



THE CITY OF NEW YORK
INDEPENDENT BUDGET OFFICE
110 WILLIAM STREET, 14TH FLOOR
NEW YORK, NEW YORK 10038

J-51 Property Tax Exemptions and Abatements

June 4, 2003

OVERVIEW

New York City provides owners of residential buildings with tax incentives to rehabilitate these buildings. After doing certain categories of rehabilitation work (described in detail below), owners are eligible to receive a J-51 property tax abatement, and/or a J-51 property tax exemption.¹

A property tax *abatement* is a reduction in the amount of tax an owner must pay. For example, if a class 2 residential building has an assessed value of \$1 million, the annual property tax bill is about \$125,000. A property tax abatement reduces the amount of taxes owed by the building owner by an amount tied to the cost of the work done.

A J-51 property tax *exemption* effectively freezes a building's assessed value for tax purposes, so the owner does not have to pay property tax on the increase in value resulting from the rehabilitation work. In the case of a building worth \$1 million before the work is done, and \$2 million after the rehabilitation work, with a J-51 exemption the building owner pays taxes only on the initial \$1 million assessed value, less any abatement as described above.

The law specifies certain classes of work that are eligible for J-51 benefits, without making a distinction between exemptions and abatements. However, abatements are much more common than exemptions, because in order for a building to receive an exemption, the rehabilitation work must have increased the assessed value of the property. Only major upgrades will have an appreciable effect on property values. Therefore most rehabilitation work qualifies for J-51 abatements, but not exemptions. In most cases, the buildings that do receive exemptions are also eligible to receive abatements.

In 2002, the cost of J-51 exemptions was \$65.9 million, and abatements cost \$96.5 million, according to the Department of Finance.

ELIGIBLE WORK

State and city law set out specific categories of rehabilitation work that are eligible for J-51 tax benefits:

1. Conversion of SROs, hotels and lodging houses to Class A multiple dwellings, as long as the building owner also receives substantial governmental assistance to subsidize the conversion;
2. An as-of-right conversion of nonresidential property to a multiple dwelling;
3. Alteration to the exterior of a landmark building;

4. Moderate rehabilitation (at least one system replacement) of a multiple dwelling that is at least 60 percent occupied;
5. Alterations designed to conserve energy;
6. Alterations to eliminate unhealthy or dangerous conditions, generally including any repair included on the Department of Housing Preservation and Development’s (HPD) list of Major Capital Improvements;
7. Conversion of a loft registered with the Loft Board to a unit that meets multiple dwelling safety standards;
8. Substantial rehabilitation (four systems replacement) of low- and moderate-income housing, or conversion of a building into low- and moderate-income housing, when the owner receives substantial governmental assistance;
9. Alterations or conversions of a one- or two-family home, when done with substantial governmental assistance;
10. Conversion of a building with sleeping accommodations (such as a dormitory) into a Class A multiple dwelling, if the conversion is done with substantial governmental assistance.

BENEFITS AVAILABLE

The length and value of the tax benefits differ for abatements and exemptions.

Abatements. The city has established a “Certified Reasonable Cost” (CRC) for each type of work eligible for a J-51 abatement. In any given year, a building’s taxes are abated by a portion of the CRC. Abatements can last up to 20 years.

	Type of Work	Maximum Annual Abatement	Maximum Total Abatement
1.	Conversion of SROs, hotels, or lodging houses to Class A multiple dwellings	8 ⅓% of CRC	90% of CRC
			50% of CRC (Manhattan south of 96 th St.)
2.	As-of-right conversion of a nonresidential property to a multiple dwelling	8 ⅓% of CRC	50% of CRC (all of Manhattan)
			90% of CRC (elsewhere)
3.	Alteration to the exterior of a landmark bldg.	8 ⅓% of CRC	90% of CRC
4.	Moderate rehabilitation	8 ⅓% of CRC (without gov’t. assistance)	100% of CRC (without government assistance)
		12 ½% of CRC (with government assistance)	150% of CRC (with government assistance)
5.	Alterations designed to conserve energy	8 ⅓% of CRC	90% of CRC
6.	Alterations to eliminate unhealthy or dangerous conditions	8 ⅓% of CRC	90% of CRC
7.	Conversion of a loft registered with the Loft Board to a multiple dwelling	8 ⅓% of CRC	50% of CRC (all of Manhattan)
			90% of CRC (elsewhere)
8.	Substantial rehabilitation of or conversion into low- or moderate-income housing	12 ½% of CRC	150% of CRC or actual value of work
9	Alterations and conversions of one- and two-family homes	8 ⅓% of CRC	90% of CRC
10.	Conversion of nonprofit sleeping accommodations	8 ⅓% of CRC	90% of CRC

In most cases, the maximum total abatement is reached before the end of the 20-year abatement period. If taxes are reduced by the maximum allowable 8 1/3 percent each year, the 90 percent of CRC ceiling will be reached in about 11 years. However, the value of the abatement can never exceed a building’s total tax liability. If the building’s tax liability is low relative to the CRC, the owner may not be able to take advantage of the full 8 1/3 percent in a given year, but can extend the length of the abatement over time.

The maximum allowable CRC is capped, based on the size of the average apartment in the building:

Certified Reasonable Cost Ceilings	
Number of Rooms	Maximum CRC
2 1/2	\$12,600
3 1/2 (1 bedroom)	\$15,000
4 1/2 (2 bedroom)	\$17,400
5 1/2 (3 bedroom)	\$19,800
SOURCES: IBO, Department of Housing Preservation and Development. NOTE: The cap is raised by \$2,400 for each additional room.	

The maximum CRC can be increased by up to 25 percent, if HPD determines that the additional expenditure was necessary. The CRC ceiling does not apply to substantial rehabilitation done with governmental assistance.

Finally, there is a \$2,500 per unit annual cap on the value of the abatement for condos and co-ops citywide, and rental units south of 96th Street, unless the work was done with substantial governmental assistance. South of 86th Street, the abatement can be taken against the value of the building only (not the land), which further limits the allowable tax benefit.

The \$2,500 cap on the value of the abatement is somewhat redundant, given the maximum allowable CRCs described above. For example, a two bedroom (4 1/2 room) apartment has a maximum allowable CRC of \$17,400. Under most circumstances, the owner can abate 8 1/3 percent of the CRC, or a maximum of \$1,450 annually, well below the \$2,500 cap.

Enhanced Abatements. As noted in the table describing abatement benefits, there are some specific instances when owners can receive enhanced abatement benefits: 12 1/2 percent of CRC annually, up to a maximum of 150 percent of CRC over 20 years. All substantial rehabilitations of or conversions into low- and moderate-income housing using governmental assistance are eligible for these enhanced benefits. Moderate rehabilitation projects are also eligible, if they meet one of the following criteria:

- Work carried out with substantial governmental assistance;
- Work carried out with substantial assistance from a nonprofit housing organization;
- Work financed by the New York City Residential Mortgage Insurance Corporation (REMIC);
- Work financed by the State of New York Mortgage Agency (SONYMA);

- Work done as part of a Federal Housing Administration (FHA) program in a neighborhood strategy area.

Exemptions. In most cases, the increase in assessed value resulting from rehabilitation work is fully exempt for 10 years, and phases out over four years, for a total exemption period of 14 years. However, there are two project categories eligible for 30 years of full exemption, also phasing out over four years, for a total exemption period of 34 years:

- Moderate rehabilitation (with or without governmental assistance);
- Substantial rehabilitation or conversions done with governmental assistance to provide housing for low- and moderate-income households.

Owners can meet the low- and moderate-income requirement by renting all units to households earning no more than 165 percent of Area Median Income (about \$104,000 for a family of four) or 80 percent of units to households earning no more than 180 percent of area median (\$113,100 for a family of four) and the remaining 20 percent of units to households earning no more than 80 percent of area median (\$50,250).

LIMITS ON BENEFITS

The J-51 laws place limits on which units are eligible for exemptions and abatements. In general, the laws are designed to keep relatively high-value buildings from qualifying for tax benefits. The limitations on exemptions and abatements differ from one another:

	Abatements	Exemptions
Units subject to assessed value cap	All	South of 110 th Street in Manhattan
Cap on per unit AV	\$40,000 <i>BEFORE</i> rehabilitation work Condos/Co-ops also subject to ceilings on per room sale prices, tied to the Fannie Mae price limits. ²	\$38,000 <i>AFTER</i> rehabilitation work.
Exceptions to AV cap	<ul style="list-style-type: none"> • Moderate rehabilitation • Loft conversions • Gov't/charitable assistance (not conversions) • Building in Neighborhood Preservation Program area • Building has REMIC or SONYMA mortgage insurance • Work done through specific federal programs • Conversions or substantial rehabilitation (without any affordability provision) • Condos/Co-ops within three years of first closing • Rehab work or conversion that creates new units in condo/co-op buildings. 	<ul style="list-style-type: none"> • Moderate rehabilitation • Loft conversions • Gov't/charitable assistance (not conversions) • Building in Neighborhood Preservation Program area • Building has REMIC or SONYMA mortgage insurance • Work done through specific federal programs • 30 percent of apartments affordable to low/ moderate income households for 15 years.

Both the exemption and abatement rules place limits on the properties that are eligible for tax benefits. The limitations are similar, but not precisely the same, so there are some circumstances

under which a building could be eligible for a J-51 exemption, but not an abatement. For example, a building outside of Manhattan with an average assessed value per unit greater than \$40,000 would not be eligible for an abatement (unless it met one of the criteria noted above) but would be eligible for an exemption.

In addition to the benefits described above, rental units in buildings receiving J-51 tax exemptions or abatements become subject to rent regulation, and remain so for the life of the exemption/abatement.

EXEMPTION AND ABATEMENT DISTRIBUTION

In 2002, there were 116,803 units in 3,897 buildings receiving J-51 exemptions, and 662,178 units in 12,279 buildings receiving J-51 abatements. These two groups of buildings overlap. Virtually all buildings that receive exemptions will also receive abatements, although many more units receive abatements than exemptions, because the majority of rehabilitation work does not have an appreciable effect on assessed value.

Location. Rental units receive the majority of both exemptions and abatements. Exemptions are concentrated in the Bronx, while abatements are more evenly distributed.

Exemptions may be disproportionately concentrated in the Bronx because by many measures of housing quality, the housing in the Bronx is in the worst condition. The Bronx has the highest average number of maintenance deficiencies per dwelling unit, the highest percentage of housing with five or more maintenance deficiencies, and the highest rate of housing complaints, serious violations, and total violations.³ Therefore properties in the Bronx may be more likely to need the major rehabilitation work that will raise the assessed value of the building and lead to J-51 exemption.

The distribution of abatements by borough loosely mirrors the distribution of multifamily housing. About 17 percent of all multifamily housing, and 20 percent of J-51 abatements, are located in the Bronx. Brooklyn has 25 percent of multifamily housing, and 22 percent of J-51 abatements.

Units with J-51 Exemptions and Abatements, by Borough and Building Type						
	Condo	Co-op	Rental	Other	TOTAL	Percent
Exemptions						
Manhattan	1,303	1,047	21,666	181	24,197	20.7%
Core Manhattan	666	684	6,122	40	7,512	6.4%
Bronx	8,243	2,840	54,172	41	65,296	55.9%
Brooklyn	2,358	1,527	17,136	832	21,853	18.7%
Queens	272	426	4,353	-	5,051	4.3%
Staten Island	-	-	406	-	406	0.3%
TOTAL	12,176	5,840	97,733	1,054	116,803	
Percent	10.4%	5.0%	83.7%	0.9%		
Abatements						
Manhattan	24,480	68,346	123,913	1,422	218,161	32.9%
Core Manhattan	23,344	57,106	68,616	1,232	150,298	22.7%
Bronx	12,575	20,035	97,380	91	130,081	19.6%
Brooklyn	4,179	37,261	103,903	1,032	146,375	22.1%
Queens	5,816	79,493	76,609	53	161,971	24.5%
Staten Island	162	885	4,543	-	5,590	0.8%
TOTAL	47,212	206,020	406,348	2,598	662,178	
Percent	7.1%	31.1%	61.4%	0.4%		
SOURCES: IBO; Department of Finance.						
NOTES: Core Manhattan defined as Community Boards 1-7. The "Manhattan" row is inclusive of Core Manhattan.						

Co-ops receive a disproportionate share of the abatements city-wide, relative to their share of the eligible housing stock. Rehabilitation work is often done as part of converting a building from a rental property to a co-op, and this work, in many cases, is J-51 eligible. In addition, the rent-stabilization rules do not apply to co-ops. There may be cases when owners of rental buildings opt not to take advantage of tax benefits, in order not to be bound by rent regulations. Co-ops (and condos) do not face this same tradeoff, although they do lose their co-op/condo abatements.

Per Unit Assessed Value. The J-51 exemption and abatement rules are designed to limit benefits to buildings with greater need for financial assistance for rehabilitation work. Although there are a number of provisions intended to limit the availability of the exemptions and abatements—such as the per room sale price limit for condos and co-ops getting abatements—the strongest tool to limit benefits is the cap on the per unit assessed value. In order to receive an abatement, the average per unit assessed value must be under \$40,000 before rehabilitation work begins. In order to receive an exemption, the average assessed value must be under \$38,000 after the completion of the work, if the building is located in Manhattan south of 110th Street.⁴ In most cases, the average assessed values are well below these caps.

Average per Unit Assessed Value, J-51 Exemptions and Abatements, 2003				
	Condo	Co-op	Rental	Average
Exemptions (\$38,000 per-unit cap)				
Manhattan	\$40,460	\$24,462	\$16,520	\$29,439
Core Manhattan	57,528	28,470	24,484	47,166
Bronx	6,329	10,935	9,748	6,816
Brooklyn	27,010	16,275	11,116	22,240
Queens	21,285	14,151	12,978	19,602
Staten Island	-	-	12,012	12,012
Abatements (\$40,000 per-unit cap)				
Manhattan	\$38,303	\$28,956	\$19,617	\$33,519
Core Manhattan	39,188	31,976	27,904	37,363
Bronx	8,475	15,040	10,480	8,860
Brooklyn	24,773	15,677	11,309	18,318
Queens	19,780	17,146	14,007	18,327
Staten Island	13,705	14,343	11,411	13,386
SOURCES: IBO, Department of Finance.				
NOTES: Core Manhattan defined as Community Boards 1-7. The "Manhattan" row is inclusive of Core Manhattan. Table excludes buildings with other building classes, such as lofts and mixed use properties.				

The condominium properties in Core Manhattan receiving J-51 exemptions have an average assessed value well above the \$38,000 cap. The majority of these roughly 700 units are former lofts, and are therefore not subject to the ceiling on assessed value. Additional units with assessed values above \$38,000 are located in the Lower East Side Neighborhood Preservation Area, which also exempts them from the cap on assessed value. However, there are some additional units in buildings with J-51 exemptions and assessed values over \$38,000 and without obvious characteristics that would exempt them from the assessed value ceiling. It is highly likely that some of these units met the \$38,000 threshold after the work was completed, but that assessments have subsequently grown, bringing the assessed value above the cap.

VALUE OF THE TAX BENEFITS

For 2003, the average per unit exemption benefit was \$715, and the average per unit abatement benefit was \$151.

Class 2A and class 2B buildings—rental buildings with fewer than 10 units—are assessed differently than other class 2 buildings. For these buildings, the assessed value is typically more like 20 percent of estimated market value, as compared to 45 percent for other Class 2 properties. IBO has therefore separated class 2A and class 2B units when estimating the average tax benefit per unit. Exemptions and abatements in these smaller buildings are significantly more expensive for the city. However, it is important to note that the J-51 law does not distinguish between different categories of class 2 properties: the same ceilings on assessed value are applied across the board.

The bulk of the tax expenditure for both exemptions and abatements is for buildings with low assessed values—i.e. relatively affordable housing. However, at the unit level, buildings with higher assessed values receive larger benefits than the more affordable apartments.

2003 J-51 Expenditures, by Per Unit Assessed Value									
Unit Assessed Value	Tax Classes 2A and 2B			Other Tax Classes			Combined		
	Tax Expend. (Millions)	Units	Per Unit Expend.	Tax Expend. (Millions)	Units	Per Unit Expend.	Tax Expend. (Millions)	Units	Per Unit Expend.
Exemptions									
Under \$20,000	\$5.5	6,068	\$902	\$55.6	97,191	\$572	\$61.1	103,259	\$592
\$20,000-\$38,000	2.3	1,090	2,109	15.2	10,522	1,444	17.5	11,612	1,506
\$38,000-\$55,000	0.3	128	2,466	2.7	1,114	2,431	3.0	1,242	2,434
\$55,000-\$100,000	0.1	10	6,919	1.4	588	2,313	1.4	598	2,390
Greater than \$100,000	-	-	NA	0.4	92	4,868	0.4	92	4,868
TOTAL	\$8.2	7,296	\$1,118	\$75.3	109,507	\$688	\$83.5	116,803	\$715
Abatements									
Under \$20,000	\$3.9	10,614	\$365	\$62.0	444,119	\$140	\$65.8	454,733	\$145
\$20,000-\$40,000	0.8	1,681	464	21.9	136,470	161	22.7	138,151	164
\$40,000-\$55,000	0.1	191	577	3.7	27,959	132	3.8	28,150	135
\$55,000-\$100,000	0.0	87	397	1.9	8,200	235	2.0	8,287	237
Greater than \$100,000	-	-	NA	0.8	676	1,153	0.8	676	1,153
TOTAL	\$4.8	12,573	\$382	\$90.3	617,424	\$146	\$95.1	629,997	\$151
SOURCES: IBO, Department of Finance.									
NOTES: Exemption tax expenditures reflect the property tax increase enacted in mid-Fiscal Year 2003.									
The number of units with abatements excludes some records with missing data, that are included in earlier counts.									

CONCLUSION

The J-51 tax benefit program offers incentives to building owners to repair and rehabilitate their properties. Despite the complex nature of the J-51 laws, it is a major program—representing almost half the city’s annual tax expenditures for housing development—that provides benefits to more than 600,000 units annually.

Much of the complexity of the J-51 laws arises from the objective of targeting tax benefits to buildings needing financial assistance for necessary rehabilitation work. Our analysis of the distribution of units by assessed value suggests that the majority of buildings receiving J-51 benefits have relatively low assessed values. Only a small number of higher end units benefit from the J-51 program. Because the number of units is small, the total tax expenditure on these units is similarly small, although the expenditure per unit is substantially higher for high-end units than for units with lower assessed values.

Prepared by Molly Wasow Park

END NOTES

¹ This report summarizes the J-51 laws. In some cases, details have been omitted or consolidated for simplicity's sake. Readers looking for legal guidance should refer to the J-51 law, rules, and the HPD guidebook.

² While the \$40,000 ceiling on assessed value is usually the relevant cap on a unit's value, there are some cases where a unit has turned over several times in a short period of time, and the growth in sales price has significantly outpaced the growth in assessed value. When this occurs, units may be subject to the per room sale price limits, although they are under the \$40,000 ceiling.

³ Denise Wallin, Michael H. Schill, Glynis Daniels: *State of New York City's Housing and Neighborhoods, 2002* (New York University, Furman Center for Real Estate and Urban Policy, 2002).

⁴ For apartment buildings with more than 10 units, the assessed value is equal to 45 percent of full market value. For rental properties, the city estimates market value as the capitalized value of the income stream from the building. State law requires that condominium and co-op units must be valued as if they were rent-regulated units, which forces the city to use incomes imputed from comparable rental buildings. As a result, the city's official market values for co-op and condo buildings are much lower than they would be if market value were determined using sales prices of comparable units. IBO has estimated that as a result of the law, the official market values and assessed values for coops and condos used by the city for tax purposes are discounted by more than 50 percent from their sales-based values.