MEMORANDUM

DATE: August 13, 2026

RE: New York City Pied-à-Terre Tax Surcharge – Implementation Issues and Official Key Response Deadlines

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New York City Pied-à-Terre Tax Surcharge TRO Stayed Pending Appeal

As discussed below under "Legal Challenges," the Supreme Court of the State of New York, County of Richmond on August 10, 2026, granted property owners' request for a temporary restraining order, temporarily blocking the New York City from taking further steps to enforce the Pied-à-Terre tax surcharge. **On August 11, 2026, the City appealed the ruling, automatically staying the temporary restraining order pending appellate review.**

The eventual outcome in this litigation is uncertain. Given that the court injunction is temporarily stayed, the City is not presently barred from continuing to take steps to implement the surcharge. Accordingly, property owners should take steps to understand whether the surcharge may apply to their specific situation and be prepared to make an appropriate filing per the information set forth below, as needed.

Implementation

Our previous alert memorandum dated April 23, 2026, discussed the proposed New York City Pied-à-Terre tax surcharge and its potential impact on owners of luxury secondary residences. On April 15, 2026, the Mayor's Office announced implementation of the surcharge in its news release.

Following enactment of the surcharge, New York City began implementation. On July 24, 2026, the Department of Finance ("the DOF") began notifying property owners who may be subject to the surcharge. As discussed above, although the Richmond County Supreme Court issued a temporary restraining order on August 10, 2026, that order has since been stayed pending the City's appeal.

The New York City Department of Finance ("the DOF") has also created a dedicated webpage explaining the surcharge, available exemptions, required documentation, and response procedures.

Property owners may use this eligibility guide to find out how to respond to any letter received from the DOF, including which documents are needed. McLaughlin & Stern is available to assist clients in evaluating eligibility, preparing exemption submissions, and addressing questions regarding the surcharge.

For properties determined to be subject to the surcharge, bills are expected to be issued in November 2026, with the surcharge due on January 1, 2027.

Legal Challenges

On August 10, 2026, the Richmond County Supreme Court granted petitioner property owners' request for a temporary restraining order, temporarily blocking the City from taking further steps to enforce the surcharge. On August 11, 2026, the City filed a notice of appeal, which automatically stayed the temporary restraining order pending appellate review. As a result, the temporary restraining order does not currently prevent the City from continuing implementation of the surcharge while the appeal is pending. Following customary New York practice, the hearing scheduled for August 31, 2026, remains on the court's calendar notwithstanding the City's appeal.

The temporary restraining order arises from a lawsuit filed on August 7, 2026, by three New York City property owners, as petitioners, challenging the City's implementation of the surcharge. The property owners allege that the City failed to follow the legally required process before publishing the supplemental market value roll containing more than 900,000 residential properties and separately sending notices to approximately 17,000 property owners.

Specifically, the property owners contend that the City identified properties based primarily on market value before determining whether those properties were non-primary residences subject to the surcharge. According to the property owners, this process improperly places the burden on owners to establish that their properties are exempt from the surcharge rather than requiring the City to first determine which properties are subject to it.

The property owners seek to invalidate the supplemental market value roll and the notices mailed by the City. The litigation therefore directly challenges the procedures the City has used to implement the surcharge, rather than the validity of the surcharge itself. **While the litigation and appeal remain pending, property owners should continue to monitor developments and comply with applicable filing requirements and deadlines unless and until further guidance is issued.**

Separately, it should be noted that other legal challenges may be forthcoming. This might include a federal challenge (albeit questionable on constitutional grounds), as President Trump has announced that his administration is examining whether the federal government can take action to challenge the surcharge.

Reason for Receiving Notices

The DOF mailed notices to owners of residential properties that appear to meet the applicable valuation thresholds for the surcharge. Importantly, these notices are based on the City's property records and do not necessarily reflect whether a property ultimately qualifies for an exemption. Accordingly, receipt of a notice should not be interpreted as a final determination that the surcharge applies.

Instead, the notice begins the administrative review process and provides the property owner with an opportunity to demonstrate that an exemption is available.

Official Key Response Deadlines for Exemption Applications (Recently Extended)

Applicable to everyone who received a notice from the DOF:

- Residential homes and condominiums: Exemption documentation must be submitted ***by*** **September 18th, 2026**
- Cooperative Apartments: Exemption documentation must be submitted ***by*** **September 18th, 2026**

Owners should retain the notice, including the unique response **security code/PIN** found within the notice, as it will be needed to access the DOF's online response portal.

In light of the August 10, 2026 temporary restraining order, the effect of the court's ruling on the September 18, 2026 response deadline remains to be determined.

Available Exemptions

Exemptions may be available where, among other things:

- the property is the owner's primary residence;
- the property is occupied by a qualifying family member;
- the property is leased to a qualifying tenant;
- an immediate family member of the owner or majority interest holder of a business entity is using the property as his or her primary residence;
- the sole beneficiary or beneficiaries of a trust are using the property as their primary residence; or
- any other exemption recognized by the DOF applies.

Documentation Requirements

The documentation required to support an exemption application depends on the identity of the person who is using the property as a primary residence.

Primary Residence: Owners claiming that the property is their primary residence generally must provide:

- the occupant's most recently filed federal or state income surcharge return; or
- if a surcharge return is unavailable, two alternative forms of documentation, such as:

  - a driver's license or other DMV-issued identification;
  - a voter identification card; or
  - other documentation establishing that the property is the occupant's primary residence.

Tenant or Subtenant: If the property is the primary residence of a tenant or subtenant, applicants generally must provide the primary residence documentation described above, together with:

- a copy of the current lease (which must be from at least one year and made on an arm's length basis) and an additional rental document (such as a utility bill, proof of rent payment or renter's insurance policy); or
- a Tenant or Subtenant Affidavit together with two rental documents described above.

Immediate Family Member: If the property is the primary residence of an immediate family member of the owner or majority interest holder, applicants generally must provide the primary residence documentation described above, together with documentation establishing the family relationship, such as:

- a birth certificate;
- a marriage certificate; or
- an Immediate Family Member Affidavit.

Business Entity*:* If the property is owned by a business entity (including an LLC, corporation, trust, or partnership) and is used as the primary residence of a majority member, shareholder, or partner, applicants generally must provide the primary residence documentation described above, together with:

- the applicable organizational documents (such as a partnership agreement, trust agreement or Trustee affidavit, LLC operating agreement, or articles of incorporation); and
- a Majority Interest Affidavit.

If No Notice is Received

Property owners who believe their property may be subject to the surcharge should not assume that the absence of a notice means that the surcharge does not apply. Even without a notice, a property owner may be subject to the surcharge if a timely exemption application is not filed. As a practical matter, owners should consider:

- checking their physical mailboxes, as notices were mailed by ordinary mail;
- reviewing the DOF's published supplemental market value roll (or other publicly available property list) to determine whether the property has been identified as potentially subject to the surcharge;
- calling 311 for assistance from the DOF;
- specifically for cooperative apartments, contacting the managing agent to determine whether the cooperative board received a notice and whether any action is required.

Anecdotally, in at least some instances, the DOF has sent surcharge notices to managing agents or cooperative boards rather than directly to some unit owners.

Recommended Client Action

Clients who receive a notice should:

- review the notice immediately;
- preserve the notice and response PIN;
- gather any supporting documentation establishing eligibility for an exemption;
- submit all required information before the applicable deadline;
- consult counsel promptly if there are questions regarding eligibility, valuation, or the documentation required by the DOF; and
- if property owners believe the DOF has incorrectly valued the property, they can file a challenge (in person or by mail only) with the New York City Tax Commission.

Property owners who receive a notice should not assume that they are necessarily subject to the surcharge. Rather, the notification begins the administrative review process and provides an opportunity to establish that a property qualifies for an exemption. Because the applicable deadlines are relatively short and the legal challenge remains ongoing, clients should promptly review any notice received, gather supporting documentation, and consult counsel as appropriate before the applicable submission deadline.

Special Considerations for Cooperative Apartments

The surcharge for cooperative apartments is imposed upon the cooperative corporation. Because cooperative apartments are owned through a cooperative corporation rather than as separate tax lots, the cooperative corporation remains responsible for payment of any surcharge assessed against the building. As a result, a shareholder's failure to satisfy a surcharge obligation may expose the cooperative corporation (and, indirectly, other shareholders) to additional interest, liens, or other financial consequences.

Considering these issues, some commentators have suggested that cooperative boards consider whether amendments to proprietary leases are appropriate to address surcharge-related obligations, payment procedures, shareholder indemnification, and enforcement mechanisms. Suggested amendments may:

- require shareholders to pay any Pied-à-Terre tax surcharge attributable to their unit;
- establish procedures governing the timing and method of surcharge payments, including installment or escrow arrangements where appropriate;
- establish procedures for shareholders to contest or challenge surcharge determinations;
- require shareholders to indemnify the cooperative corporation for surcharge-related liabilities, including applicable interest, penalties, and other costs arising from nonpayment;
- condition the transfer or assignment of shares on satisfaction of any outstanding surcharge obligations;

- address trust-related ownership changes undertaken to comply with the surcharge; and
- establish remedies in the event a shareholder fails to satisfy surcharge-related obligations.

Planning Considerations

As discussed in our prior memorandum, the implementation of the Pied-à-Terre tax surcharge may result in significant annual carrying costs for owners of high-value secondary residences. Accordingly, affected property owners may wish to evaluate whether it is appropriate to:

- establish the property as their primary residence, where feasible;
- convert the property to a qualifying rental use;
- reevaluate the long-term ownership or use of underutilized residential property; or
- consider other tax planning strategies based on their individual circumstances.

Because the surcharge applies to all properties as of July 1, 2026, planning action to avoid application of the surcharge in its first year (*i.e.*, surcharge due on January 1, 2027) is now foreclosed. Looking ahead for the second year, taxpayers should consider actions to avoid the surcharge – such as leasing the property or arranging to a family member to occupy the property as his or her primary residence – to be taken before July 1, 2027.

Separately, there are some trust-owned properties that are presently caught by the surcharge, even where the property is the occupant's only residence. This can occur in trusts with multiple current beneficiaries, and, depending on the circumstances, action may be able to be taken – through decanting or other action before July 1, 2027 – to cause the properties to be exempt for the second year of the surcharge.

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As the availability of exemptions and the tax consequences of the Pied-à-Terre tax surcharge are highly fact-specific, clients should consult with their personal advisor regarding the its potential impact and available planning opportunities. McLaughlin & Stern is available to assist clients in evaluating the applicability of the surcharge, pursuing available exemptions, and developing appropriate planning strategies.

McLaughlin & Stern

Note: As used in this memorandum, the terms "McLaughlin & Stern," "our firm," "we," and similar terms, mean McLaughlin & Stern, LLP, McLaughlin & Stern CT, LLP, McLaughlin & Stern (CA) LLP, and/or McLaughlin & Stern PLLC, as applicable, taking into account that our practice is conducted from offices in California, Connecticut, Florida, New Jersey, and New York.

Sources

News release
DOF dedicated website
Exemption eligibility guide
New York City Tax Commission
DOF Required documents for exemptions
Mamdani's NYC Pied-A-Terre Tax Temporarily Blocked by Judge
Trump Threatens to Take Federal Action to Block Mamdani's Pied-À-Terre Tax