



New York's Pied-à-Terre Tax A Challenge for NYC's Co-op Community Part III - Actions to Take

The Pied-À-Terre Tax

As part of New York's Fiscal Year 2026 budget, a new real estate tax surcharge was created, commonly known as a "pied-à-terre" tax, targeting nonprimary resident owners of high-value homes in New York City.

When we first met for [Part I of this Alert](#), we described the new tax surcharge on high-value homes, and how the assessment is calculated. We also described how **co-operative apartment corporations** (each a "Co-op") will be responsible for paying the tax directly to the City, even though the tax surcharge is intended as a liability of only their pied-à-terre shareholders. Co-ops must then seek reimbursement from those shareholders.

In [Part II of this Alert](#), we outlined some of the significant risks to Co-ops created by this radically new tax-collection structure. Among them:

- Co-ops face financial exposure if reimbursement from pied-à-terre shareholders cannot be obtained or is costly to pursue;
- Co-ops have to pay the tax surcharge but have no right to challenge the City's assessment;
- Boards may face liability claims from pied-à-terre shareholders;
- Co-ops, at their cost, may be forced to litigate against neighbors and friends over a tax surcharge that benefits only the City;
- Tax surcharge liability may accrue after a pied-à-terre shareholder has sold his apartment and left the building, leaving the Co-op with no easy remedy to obtain reimbursement.

Recommended Board Actions

In view of the foregoing, Co-ops should:

1. Prioritize Shareholder Education

Boards in buildings where high-value apartments are located (See [Part I](#)) should promptly and repeatedly inform shareholders about this new surcharge. Perhaps, a prominent notice on monthly maintenance statements may be helpful. Many pied-à-terre shareholders will not learn of the surcharge until after the Co-op pays it and seeks reimbursement. By then it may be too late for the shareholder to engage in the time-sensitive challenge process;

2. Review Governing Documents

Review governing documents to determine what remedies exist to collect tax surcharge reimbursements. New York Tax Law §1354(c) provides a statutory collection mechanism, but its interaction with existing Co-op remedies is unclear.

3. Update Closing Packages Immediately

Purchase and sale documents should be promptly supplemented to ensure that the Co-op has efficient collection rights against incoming shareholders, and post-closing reimbursement rights against selling shareholders. Boards should consider adding indemnification and attorney's fee recovery clauses;

4. Require NYC Venue for Disputes

Ensure that any post-closing tax surcharge reimbursement claim remains in New York City. This avoids inconvenient out-of-state proceedings in possibly less sympathetic jurisdictions;

5. Implement Ongoing Residency Disclosure

Boards may want to require periodic residency certifications from all shareholders—especially entities—to track changes in primary residence status. This practice may now become necessary so that Boards can reasonably budget for Co-op real estate tax obligations.

6. Consider Restricting Pied-À-Terre Ownership

Boards may want to prohibit pied-à-terre ownership for high-value apartments altogether.

7. Consider Escrows from Pied-À-Terre Shareholders

Short of banning pied-à-terre ownership, Boards can consider collecting escrows in advance from pied-à-terre shareholders owning potential high-value apartments, so as to secure Co-op reimbursement on tax surcharge payments. This practice may serve another valuable purpose, that is, to alert the shareholder sufficiently in advance and possibly prior to the expiration of the shareholder's strict deadline-driven challenge rights (See Recommendation #1.)

8. Increase Monitoring of Short-Term Rentals

Short-term rentals (Airbnb, Vrbo, short-term subleases, etc.) do not exempt high-value apartments from this tax surcharge. Increased vigilance against short-term rentals should occur.

9. Evaluate Building-Wide Tax Certiorari Filings

Boards should consider whether real estate tax protests could affect the assessed values of high-value pied-à-terre apartments in their buildings, at least for the first 2 years of the surcharge program. A Co-op building-wide tax certiorari settlement, historically done at the sole discretion of the Board, can now result in the valuation of an individual apartment crossing over the high-value threshold. That could trigger the application of a tax surcharge in respect of that unit, or complicate a shareholder's challenge to a surcharge. A tax surcharge which results from that settlement may induce the affected shareholder to assert claims against the Co-op;

10. Avoid Providing Tax Advice

Beyond notifying shareholders of the surcharge's existence, no Board member or managing agent should offer guidance regarding the substance or procedure of audits or challenges. This protects the Co-op from liability in the event of adverse results;

One Final Note

These recommendations are offered on the assumption that the tax surcharge survives judicial scrutiny. The tax surcharge may well have legal vulnerabilities and pied-à-terre shareholders generally have the resources to pursue a challenge. Nevertheless, until the tax surcharge is enjoined, preparation is essential.

Please feel free to contact the attorneys at Ruskin Moscou Faltischek, P.C., if you would like to discuss these or other issues further.

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