New York City Independent Budget Office Fiscal Brief

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Exemption or Abatement?

Structure of Proposed New 421-a Program Has Implications for All Property Tax Bills

Introduction

The January 2024 State of the State Report highlighted Governor Hochul's priority of enacting a property tax break similar to the "Affordable New York" 421-a program, which expired to new participants in 2022 but continues to pay out sizeable benefits to existing participants.[1] (See IBO analysis in How Much Will 421-a Continue To Cost New York City After Its Expiration? for a forecast of the ongoing costs of the expired program.) The expired program provided tax breaks for up to 35 years to incentivize new multifamily residential construction.[2] The 421-a program, referred to by the section of the State Real Property Tax Law the program is created under, operates as-of-right, meaning that any qualifying project can participate in the program—it is not granted through a competitive selection process or at the discretion of an agency. The program was structured as a property tax *exemption*, reducing values of properties as the mechanism for providing a tax break. However, the State of the State report called for enacting its replacement as an *abatement*, which would leave assessed values unchanged but would lower beneficiaries' tax bills.

Exemptions and abatements are both tools for providing tax relief for a targeted group of properties, but the choice of which way to apply a replacement 421-a property tax break (now referred to as 485-x) has notable effects on the shares of tax liability borne by the four property classes in the City. (See side bar on page 2 for information on the four tax classes and how property tax rates are applied.) Generally, holding property tax revenue constant, an abatement is funded by all tax classes, but an exemption's funding burden falls on the other properties in the class receiving the exemption. These effects are due to the class share system required by State property tax law, which assigns each class a set percent of the gross City tax levy to pay. Gross levy refers to the total amount of tax liability for a fiscal year prior to deducting abatements. However, the actual tax burdens of each class are based on the net levy, which is the gross levy total minus abatements.

Simulating the 421-a Program as an Abatement Versus an Exemption

The distribution of the net levy differs depending on whether tax breaks are given as exemptions or abatements, and this has consequences for the distribution of tax liability among the classes. Using 2023 data on tax liabilities of all properties, IBO has simulated what those liabilities would have been if each recipient of 421-a exemption had instead received an abatement that provided a tax break of equal value for that property. (All years refer to city fiscal years unless otherwise noted.) The comparison of 2023 liabilities under the hypothetical 421-a-as-abatement scenario to actual 2023 liabilities demonstrates that, had 421-a been an abatement program, taxes on one-, two-, and three-unit houses and commercial properties would have been greater as a result, while taxes on apartment buildings not receiving 421-a benefits would have been lower.

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Background on New York City Property Taxes

New York State tax law divides all New York City properties into four tax classes: **Class 1** consists of one-, two-, and three-unit houses; **Class 2** comprises all apartment buildings—rentals, cooperatives, and condominiums; **Class 3** contains property owned by utility companies; and **Class 4** consists of all other commercial and industrial properties.

For each class, specific procedures determine properties' **billable assessed values**—the value of the property for tax purposes. The sum of the billable assessed values minus **exemptions** (such as 421-a benefits) is then multiplied by the **citywide property tax rate** to determine the **total gross levy**, the total amount of taxes property owners would owe prior to the deduction of any **abatements** from their tax bills. The percentage of gross levy borne by each class is its **class share**. The class shares, one for each of the four classes, are determined by a separate process prescribed in State law. Gross levy minus abatements equals the **net levy billed**, which is also the sum of the final tax bills. The percentage of the net levy billed that each class bears is determined by the class shares and abatements, considered together.

IBO illustrates these effects by simulating what would have happened to property taxes in fiscal year 2023 were the previous 421-a program an abatement, rather than an exemption.[3] The simulation holds harmless the 421-a recipient properties, that is, the total tax liability of properties receiving 421-a benefits remains the same. The simulation also assumes the citywide property tax rate is held fixed.

Because the simulation is intended to be illustrative, IBO made several simplifying assumptions. Two assumptions are important to note. First, IBO only moves the Class 2 portion of the 421-a exemption to an abatement. While some 421-a benefits accrue to Class 1 and Class 4 property owners, IBO estimated about 93.9% of total 421-a exempt value in 2023 was applied to Class 2; the exempt value stays the same for Classes 1 and 4 in the simulation. Second, IBO assumes other exemptions and abatements remain fixed in value. Although several of these exemptions and abatements will change in value because they are based on gross tax liabilities, and gross tax liabilities would change as a consequence of moving an exemption to an abatement, IBO believes that complicating the model to relax these assumptions would not alter basic findings. Further details on the simulation are provided in the accompanying Technical Appendix at the end of the report.

Figure 1 shows how the property tax burden across the City's four tax classes shifts when 421-a is an exemption (column A), versus if it were, hypothetically, an abatement (column B). Based on IBO's estimates, were the 421-a program to have

Figure 1
Tax Burden Class Shares: 421-a As an Exemption vs. 421-a As an Abatement
Dollars in Millions

	(A) 421-a As an Exemption (Previous Program)	(B) 421-a As an Abatement (IBO Simulated)	(C) Dollar or Percentage Point Change (B minus A)
Total Tax Burden (Net Levy Billed)	$32,332	$32,478	$146
Share of Property Tax Net Levy			
Class 1 (1- to 3-Unit Houses)	14.82%	15.51%	0.68
Class 2 (Apartment Buildings)	38.33%	35.48%	-2.85
Receiving 421-a	*1.58%*	*1.57%*	*-0.01*
Not Receiving 421-a	*36.75%*	*33.91%*	*-2.84*
Class 3 (Utility)	7.70%	8.04%	0.34
Class 4 (Commercial & Industrial)	39.15%	40.97%	1.82

SOURCE: IBO calculations from 2023 Department of Finance data

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given an abatement rather than an exemption, the tax share on residential apartment buildings (Class 2) would have been 2.85 percentage points lower, while the tax shares of other properties would have been higher.[4] The total tax burden (total net levy billed), shown in the top row, slightly increases (by $146 million, or 0.45%).[5]

Note that the vast majority of recipients of the 421-a tax break are Class 2 properties; however, the reduction in tax share on Class 2 is not due to a change in the tax burden of recipient properties, since this analysis holds the total tax liability of 421-a-receiving properties fixed. Instead, these changes are due to the tax burden shifting away from Class 2 properties not receiving 421-a benefits. The changes in the tax burden distribution also imply changes in property tax bills: Classes 1, 3, and 4 would have owed more in tax, and Class 2 would have owed less in tax. On average, if 421-a were an abatement, apartments (Class 2) would have owed approximately $441 less in property tax per residential unit, while one-, two-, and three-unit houses (Class 1) would have owed approximately $222 more per unit.[6] These are averages presented for illustrative purposes only and will certainly vary across properties of different sizes and values within a class.

Conclusion

The choice between exemption versus abatement partly determines who would pay for a 421-a replacement property tax break. As an exemption—the form of the now-expired 421-a program—other apartments (Class 2) that did not receive 421-a pay a greater share of the tax break. If an abatement is chosen, the burden of paying for the tax break is spread more widely across properties in the City, including small residential properties and commercial properties. Policymakers should consider these impacts within the context of a property tax system that already has existing differences in the approaches for taxing the four classes of properties.[7]

IBO's estimates suggest that the effects of these alternative approaches are sizable: on average, were the 421-a benefits structured as an abatement in fiscal year 2023, apartments (Class 2) would have owed approximately $441 less in property tax per residential unit, while one-, two-, and three-unit houses (Class 1) would have owed approximately $222 more per unit. Classes 3 and 4 would also have paid more. As Albany considers a new version of the 421-a program, policymakers should be aware that the distribution of the tax burden is affected by whether a new version of the program provides those tax benefits through exemptions, which reduce the assessed value of the property that then the tax rate is applied to, or through abatements, which reduce the amount of taxes owed without affecting assessed values.

Modeling Proposed New 421-a Program As Either an Exemption or Abatement

This Technical Appendix details IBO's determination of the shares of total property tax liability borne by each tax class in fiscal year 2023 under the actual scenario where 421-a benefits were given as tax exemptions and the counterfactual scenario where 421-a benefits would have been given as tax abatements. The simulation of the counterfactual scenario was made with two assumptions: (1) that the net levy billed (i.e., tax liability) of properties receiving 421-a benefits would be equal to their actual 2023 liabilities, and (2) that the average citywide tax rate is the same as it was in 2023.[8] Notably, this simulation allows for the tax bills of other properties not receiving 421-a benefits to differ by scenario.

Drawing on published Department of Finance (DOF) property tax and tax expenditure data, IBO derived the numbers presented in Figure 1 in three steps described below. Important differences in the numbers between scenarios are highlighted with colors in the tables that follow.

Step One

First, IBO determined the aggregate taxable billable assessed value (TBAV) under the exemption and abatement scenarios for Class 2 only, broken out by properties receiving 421-a exemptions and for those not receiving 421-a benefits. In this step, IBO studies only Class 2 because IBO only moves the 421-a exempt value from Class 2 properties to an abatement; aggregate TBAVs of the other tax classes do not vary by scenario. These calculations are shown in Figure A1.

Aggregate Billable Assessed Value (BAV) minus aggregate exemptions (the sum of 421-a and all other exemptions) equals aggregate Taxable Billable Assessed Value (TBAV), as indicated in Columns A, B, and C of Figure A1. Based on calculations using Department of Finance (DOF) property tax rolls and available lists of 421-a properties, IBO estimates that the aggregate BAV for properties receiving 421-a was $17.8 billion in fiscal year 2023. This is recorded for each scenario in columns A of Figure A1. DOF reported that the total Class 2 TBAV was $108.3 billion.[9]

Figure A1
Determination of Taxable Billable Assessed Value for Class 2
Dollars in Millions

Actual Scenario (421-a As an Exemption)			
	(A) Billable Assessed Value (BAV)	**(B) Exempt Value**	**(C1) Taxable Billable Assessed Value (TBAV) = A - B**
Class 2	$146,410	$38,086	$108,323
Receiving 421-a	*$17,791*	*$13,635*	*$4,156*
Not Receiving 421-a	*$128,619*	*$24,451*	*$104,167*
Counterfactual Scenario (421-a As an Abatement)			
	(A) Billable Assessed Value (BAV)	**(B) Exempt Value (421-a removed)**	**(C1) Taxable Billable Assessed Value (TBAV) = A - B**
Class 2	$146,409	$24,451	$121,958
Receiving 421-a	*$17,791*	*$0 (421-a removed)*	*$17,791*
Not Receiving 421-a	*$128,619*	*$24,451*	*$104,167*

SOURCES: Tables 2, 3, 4, and 19 of New York City Department of Finance Property Tax Report, 2023 and IBO calculations from Department of Finance data, Fiscal Year 2023
NOTES: Coloring of numbers has no meaning except to highlight important changes and numbers held fixed between the Actual and Counterfactual scenarios. Taxable Billable Assessment Values (column C1) are for the Assessment Roll rather than the Levy Roll (that is, they exclude STAR exemptions, which are added back later in Step 2).

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Since 421-a is an exemption, it operates by reducing TBAV. To estimate the total 421-a exempt value for Class 2, IBO identified all 421-a receiving properties and calculated the difference between those properties' BAVs and TBAVs using the final tax rolls for fiscal year 2023. The difference between these two is the property's exempt value. Since 421-a receiving properties are, as a rule, not supposed to receive other property tax exemptions, this implies that the entirety of this exempt value is due to 421-a.[10] (There may be exceptions to this rule, but they are likely to be very minor.) Through this approach, IBO identified $13.6 billion worth of 421-a exempt value within Class 2. IBO also identified 0.1 billion worth of 421-a exempt value in Class 1, and 0.8 billion worth of 421-a exempt value in Class 4. Therefore, IBO calculates that approximately 6.1% of 421-a exempt value accrues to Classes 1 and 4. Moreover, through this method, IBO calculates the total tax expenditure of 421-a in 2023 to be $1.778 billion, which is slightly lower than the $1.806 billion total tax expenditure in Table 3 of the 2023 DOF Tax Expenditure Report. This discrepancy could be due to the DOF calculating the 421-a tax expenditure using more recent data than IBO. As previously noted, to simplify the analysis, IBO's simulation moves only the Class 2 exempt value from an exemption to an abatement, and thus ignores the approximately 6.1% of 421-a exempt value in Classes 1 and 4. IBO's estimated effect magnitudes would be slightly smaller if Classes 1 and 4 exempt values were also moved into abatements. Moreover, IBO assumes that other Class 2 exemptions are of exactly the necessary magnitude so that, when added with the 421-a exemptions, the total Class 2 exempt value is equal to that inferred from Table 2 of the 2023 DOF Annual Property Tax Report.

The $13.6 billion of 421-a-exempted value in column B is subtracted from the BAV (Column A) of these properties to yield $4.2 billion of TBAV (Column C) in the actual scenario. The $24.4 billion of other exemptions that benefit Class 2 properties not receiving 421-a is similarly subtracted from their aggregate BAV to determine their TBAV. For Class 2 as a whole, exempted value equals $38.1 billion (Column B). Notably, a large share of the exempt value for Class 2 is due to the 421-a tax exemption, highlighting the size of this program.

In the counterfactual scenario, there is no 421-a exemption for the properties that receive 421-a benefits under the actual scenario. Recalculating total exemptions and total TBAV for all Class 2 properties results in a Class 2 TBAV larger than in the actual scenario.

Step Two

The next step in IBO's calculations determines the total gross levy by first summing the TBAVs of all four tax Classes and then multiplying the sum by the citywide weighted average nominal tax rate of 12.283%—a rate which has not changed since 2009.[11] The calculations under each scenario are complicated only by the treatment of STAR exemptions, which amounted to $829 million in 2023. Because STAR benefits are not treated as exemptions for the purpose of determining the gross levy, they are added back prior to multiplying by the tax rate.[12]

Because the TBAV for Class 2 is higher under the counterfactual scenario than it is under the actual scenario, total TBAV of all classes is similarly higher. In turn, the counterfactual gross levy is higher by about $1.7 billion. However, as shown in Figure A3 below, when abatements are subtracted from gross levy to determine the net levy billed, total property tax liability under the counterfactual scenario is only slightly higher ($146 million) than actual 2023 liability.

Step Three

In Figure A3, the gross levy is distributed across tax classes based on the class shares—the percent of the gross levy that each Class bears—which were fixed in law for 2023 (shown in Columns D).[13] Property tax class shares change only slowly, and the way they change is unrelated to the structure of tax expenditures, so the actual 2023 shares are fixed in the simulation of the counterfactual scenario. The shares of gross levy assigned to properties receiving 421-a benefits and properties not receiving 421-a benefits, however, are not fixed in law. Instead, they are calculated based on the TBAVs of the properties in each group and, therefore, vary between the two scenarios. In each scenario, however, the class shares of the two groups of Class 2 properties sum to 39.37%, the fixed Class 2 share of the gross levy.

Figure A2

Step 2, Determination of the Total Gross Levy

Dollars in Millions

Actual Scenario (421-a As an Exemption)			
	(C2) Taxable Billable Assessed Value (TBAV)	**Calculations**	
Class 1	$23,699	Sums to Total TBAV	$274,787
Class 2	$108,323	+ STAR Addback (adds $829)	$275,615
Class 3	$19,509	x Citywide Nominal Tax Rate	12.283%
Class 4	$123,256	= Total Gross Levy	$33,854

Counterfactual Scenario (421-a As an Abatement)			
	(C2) Taxable Billable Assessed Value (TBAV)	**Calculations**	
Class 1	$23,699	Sums to Total TBAV	$288,422
Class 2	$121,958	+ STAR Addback (adds $829)	$289,251
Class 3	$19,509	x Citywide Nominal Tax Rate	12.283%
Class 4	$123,256	= Total Gross Levy	$35,529

SOURCES: Tables 2, 3, 4, and 19 of New York City Department of Finance Property Tax Report, 2023 and IBO calculations from Department of Finance data, Fiscal Year 2023
NOTES: See notes to Figure A1. STAR is not treated as an exemption for the purposes of determining the gross levy.

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Abatements received by each property Class and by the two Class 2 groups are reported in Columns F of Figure A3. Consistent with the rules governing the previous 421-a program, the subset of Class 2 properties that receive 421-a benefits in the actual scenario do not receive any abatements. For the counterfactual scenario, we include a value for a "421-a abatement" of $1.529 billion, the abatement needed to make the net levy billed for 421-a properties identical to that which they paid when they received exemptions, which is $511 million. In each scenario abatements are subtracted from the gross levies (Columns E) to determine net levy billed by Class (Columns G). Each Class's percent shares of the aggregate net levy billed are reported in Columns H—the net levy billed class shares reported in Figure 1 of the report.[14]

The net levy billed class shares are the shares most relevant for understanding the actual distribution of the tax burden, because they are the shares of final taxes owed (i.e., after abatements have been subtracted from gross tax liabilities). While the total tax liability (net levy billed) of 421-a recipients is the same whether the benefit is given as an exemption or an abatement, net levies and class shares of all other taxpayers differ. Compared with the expired 421-a program of tax exemptions, 421-a structured as an abatement program providing an equal amount of benefits to Class 2 participating properties would increase taxes for owners of Class 1, 3, and 4 properties, and reduce taxes for owners of Class 2 properties not receiving 421-a benefits.

Figure A3

Division of Gross Levy Across Classes and Determination of Net Levy Billed

Dollars in Millions

	(D) Gross Levy Class Share (Fixed in Law)	(E) Gross Levy By Class (= D x Total Gross Levy)	(F) Abatements	(G) Net Levy Billed (= E - F)	(H) Net Levy Billed Class Shares
Actual Scenario (421-a As an Exemption)					
Class 1 (1- to 3-Unit Houses)	14.52%	$4,916	$123	$4,793	14.82%
Class 2 (Apartment Buildings)	39.37%	$13,328	$934	$12,394	38.33%
Receiving 421-a	*1.51%*	*$511*	*$0*	*$511*	*1.58%*
Not Receiving 421-a	*37.86%*	*$12,817*	*$934*	*$11,883*	*36.75%*
Class 3 (Utility)	7.35%	$2,488	$0	$2,488	7.70%
Class 4 (Commercial & Industrial)	38.76%	$13,122	$465	$12,657	39.15%
Totals	**100%**	**$33,854**	**$1,522**	**$32,332**	**100%**

	(D) Gross Levy Class Share (Fixed in Law)	(E) Gross Levy By Class (= D x Total Gross Levy)	(F) Abatements (incl. 421-a)	(G) Net Levy Billed (= E - F)	(H) Net Levy Billed Class Shares
Counterfactual Scenario (421-a As an Abatement)					
Class 1 (1- to 3-Unit Houses)	14.52%	$5,159	$123	$5,036	15.51%
Class 2 (Apartment Buildings)	39.37%	$13,988	$2,463	$11,525	35.48%
Receiving 421-a	*5.74%*	*$2,040*	*$1,529*	*$511*	*1.57%*
Not Receiving 421-a	*33.63%*	*$11,947*	*$934*	*$11,013*	*33.91%*
Class 3 (Utility)	7.35%	$2,611	$0	$2,611	8.04%
Class 4 (Commercial & Industrial)	38.76%	$13,771	$465	$13,306	40.97%
Totals	**100%**	**$35,529**	**$3,051**	**$32,478**	**100%**

SOURCES: Tables 2, 3, 4, and 19 of New York City Department of Finance Property Tax Report, 2023 and IBO calculations from Department of Finance data, Fiscal Year 2023

NOTES: See notes to Figure A1. For Class 2 properties receiving and not receiving 421-a benefits: the gross levy class shares are distributed across properties within classes based on TBAVs, so the numbers from Step 1 are used to calculate these shares (for example, 1.51% is 39.37% times 4,156/108,323).

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Endnotes

[1]Page 51, 2024 State of the State Report.
[2]The most recent version of the program, "Affordable New York," includes an option with an exemption period of 35 years. Earlier versions of the 421-a program had shorter exemption periods such as 20 or 25 years, but Affordable New York provided an extension of the benefit period to 35 years for some of these properties as well. See the Department of Housing Preservation and Development's page on 421-a.
[3]While 421-a was expired to new applicants in fiscal year 2023, it still cost the City approximately $1.8 billion of foregone property tax revenue, due to tax breaks given to prior program participants. (New York City Department of Finance Tax Expenditure Report, 2023, page 18).
[4]As noted in the text, IBO assumes abatements and exemptions are held fixed in this simulation. However, some abatement programs are based on property pre-abatement tax liabilities, and therefore these abatements would scale up or down with the changing distribution of tax liabilities. While abatements such as SCRIE/DRIE/J51 are fixed values and would not be affected, other abatements, such as the coop/condo abatement and parts of ICAP, would change. For comparison, IBO re-ran the simulation under the alternative assumption that all abatements scale according to the gross levy. This alternative is the opposite extreme of all abatement expenditures being fixed, which is the assumption used in the text. Under this alternative assumption, the Class 2 net levy billed share would fall by 2.62 percentage points, rather than IBO's main estimate of 2.85 percentage points.
[5]This increase in net levy billed can be explained as the total 421-a benefit being reduced, since when 421-a is implemented as an exemption, part of the 421-a benefit accrues to non-recipient property owners, through the reduction in the citywide gross levy. Therefore, with 421-a as an abatement, less total 421-a tax expenditure is needed to hold harmless 421-a properties. With Classes 1 and 2 together responsible for half of property tax liability, the $146 million additional revenue from an abatement-based tax program translates to approximately $24 additional tax per housing unit. This increased citywide tax burden could be avoided by a reduction in the citywide tax rate from 12.283% to 12.233%.
[6]These figures were calculated using IBO's simulation results and unit counts from Table 1 of the New York City Department of Finance Annual Property Tax Report, 2023.
[7]For more discussion on the tax structure across the four property classes, see the Final Report issued by the New York City Advisory Commission on Property Tax Reform.
[8]The citywide tax rate has been constant since 2009. Holding the net levy billed of properties receiving 421-a benefits constant is motivated by the goal of considering an alternative abatement program under which the 421-a properties are held harmless, that is, they receive the same tax benefits in the sense of paying the same tax bills.
[9]Table 4 of the New York City Department of Finance Property Tax Report, 2023.
[10]We can be confident that the only relevant tax exemption for 421-a-receiving properties is 421-a, as the rules governing the program preclude other tax expenditures: "Recipients of benefits under the 421-a program are ineligible for benefits from any other tax expenditure program that applies to the NYC Real Property Tax" (page 17 of the New York City Department of Finance Tax Expenditure Report, 2023).
[11]The TBAVs for the other classes are taken from Table 20 of New York City Department of Finance Property Tax Report, 2023, and the value for Class 2 in Figure A1 is also the same as in the DOF report since Figure A1 is the actual policy. The citywide weighted average tax rate is the average of the four class tax rates, weighted by each class's share of total TBAV.
[12]The School Tax Relief (STAR) program offers property tax relief to eligible New York homeowners. In some cases, this tax relief takes the form of a tax exemption by the City of New York.
[13]These shares were obtained from Table 19 of New York City Department of Finance Property Tax Report, 2023.
[14]The net levy amounts (colum G) reported in top half of Figure A3 are identical to those in Table 4 of the New York City Department of Finance Property Tax Report, 2023 since they are based on actual policy, but those in the bottom half of the figure are different since they are simulated policy.