paragraph (1) of this subdivision, an individual designated by the Commissioner will respond to such request no later than 30 calendar days after the date of receipt of such request, by approving the request, denying the request, or instructing such owner to provide additional documentation, if such designated individual determines that additional documentation is necessary to evaluate the request. When such designated individual instructs such owner to provide additional documentation, such additional documentation must be provided no later than 30 days from the date of such instruction and such designated individual will respond to the request no later than 30 calendar days from the date of receipt of the additional documentation. A denial of a request

is a final agency determination reviewable pursuant to Article 78 of the New York Civil Practice Law and Rules.

(3) Required documentation and approval. Such designated individual will not approve a request submitted pursuant to this subdivision unless the documentation submitted with the request demonstrates that the owner satisfies the requirements set forth in subdivision (d) of section 11-332 of the Administrative Code. Such designated individual will notify the property owner of such approval in writing. If the request is approved and the tax lien certificate complies with the requirements set forth in paragraph (2) of subdivision (c) of section 11-332 of the Administrative Code, such designated individual will also notify the holder of the tax lien certificate in writing that such holder is not entitled to collect the surcharge described in subdivision (b) of section 11-332 of the Administrative Code.

(b) Household income definition for application of the income threshold. For the purpose of determining eligibility for a surcharge waiver requested pursuant to subdivision (c) of section 11-332 of the Administrative Code, the term "household income" means the combined income of all owners, including both residents and non-residents, and any owner's spouse who resides at the property.

§ 40-06 Voluntary In-Rem Action.

(a) Application process.

(1) An owner of a property, as such term is defined in subdivision (a) of section 11-412.3 of the Administrative Code, may seek to elect to subject the tax lien or tax liens on such property to summary foreclosure pursuant to section 11-412.4 of the Administrative Code by submitting an application in a paper or electronic format determined by the Department.

(2) Response by the Department. When an application is submitted pursuant to paragraph (1) of this subdivision, an individual designated by the Commissioner will respond to such application no later than 30 calendar days after the date of receipt of such application by approving the application, denying the application, or instructing such owner to provide additional documentation, if such designated individual determines that additional documentation is necessary to evaluate the request. When such designated individual instructs such owner to provide additional documentation, such additional documentation must be provided no later than 30 days from the date of such instruction and such designated individual will respond to the application no later than 30 calendar days from the date of receipt of the additional documentation. A denial of an application is a final agency determination reviewable pursuant to Article 78 of the New York Civil Practice Law and Rules.

(3) Such designated individual will not approve an application submitted pursuant to this subdivision unless the documentation submitted with the application demonstrates that the property owner satisfies the requirements set forth in paragraphs (1) through (5) of subdivision (b) of section 11-412.4 of the Administrative Code.

(b) Household income definition for application of the income threshold. For the purpose of determining eligibility for the voluntary in-rem action requested pursuant to section 11-412.4 of the Administrative Code, the term "household income" means the combined incomes of all owners, including both residents and non-residents, and any owner's spouse who resides at the property.

FINDING OF SUBSTANTIAL NEED FOR EARLIER IMPLEMENTATION

I hereby find and represent to the Mayor that there is a substantial need for the implementation no later than February 12, 2025, of a New York City Department of Finance rule to implement a local law relating to the property tax collection process. This amendment to Chapter 40 of the Rules of the City of New York is necessary to implement new programs authorized by Local Law 82 of 2024 aimed at protecting certain owners of real property in regards to real property tax collection and the sale of tax liens. Particularly, this rule would establish the income eligibility thresholds and administrative processes for applications for the Easy Exit and Voluntary Foreclosure programs and for waiver of the Surcharge authorized by section 11-332 of the Administrative Code. It is critical that this rule take effect before the City undertakes certain tax collection efforts. Therefore, I find pursuant to Charter section 1043(f)(1)(d), that there is a substantial need for this rule's earlier implementation.

_____/s/_____
Preston Niblack, Commissioner
New York City Department of Finance

APPROVED:

_____/s/_____
Eric Adams
Mayor