

Valuation of Cooperative Housing

Section 210.1(a)(2) of Article 9-A of the Tax Law provides for a tax on total business and investment capital of a taxpayer or the portion thereof allocated to New York. For a cooperative apartment house as defined in section 216 of the Internal Revenue Code, the statute provides for a tax on capital at a rate of four-tenths of a mill (.0004).

The statute requires the use of fair market value in the valuation of assets for the tax on capital. Fair market value is defined in Section 3-4.5 of the regulations as the price at which a willing seller, not compelled to sell, will sell and a willing purchaser, not compelled to buy, will buy. An appropriate indicator of the average fair market value of cooperative housing is the assessed value for real property tax purposes adjusted for the equalization rate.

Where only the assessed value of the cooperative is known, average fair market value may be computed by dividing the assessed value for real property tax purposes by the equalization rate. For example, the equalization rate for New York County on the assessment rolls for 1984 was 67.72%. Accordingly, if a cooperative apartment house in New York County is assessed at \$677,200 the value of the property in determining the tax on capital would be \$1 million as shown below:

$$\frac{\$677,200}{.6772} = \$1,000,000$$

The federal balance sheet shows the costs of the cooperative which include, among other things, brokers commissions, lawyers fees and federal and state approval costs for each unit in the cooperative. The cooperative is allowed to depreciate its costs. Thus, the values shown on the federal balance sheet are such costs less accumulated depreciation. Since this will be a constantly declining value, book value as shown on the federal balance sheet will not be allowed as an alternative determination of average fair market value.

Once a method of determining average fair market value is adopted by the taxpayer on any report and is accepted by the Tax Commission, the method may not be changed on any subsequent report without the prior consent of the Tax Commission.