CLEARY GOTTLIEB

ALERT MEMORANDUM

Action May Be Required to Claim Exemption from New York City Pied-à-Terre Tax

August 10, 2026

We are writing to alert clients that the New York City Department of Finance (DOF) has mailed initial notices to New York City residences that the DOF believes may be subject to the new annual non-primary residence surcharge (often referred to as the pied-à-terre tax). A recipient of an initial notice who believes that the residence qualifies for an exemption must apply online for the exemption by **September 18** (the August deadline indicated in the notices has been extended).

The DOF has sent notices to approximately 17,000 residences, including many residences that are in fact owner-occupied and therefore exempt, placing the obligation on the owner to prove that the residence qualifies for the exemption.

As we outlined in our June client alert, the pied-à-terre tax is imposed on certain high-value New York City residences that are not used as a primary residence by (i) the owner, (ii) the owner's spouse, child, sibling, parent, grandparent or grandchild ("Family Member"), or (iii) a tenant who is occupying the residence pursuant to an arm's length lease.

The DOF published final rules on July 14, 2026, which provide additional guidance on how residences held in entities (LLCs, partnerships or corporations) or in trusts can qualify for the primary residence exemption.

> Entity ownership: A residence that is wholly owned by an entity can qualify for an exemption as the primary residence of one or more shareholders, partners or members so long as the individuals declaring primary residency own, in the aggregate, more than 50% of the entity that owns the residence. Use as the primary residence of a Family Member of the majority owners may also qualify for the exemption.

If you have any questions concerning this memorandum, please reach out to your regular firm contact or any member of the Private Clients Practice Group team listed below.

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Trust ownership: A residence that is held in a trust can qualify for an exemption as a primary residence only if the resident or residents are the sole beneficiary or beneficiaries of the trust. If the trust has other current permissible beneficiaries who do not occupy the residence, the residence cannot qualify as a primary residence. DOF commentary published with the final rules indicates that an exemption cannot be claimed through use as a primary residence by a Family Member of a trust beneficiary.

Multi-tiered structures: A residence cannot qualify as a primary residence if it is owned through a multi-tier structure (such as ownership by an LLC that is in turn owned by a trust).

Clients with residences in structures that disqualify the residence from an exemption this fiscal year may wish to change their ownership structures or implement other strategies prior to January 5, 2027 in order to avoid the tax in future years.

NEXT STEPS FOR OWNERS OF RESIDENCES THAT QUALIFY FOR AN EXEMPTION

Check for a DOF Notice. Check the physical mailbox at the address of the subject residence and, if applicable, inquire with the management office to determine if they have received a DOF notice stating that the residence may be subject to the tax.

If a Notice Has Been Received:

- Gather the requisite documents listed on the DOF website under the heading "Documents required when applying for an exemption."
- Using the personal security code contained in the notice, apply online through the DOF portal for the exemption and upload the requisite documents by September 18.
  - The application for condominiums and one-to three family homes can be found here.
  - The application for cooperative apartments can be found here.

If no Notice Has Been Received:

- The owner of a high-value residence who did not receive a DOF notice may wish to search for their address on the DOF portal (after creating an account on the website) to confirm that the property is not among those for which the DOF made an initial determination that the property may be subject to the surcharge.
  - If the property is not listed on the portal, no action is required.
  - If the property is listed on the portal, the owner should apply for the exemption but will not be able to apply without a copy of the written DOF notice, which contains a personal security code. Please reach out to a member of the Cleary team if your property is listed but you have not received a notice.

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