

**THE CITY OF NEW YORK  
DEPARTMENT OF FINANCE**

**NOTICE OF RULEMAKING**

Pursuant to the power vested in me as Commissioner of Finance by sections 389(b) and 1043 of the New York New York City Charter and section 11-208.1(c) of the Administrative Code of the City of New York, I hereby promulgate the within amendments to the Rules Relating to the Filing of Income and Expense Statements. These rules were published in proposed form on November 8, 2006. A hearing for public comment was held on December 11, 2006.

/s/ Martha E. Stark  
Commissioner of Finance

Note: New matter underscored; old matter in brackets [] to be deleted.

## **Amendments to Rules Relating to the Filing of Income and Expense Statements**

Section 1. Paragraph (1) of subdivision (a) of section 33-01 of 19 RCNY Chapter 33 (Rules Relating to the Filing of Income and Expense Statements) is amended to read as follows:

(a) Purpose. (1) Title 11, Chapter 2, §11-208.1 of the Administrative Code of the City of New York requires owners of designated income-producing properties to file annual income and expense statements with the Department of Finance. The income and expense statement must be filed by electronic means in accordance with the provisions of subdivision (b) of section 33-02 of these rules. The annual filing of income and expense statements is necessary to improve the accuracy of assessments of income-producing properties, reduce the number of administrative and judicial review proceedings challenging tentative assessed valuations, ensure the equitable distribution of the intra-class tax burden, substantially reduce tax refunds to be paid by the City of New York, and ultimately to achieve fairness in the assessment process.

§2. Subdivision (b) of section 33-02 of such rules is amended to read as follows:

(b) Electronic filing [Forms]. (1) Income and expense statements shall be submitted [on the appropriate forms] electronically in the format prepared by the Department of Finance and located on the Department of Finance Internet website and in accordance with the instructions for submission of the income and expense statement found on the website. The only acceptable substitute for required lease information is a computerized rent roll containing the same information as is required in the form.

(2) [All forms required by these regulations shall] Request for waiver of electronic filing requirement. The Commissioner may, for good cause, waive the requirement that the income and expense statement be filed electronically and permit the income and expense statement to be filed by means of a paper form. A request for waiver of the electronic filing requirement must be made in writing no later than 30 days prior to the deadline for filing an income and expense statement. Any filing in paper format must be filed with the New York City Department of Finance at such address as may be designated by the Department.

(3) In the discretion of the Commissioner of Finance, [a copy of an income and expense statement filed with] if the New York City Tax Commission accepted an electronic filing of an income and expense statement as part of an application for correction of assessment for a property for the year for which an income and expense statement must be filed with the Department of Finance for such property, the electronic filing with the Tax Commission [may be submitted with the Department of Finance income and expense statement form and] may satisfy either all or part of the [form's] requirements for the filing of an income and expense [information] statement as determined by the Commissioner. [A property owner submitting a copy of the Tax Commission income and expense statement must also complete the ownership and descriptive property information required by the Department of Finance income and expense statement form (Form RPIE).]

§3. Paragraph (2) of subdivision (e) of section 33-02 of such rules is amended to read as follows:

(2) Notwithstanding the submission of a form RPIE by an owner, for purposes of § 33-03 of these rules, the term "failure to file an income and expense statement" may include, but not be limited to:

(i) failure to [use] file in the electronic format prepared by the Department of Finance, or, in the event that the electronic filing requirement is waived by the Commissioner under §33-02(b)(2) of these rules, failure to use the forms prepared by the Department of Finance;

(ii) failure to submit a separate income and expense statement for each parcel (consolidated statements may be submitted only for contiguous condominium lots operated as a single entity);

(iii) failure to complete forms in a legible manner;

(iv) [failure to submit an income and expense statement containing the original signature of the owner(s) (the signature of an agent is not acceptable unless a power of attorney is attached to the statement); or

(v)] failure to file a substantially complete income and expense statement which shall include but shall not be limited to: (A) failure to provide data for the appropriate accounting period; and (B) failure to provide a complete and itemized list of income and expense data; or

(v) in the event that the electronic filing requirement is waived by the Commissioner under §33-02(b)(2) of these rules, failure to use the forms prepared by the Department of Finance, or failure to submit an income and expense statement containing the original signature of the owner(s) (the signature of an agent is not acceptable unless a power of attorney is attached to the statement).

§4. The heading of section 33-05, and subdivision (a), the heading of subdivision (b), and the first sentence of paragraph (1) of subdivision (b) of section 33-05 of such rules are amended to read as follows:

#### §33-05 **Mailing Rules.**

(a) Date of filing. [Any] In the event that the Commissioner has waived the electronic filing requirement with respect to a property, and will accept an income and expense statement filed in paper format, any form or document required to be filed within a prescribed period or on or before a prescribed date under authority of any provision of §11-208.1 of the Administrative Code, or any regulation enacted relating to the administration of such provision, shall be deemed delivered as of the date of the United States Postal Service postmark stamped on the envelope.

(b) [Mailing] Filing by paper form; mailing requirements. (1) In the event that the Commissioner has waived the electronic filing requirement with respect to a property, and will accept an income and expense statement filed in paper format, a [A] document will not be considered to be timely filed unless the document is mailed in accordance with the following requirements:

## **Basis and Purpose of Amendments**

Section 11-208.1 of the Administrative Code of the City of New York requires that owners of income producing real property in New York City file income and expense statements relating to the property each year no later than September 1. The information provided on the statements is used by the Department of Finance in assessing real property in the City. Chapter 385 of the Laws of 2006 amended section 11-208.1 to authorize the New York City Commissioner of Finance to require by rule that income and expense statements be filed by electronic means. This rulemaking proposal amends the Department of Finance rules to require that income and expense statements be filed electronically. As authorized by chapter 385 of the Laws of 2006, these amendments provide that the Commissioner may for good cause waive the electronic filing requirement.