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What are the pitfalls and penalties of Real Property Income & Expense-14?

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While the RPIE is not new, it has experienced significant changes over the last several years. Many property owners were shocked last summer to learn that the long standing due date of early September had been legislatively moved to June 1st. On an increasing basis, the Department of Finance's issuance of RPIE related penalties continues to plague "non-compliant" owners. As part of the legislative changes adopted, the city has categorized monetary penalties by level of assessment. Penalties now begin at $300 for the lowest required filing level, but soar to $100,000 for the largest assessments. Another strictly enforced "penalty" is denial of a tax commission hearing in any year following RPIE non-compliance. While a hearing can be delayed, a tax assessment protest is legally valid following non-compliance.

Now that April 15th has passed, most New York City property owners - and their accountants - have turned their attention to the legally required RPIE (Real Property Income & Expense) filing. New York City values most properties utilizing an income and expense approach to value. By law, owners of rental properties must report their income and expenses each year. Ironically, while owners are required to report, the city is under no reciprocal obligation to use actual data in whole or part. Indeed, the Department of Finance's policy acknowledges that "net income estimates include adjustments to the filed information based on our statistical models and assessment guidelines."

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More dangerous, in ways, are the recent changes to the vacancy (Section E) and owner related occupancy questions (Section H). Unlike past RPIE requirements, the current vacancy question isolates occupancy as of January 5th, the taxable status date, rather than the full year vacancy in previous filings. By focusing on this snapshot, instead of a full year, the city's valuation model could utilize income levels that are artificially high.

For example, Property "A" had 100% occupancy in 2014; but lost a major tenant effective January 1st. The city's computer could project an increase in 2015 gross income, rather than a decline, because the computer can't tell when the vacancy started or ended and would "rent up" the unoccupied space. Such a result could cause a substantial over-assessment in 2016/17 despite the problematic reality, a decreasing revenue stream.

Similarly, RPIE questions targeting owner occupied or owner related space have intensified opportunity for gross over-assessment. A vital error – by filers - for many years has been combining "book rent" (owner related rent) with the gross income produced by unrelated tenants. This has and will continue to lead to double counting of rent by the city. Lastly, make certain any cell tower, signage or billboard income is separately entered as required.

Investigating the fairness of your new assessment each January is more important if you've been deemed non-compliant for any reason. Clearly, the RPIE requirements can no longer be an afterthought for owners wishing to avoid unwarranted assessment increases or penalties. The RPIE-14 is due June 1st, 2015 and must be filed on-line at nyc.gov/rpie.

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