



**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 City Charter and section 11-208.1(g) of the Administrative Code of the City of New York, I hereby promulgate the within Amendments to Rules Relating to the Filing of Income and Expense Statements. This amendment was published in proposed form on April 12, 2010. A hearing for public comment was held on May 13, 2010.

____ S/S _____
David M. Frankel
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 (b) of section 33-02 of 19 RCNY Chapter 33 (Rules Relating to the Filing of Income and Expense Statements) is amended to read as follows:

(1) Income and expense statements shall be submitted 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. A new paragraph (5) is added to subdivision (c) of section 33-02 of such rules to read as follows:

(5) In addition to the income and expense statement, owners of income-producing property as to which the final actual assessed value for the tax year during which the statement is filed is \$750,000 or greater must file an addendum thereto, in a format determined by the Commissioner of Finance, containing rent roll information for the month of April of the year during which the income and expense statement is required to be filed. The addendum required by this paragraph shall be considered to be a part of the income and expense statement and any filing requirement contained in these rules for the income and expense statement shall also be applicable to the addendum.

§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 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 addendum, when required under §33-02(c)(5) of these rules;

(v) failure to file a substantially complete and accurate 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 accurate and itemized list of income and expense data; or

[(v)] (vi) 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).

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. Prior to amending the Rules Relating to the Filing of Income and Expense Statements in 2005 in an attempt to simplify filing requirements, the Department of Finance had required owners of nonresidential real property with an assessed valuation of \$1 million or greater to include with the income and expense statement an addendum with detailed rent roll information. The Department has since determined that this information would be helpful in determining accurate assessments, and these amendments to rules restore the addendum requirement as modified to require the addendum for any property that has an assessed valuation of \$750,000 or greater.

The rule amendment also clarifies the term failure to file an income and expense statement. As amended, the term failure to file an income and expense statement includes failure to file a substantially complete and accurate income expense statement and failure to provide a complete and accurate and itemized list of income and expense data.