

# 421-a Partial Tax Exemption Program

## FREQUENTLY ASKED QUESTIONS

### 1. What areas are included in the “Residential A.F.A.” calculation?

“Residential A.F.A.” includes all space (including the dwelling units and residential areas such as the lobby, circulation, egress, and janitor’s closet) located on floors above the cellar that is required in order to secure a permanent Certificate of Occupancy for a Class A multiple dwelling. All dwelling units, including dwelling units located in the cellar, are included in the calculation of “Residential A.F.A.” Residential space, other than dwelling units, that is located in the cellar is not included in any Aggregate Floor Area calculation. See questions 3 and 6 below.

Residential accessory parking garage space located at grade or above to a height “not more than 23 feet above curb level,” as referenced in the NYC Zoning Resolution, is also included in the “Residential A.F.A.” calculation. See question 15 below.

### 2. What areas are included in the “Non-Residential A.F.A. & Ineligible Residential A.F.A.” calculation?

“Non-Residential A.F.A. & Ineligible Residential A.F.A.” includes all non-residential space and residential accessory space that is not required in order to secure a permanent Certificate of Occupancy for a Class A multiple dwelling.

“Non-Residential A.F.A.” includes all floor space occupied by mercantile, industrial, business, public assembly, educational, and institutional occupancies including, but not limited to, retail space/storage, medical offices, management offices, day care centers, and public (not residential accessory) parking garages. All non-residential space, including non-residential space located in the cellar or sub-cellar, is included in the “Non-Residential A.F.A.” calculation.

“Ineligible Residential A.F.A.” includes all residential accessory space located on floors above the cellar and is included in the Aggregate Floor Area calculations. These spaces are “tenant only” amenities and include, but are not limited to, the laundry room, recreation room, exercise room, swimming pool, tenant locker room, tenant storage room, tenant business center, playroom, and theater. All residential accessory space located in the cellar or sub-cellar is not included in any Aggregate Floor Area calculation.

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**3. There is an apartment in this building specifically allocated to the superintendent. Is this apartment space included in the Aggregate Floor Area calculation?**

Yes, regardless of location within the building, the living quarters of the building superintendent and other employees servicing the building are included in the “Residential A.F.A.” calculation.

**4. The mechanical rooms for this building are located on various floors in the building. Are these rooms included in the Aggregate Floor Area calculation?**

No, regardless of location within the building, mechanical space is not included in any Aggregate Floor Area calculation. Mechanical space includes, but is not limited to, boiler rooms, electric, gas and water meter rooms, HVAC equipment rooms, electrical closets, elevator motor, and elevator equipment rooms.

**5. There is a basement level in this building. Is this area included in the calculation of the Aggregate Floor Area?**

A basement is a story, or a portion of a story, partly below curb level, with at least one-half of its height (measured from floor to ceiling) above curb level. Floor space in the basement is included in the Aggregate Floor Area calculation.

**6. There is a cellar level in this building. Is this area included in the calculation of the Aggregate Floor Area?**

A cellar is a space wholly or partly below curb level, with more than one-half of its height (measured from floor to ceiling) below curb level.

Residential space in the cellar occupied as a dwelling unit or as part of a dwelling unit (e.g., as part of a duplex apartment) is included in the “Residential A.F.A.” calculation if it meets the requirements of habitability, as provided in Administrative Code §§27-746 and 27-751.

Non-residential space in the cellar is included in the “Non-Residential A.F.A.” calculation. See question 2 above.

Residential accessory space in the cellar is not included in any Aggregate Floor Area calculation. Residential accessory spaces are “tenant only” amenities, which include, but

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are not limited to, the laundry room, recreation room, exercise room, swimming pool, tenant locker room, tenant storage room, tenant business center, playroom, and theater.

Mechanical rooms and/or equipment; open and/or unoccupied floor space; floor area occupied by building maintenance staff (e.g., superintendent's office/workshop, staff locker rooms, staff lunch room); residential accessory parking; and all unexcavated interior spaces in the cellar are not included in any Aggregate Floor Area calculation.

**7. There is a sub-cellar level in this building. Is this area included in the calculation of the Aggregate Floor Area?**

Space located in the sub-cellar is treated the same as space located in the cellar. See question 6 above.

**8. There is an attic in this building. Is this area included in the Aggregate Floor Area calculation?**

Only attic space (whether or not a floor has been laid) providing structural headroom of five feet or more in R2X, R3, R4, or R5 zoning districts and eight feet or more in other districts is included in the Aggregate Floor Area calculation.

**9. There is bulkhead access to a tenant recreation area on the roof of this building. Are the areas of the elevator, fire stair(s), and public hall included in the Aggregate Floor Area calculation?**

Yes, the area of these interior building spaces are included in the "Ineligible Residential A.F.A." calculation. The area of the roof deck is not included in any Aggregate Floor Area calculation.

**10. There are mechanical rooms and a bulkhead on the roof level of this building. Are these areas included in the Aggregate Floor Area calculation?**

No, these areas are not included in any Aggregate Floor Area calculation. See question 4 above.

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**11. There are building setbacks at several floors in this building. Is the area of an apartment's roof terrace included in the Aggregate Floor Area calculation?**

No, the area of an apartment's roof terrace is not included in any Aggregate Floor Area calculation.

**12. There is an unenclosed balcony that projects beyond the building's exterior into open space. Is this exterior balcony included in the Aggregate Floor Area calculation?**

No, an exterior balcony that is not enclosed is not included in the Aggregate Floor Area calculation. It is, however, included in the "Total Balcony Space in Sf" calculation.

**13. There is a 2-story high open atrium in this building. A balcony encircles the open second level. Are these areas included in the Aggregate Floor Area calculation?**

The area at the second level consisting of open void space is not included in the Aggregate Floor Area calculation. However, the floor space of the interior balcony area is included in the Aggregate Floor Area calculation.

**14. There is a mezzanine or interior balcony in some of the dwelling units in the building. Is the area of the mezzanine or interior balcony within an apartment included in the Aggregate Floor Area calculation?**

Yes, a mezzanine or interior balcony within an apartment is considered a balcony under the 421-a Rules and counts as ½ room. The floor space of a mezzanine area or interior balcony within an apartment is included in the "Residential A.F.A." calculation.

**15. Is parking garage space with parking ramps included in the Aggregate Floor Area calculation?**

All commercial parking garage space (including access ramps/elevators), regardless of location within the building, is included in the "Non-Residential A.F.A." calculation.

All residential accessory parking garage space (including access ramps/elevators) when located at grade or above to a height "not more than 23 feet above curb level," as referenced in the NYC Zoning Resolution, is included in the "Residential A.F.A." calculation.

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All residential accessory parking garage space (including access ramps/elevators) when located at a height “more than 23 feet above curb level,” as referenced in the NYC Zoning Resolution, is included in the “Ineligible Residential A.F.A.” calculation.

All residential accessory parking garage space (including access ramps/elevators) when located in the cellar or sub-cellar is not included in any Aggregate Floor Area calculation.

**16. This building has the following “tenant only” amenities located in the cellar: laundry room, recreation room, exercise room, swimming pool, tenant locker rooms, tenant storage rooms, tenant business center, playroom, theater, and tenant parking garage with ramp. Are these areas included in the “Ineligible Residential A.F.A.”?**

No, these residential accessory spaces when located in the cellar are not included in any Aggregate Floor Area calculation, including the calculation of “Ineligible Residential A.F.A.”

**17. This building has the following “tenant only” amenities located on floors 1-14: laundry room, recreation room, exercise room, swimming pool, tenant locker rooms, tenant storage rooms, tenant business center, playroom, theater, and tenant parking garage with ramp. Are these areas included in the “Ineligible Residential A.F.A.” calculation?**

These residential accessory spaces when located on floors above the cellar, except for the tenant parking garage with ramp (see note below), are included in the “Ineligible Residential A.F.A.” calculation.

Please note: All indoor parking located “not more than 23 feet above curb level,” as referenced in the NYC Zoning Resolution, should be included in the calculation of “Residential A.F.A.” See questions 1 and 15 above.

**18. This building has a management office. Is this area included in the “Non-Residential A.F.A.” calculation?**

Yes, it is included in the “Non-Residential A.F.A.” calculation.

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**19. On the first floor of this building, above the cellar level, the “public and service areas” (including, but not limited to, public halls, service halls, elevators, and egress stairs) directly serve both residential and non-residential occupancies (such as a medical office and newsstand). Are the shared “public and service areas” included in the “Non-Residential A.F.A.” calculation?**

On all floors above the cellar level where “public and service areas” directly serve both a residential and non-residential occupancy, the occupancy that contains the predominant floor area determines the inclusion of the “public and service floor areas” in “Residential A.F.A.” or “Non-Residential & Ineligible Residential A.F.A.” calculation.

Example: If the floor area of the medical and/or newsstand occupancy exceeds that of the residential occupancy, then the floor area of the “public and service areas” is included in the “Non-Residential A.F.A.” calculation. If the floor area of the residential occupancy exceeds that of the medical and/or newsstand occupancy, then the floor area of the “public and service areas” is included in the “Residential A.F.A.” calculation, rather than the “Non-Residential A.F.A.” calculation.

**20. The cellar and sub-cellars of this building contain the following non-residential occupancies: medical office, retail, retail storage, and a commercial loading dock. Is the floor area of these spaces included in the “Non-Residential A.F.A.” calculation?**

Yes, these areas and the floor area of all “dedicated” egress (elevators, stairs, service halls, etc.) for these specific occupancies are included in the “Non-Residential A.F.A.” calculation.

**21. This application requires the calculation of “Total Finished Space in Sf” and “Total Unfinished Space in Sf”. What is meant by these two terms?**

The combined sum of “Total Finished Space in Sf” and “Total Unfinished Space in Sf” equals the total floor area of the building.

“Unfinished Space” is all mechanical space delineated on the temporary or permanent Certificate of Occupancy and all additional space delineated as “open,” “unoccupied,” and/or “vacant” on the drawings and the temporary or permanent Certificate of Occupancy.

“Unfinished Space” is typically shown on floor plans as open space without or with incomplete partition assemblies. No reflective ceiling plan is provided; and the space as listed on the Project Finish Schedule has no finished wall, floor, and ceiling material specified.

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All other space is “Finished Space.”

Please note: All parking garage and/or vehicle access ramp/elevator space is calculated as “Finished Space,” regardless of location in the building.

#### **22. What is included in the calculation of “Total Net Sf of Dwelling Units”?**

Net square feet is the horizontal occupiable areas within the dwelling unit from the interior face of the exterior walls to the centerline of all apartment unit demising walls.

#### **23. What is the basis for the calculation that determines diminution of tax exemption for excess commercial, community facility, and accessory use space?**

Section 6-06(b) of the 421-a Rules provides that the 421-a tax benefits will be reduced by the extent to which the project’s floor area of commercial, community facility, and accessory use space exceeds twelve percent (12%) of the Aggregate Floor Area. The Aggregate Floor Area calculation is the sum of “Residential A.F.A.,” “Non-Residential A.F.A.,” and “Ineligible Residential A.F.A.,” not the total floor area of the building.