

JUNE 2026

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About the Private Client Services Department

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PREPARE FOR NEW YORK'S PIED-À-TERRE TAX

What is New York's Pied-à-Terre Tax?

"Pied-à-terre" (French for "foot on the ground") refers to non-primary residences used for occasional stays rather than a primary, year-round residence. On May 28, 2026, New York State Governor Kathy Hochul signed the Fiscal Year (FY) 2027 Budget, which included a pied-à-terre surcharge tax on qualifying non-primary residences in New York City.¹ This surcharge tax will apply to fiscal years commencing on or after July 1, 2026, and is scheduled to sunset on June 30, 2031, unless extended by the New York Legislature.

The Governor estimates that this surcharge will generate at least \$500 million in annual revenue for New York City, addressing the city's recent budget concerns.

How is a Primary Residence Determined?

The Department of Finance (DOF) designates a residence as "primary" based various factors considered with respect to "Covered Owners." A Covered Owner is defined as (i) an owner of Class One property (as defined below); (ii) a tenant-stockholder of a cooperative corporation whose interest in a portion of real property held by such corporation is represented by shares of stock in such corporation; (iii) an owner of residential condominiums; (iv) a beneficial owner of a trust which holds real property or cooperative residences, a provided that such beneficial owner is the sole beneficiary of such trust; and (v) shareholders or members of partnerships, corporations or LLCs who hold a majority interest in such partnerships, corporations, or LLCs that own Class One properties, residential condominiums, or stock in cooperative corporations.

The DOF looks to whether the residence was occupied, in aggregate, for a majority of days (approximately 184) in a calendar year by a Covered Owner, a Covered Owner's immediate family member such as a spouse, child, sibling, parent, grandparent or grandchild, or by one or more tenants living in the residence under a bona fide arm's length lease with a term lasting no less than one year.

It is important to note that owners of a primary residence in New York State, but outside of New York City, who also own a non-primary New York City residence can still be impacted by the surcharge tax.

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¹ See NY State Assembly Bill 2025-A10009C.

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Understanding Residential Classes: Is My Non-Primary Residence Subject to the Surcharge Tax?

New York State categorizes residences by class and levies varied surcharges based on such designations². Class One properties include all one, two and three family residential real property. Class Two encompasses all other residential units not grouped under Class One, relevantly, cooperative apartments and condominium units. To be subject to the surcharge tax, initially the valuation threshold is five million dollars (\$5,000,000) for Class One Properties and one million dollars (\$1,000,000) for Class Two properties, as further explained below.

The Two-Phase Rollout

New York's pied-à-terre surcharge tax will be introduced in two phases. Phase one will occur between July 1, 2026, to June 30, 2028. During this phase, the surcharge tax rates for Class One and Class Two residences will be based on their market values, as determined by the DOF. Class One surcharge rates will range from 0.8% to 1.3%, while Class Two surcharge rates will range from 4.0% to 6.5%. Class Two surcharge rates are notably higher because condominiums and cooperative units are generally assessed at much lower values than what they actually sell for.

Phase One

Class Type	Residence Value Range	Surcharge Rate	Valuation Standard
Class One <i>1-3 Family Residences</i>	\$5m ≤ X ≤ \$15m	0.80%	DOF Assessed Market Value Threshold: \$5 million or more
	\$15m < X ≤ \$25m	1.05%	
	\$25m < X	1.30%	
Class Two <i>Condominiums and Cooperative Apartments</i>	\$1m ≤ X ≤ \$3m	4.00%	DOF Assessed Market Threshold: \$1 million or more
	3m < X ≤ \$5m	5.25%	
	\$5m < X	6.50%	

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² N.Y. Real Property Tax Law Section 1802 - Classification of real property in a special assessing unit (2026)

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Phase two will occur between July 1, 2028, and June 30, 2031, when the legislation is scheduled to sunset. The surcharge tax rates and threshold for Class One properties will remain the same in phase two. Some notable differences that will be introduced in phase two:

- Class One and Class Two properties will be valued on comparable sales approach, rather than the DOF assessed market value;
- The threshold value for Class Two properties will increase to \$5 million;
- Surcharge tax rates for Class Two properties will decrease to match Class One rates.

Phase Two

Class Type	Residence Value Range	Surcharge Rate	Valuation Standard
Class One <i>1-3 Family Residences</i>	\$5m ≤ X ≤ \$15m	0.80%	Comparable Sales Threshold: \$5 million
	\$15m < X ≤ \$25m	1.05%	
	\$25m < X	1.30%	
Class Two <i>Condominiums and Cooperative Apartments</i>	\$5m ≤ X ≤ \$15m	0.80%	Comparable Sales Threshold: \$5 million
	\$15m < X ≤ \$25m	1.05%	
	\$25m < X	1.30%	

How Will I Know if I am Subject to the Surcharge Tax?

The DOF will determine what qualifies as a “non-primary” residence for purposes of the pied-à-terre surcharge tax on an annual basis. The DOF will look back on the residence owner’s taxable status as of January 5 of the immediately preceding fiscal year in which the surcharge is imposed to assess whether the surcharge is applicable. By August 30, 2026, the DOF will issue an initial determination of primary residence and provide notice to owners who will be affected by the surcharge.

Keep in mind that cooperative corporations, as the legal owners of real property, will receive formal notice of any amounts owed under the surcharge tax. This means that notices from the DOF will go directly to the cooperative corporation, rather than to the shareholder who owns the proprietary rights to the qualifying residence.

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PREPARE FOR NEW YORK'S PIED-À-TERRE TAX

Covered Owners (or cooperative corporations on behalf of shareholders who qualify as Covered Owners) will be given notice by the DOF and an opportunity to submit proof of primary residence to rebut the DOF's findings, such as proof of address on the owner's New York State Resident Income Tax Return, documentation reflecting the existence of one or more qualifying lessees or sublessees, documentation reflecting the primary occupancy of an owner's immediate family member(s) or STAR exemptions from the prior fiscal year.

How Are Covered Owners Taxed?

An annual surcharge will be assessed and be paid in the same manner as real property taxes. Covered Owners of real property (including condominiums, single and multi-family homes and townhomes) will be charged individually, whereas cooperative corporations will be wholly responsible to the DOF for the surcharge tax. The cooperative corporation will then be responsible for collecting the surcharge from the applicable shareholders based on their unit's share percentage of the total building value. The DOF will bear the burden of administering and enforcing the surcharge on Covered Owners.

Residency and Less-Traditional Ownership Structures

As mentioned above, the new legislation applies not just to individual owners, but also to trusts or corporate entities that own residential property in New York City. Trusts with a single beneficiary that hold real estate may be considered Covered Owners and therefore may be subject to the surcharge tax. Additionally, partners, shareholders or members holding a majority interest in corporate entities that own real estate, shall be considered Covered Owners. If real estate owned in trust or by a corporate entity is used as a primary residence by a Covered Owner, then it will be exempt from the surcharge tax.

How to Prepare for this Surcharge?

The pied-à-terre surcharge tax is here, and Covered Owners should prepare for its ramifications. Covered Owners should analyze the costs and benefits of owning a pied-à-terre in New York City and consider strategies to bypass the effects of the surcharge tax.

Please do not hesitate to contact your Wiggin and Dana attorney to discuss the surcharge tax and the options that may be available to you.

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