

THE CITY OF NEW YORK
DEPARTMENT OF FINANCE

Pursuant to the power vested in me as Commissioner of Finance by sections 389(b) and 1043 of the New York City Charter, I hereby promulgate the within amendments to the Rules Relating to Refunds of Real Property Taxes. (New matter is underscored).

Alfred C. Cerullo, III
Commissioner of Finance

**Amendment To Rules Relating
To Refunds of Real Property Taxes**

§ 1. Section 24-01 of Title 19 of the Compilation of the Rules of the City of New York is amended to add definitions of "beneficial owner" and "record owner" to read as follows:

Beneficial owner. "Beneficial owner" means an individual or entity that has an ownership interest in excess of fifty percent of either (i) the real property or (ii) the entity that is the record owner of the property.

Record owner. "Record owner" means the owner of a property as it appears on the records of the New York City Department of Finance.

§ 2. Section 24-04 of such rules is amended to read as follows:

§24-04 Assignment of refund. The taxpayer may assign the right to receive a refund or transfer of overpayment under these rules only by executing an assignment of the right to a refund or transfer on a form provided by the Commissioner of Finance.

§ 3. A new section 24-05 is added to such rules to read as follows:

§24-05 Transfer of overpayment. A taxpayer may transfer an overpayment from one property to another under the following conditions:

(a) An overpayment may be transferred only between properties owned by the same beneficial owner.

(b) A transfer of an overpayment from one property to another shall have no effect on the accrual of interest as required by law

on arrears on the property to which the overpayment is transferred. Nothing in this provision, however, shall prevent the taxpayer from requesting that an overpayment, or a portion thereof, be applied to interest on the property to which the overpayment is transferred.

(c) In the event that an application for a transfer of an overpayment concerns properties that are not owned by the same record owner, the applicant must furnish proof required to establish that the properties are owned by the same beneficial owner.

Example 1: In January, 1995, X made an overpayment of real property taxes on property A in the amount of \$1,000. Property B has an outstanding balance of real estate taxes and interest from July, 1996, in the amount of \$1,000. There are no other outstanding charges on either of the two properties. X is the record owner of both property A and property B and desires to transfer the overpayment from property A to property B. X must submit to the Department an application pursuant to §24-02 of these rules. The \$1,000 overpayment will be transferred from property A to property B to be applied to the outstanding balance on property B.

Example 2: The facts are the same as in Example 1 except that Y made the overpayment on property A. If X wishes to transfer the overpayment from property A to property B, X must submit to the Department an assignment from Y pursuant to §24-04 of these rules together with an application pursuant to §24-02 of these rules.

Example 3: In January, 1995, X made an overpayment of real property taxes on property A in the amount of \$1,000. Property B has an outstanding balance of real estate taxes and interest in the amount of \$2,000 from July, 1996. There are no other outstanding charges on either of the two properties. X owns 75% of the stock of X Corp. which is the record owner of property A. X also owns 75% of Y Corp. which is the record owner of property B. X desires to transfer the overpayment from property A to property B. X must submit to the Department an application pursuant to §24-02 of these rules together with documentation to establish that X is the beneficial owner of both property A and property B. The \$1,000 overpayment will be transferred from property A to property B to reduce the outstanding balance on property B by \$1,000.

Example 4: The facts are the same as in Example 3 except that X Corp. made the overpayment on property A. If X wishes to transfer the overpayment from property A to property B, X must submit to the Department an assignment from X Corp. pursuant to

§24-04 of these rules, an application pursuant to §24-02 of these rules and documentation required to establish that X is the beneficial owner of both property A and property B.

BASIS AND PURPOSE OF AMENDMENTS

These amendments reflect the determination of the Department of Finance that the transfer of credits arising from overpayments of real property taxes is limited to transfers between properties which belong to the same owner. The previous version of these rules that was published for comment in November, 1997 has been revised to reflect comments received by the Department of Finance following the publication of the proposed rules. Transfers of overpayments will be allowed between properties owned by the same beneficial owner, as defined in the rules, who need not be the owner of record of both properties. Examples were drafted to illustrate the application of the amendments. The transfer of credits from one property to another will not affect the interest charges which may have accrued, prior to the time of the transfer, on the property to which the credits are transferred.

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