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**New York City** has launched an all-out effort to deprive taxpayers of hard fought tax exemptions and find new ways to impose high penalties for late and defective filing. The measures are all calculated to bring in additional revenue.

The New York City Department of [Finance](#) has generated millions of dollars in additional revenue for the city coffers by directing new and greater efforts to serve penalties and remove tax exemptions from property owners who fail to make complete and timely filings of routine information statements. In the process, however, the city has deprived many property owners of valuable tax exemptions that they were entitled to, or charged stiff penalties for what amount to minor infractions and late or incomplete returns.

Late last year, property owners received notices to file a certificate of continuing use for commercial tax exemptions like the [Industrial](#) and Commercial Incentive Program and the Industrial and Commercial Abatement Program. The notices warned that even though a property owner may qualify for continued benefits on these multi-year, legislative as-of-right incentive programs, failure to timely file the renewal form would result in the exemption's cancellation.

This form only asked a few routine questions, requiring the property owner to list the square footage of commercial or industrial space, the number of permanent employees at the building, and report the number of employees who were New York City residents. In fact, the city had discontinued the form for the past 10 years.

Many owners were either unfamiliar with the form or failed to receive notices that were mailed to the wrong address, in many cases because the city failed to note a change in ownership that occurred during the past decade. To complicate matters, only a form specifically generated by the Department of [Finance](#) for each property could be used, requiring those who did not receive it to request a duplicate. So where a property owner had multiple parcels and lacked the correct form for one or more of its properties, the city refused to accept a standard form that did not carry its barcode.

The city allowed no margins for error. If the property owner left even one question blank, as in the number of permanent city residents that worked in a shopping center or office building, this was grounds to declare the form incomplete and invalid.

Not-for-profits received a similar request to renew Educational, Charitable and Religious exemptions by returning a different renewal form on a timely basis. Many houses of worship and schools that failed to receive the notice or were negligent in completely filling out and returning the form on time saw their exemptions removed.

Many not-for-profit organizations had enjoyed an exemption for decades, if not longer, and considered the exemptions to be granted by the State Constitution and state legislation. Some of those organizations were unfamiliar with this new policy and ill-equipped to delineate details of tax exempt uses and purposes. After all, this information previously was only required on the initial exemption application, filed long ago by people long since departed.

In the process, a great many of these venerable institutions lost an exemption for which they were absolutely qualified. In many instances they were forced to engage counsel and file appeals at the tax commission, which found that the removals were unjustified.

The most severe of the form-failure penalties fell on Real Property Income and Expense (RPIE) filers. The RPIE is a mandatory report of income and expenses, but some properties fall into one of several filing exemptions, such as those with new owners. Although exempt from filling out the entire form, new owners had to check a box on the form affirming that they were exempt from filing. Therefore a failure to report back to the city that they weren't required to file the form became a reason to charge a penalty for failing to file a form on time. Here the penalties, rarely if ever experienced before, became commonplace.

Last year the city collected fines of \$100,000 or more for minor infractions of the filing deadlines. To make matters worse, the city imposed many penalties a year or more after the alleged infractions, with the unfortunate result of saddling new owners with penalties because the previous owners failed to file two years earlier. Filing errors not being of record, title companies are unable to insure against such losses.

Notwithstanding that for more than 20 years RPIE compliance has been greater than 99 percent and only three examples of fraud are on record, the Department of Finance now is proposing legislation to tighten the screws again. The department refuses to trust taxpayers to file these returns themselves, and has asked the City Council to move the annual due date up from Sept. 1 to June 1, with a new requirement that the form be completed and certified by a certified public accountant (CPA).

Property owners who submitted RPIE statements digitally on the Department of Finance website each September previously will now have to file using a CPA certificate by June 1 each year. That means owners will incur certification fees for all commercial properties with an assessed valuation of \$1 million or more (a CPA fee is usually \$10,000 or more depending on the property). This burden never existed before.

Since the Department of Finance online entry system doesn't adhere to generally accepted accounting principles, and because it excludes large categories of income and expense, it may prove impossible for many CPA's to comply. Also, by excluding these categories, the report doesn't mirror the owner's actual operating information, making it impossible for anyone to sign or attest to it.

These policies elevate "form over substance" to an entirely new – and sinister – level.

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