

**NYS Department of Taxation and Finance**  
**ORPTS SALES EXCLUSION CRITERIA**  
*Upd. 8/24/2010*

**Overview**

This document specifies the criteria used in determining the use of individual sales in the support of various ORPTS functions. Sales data on the ORPTS sales database may potentially be used for the following purposes:

- Establishing Equalization Rates for tax apportionment
- Level of Assessment verifications
- Real Property Market Trends
- Supplemental Appraisals (Residential Class A only)
- Sales Ratios for equity and uniformity analysis; Residential Assessment Ratios (RAR) and Coefficient of Dispersion (COD)
- State Aid eligibility criteria
- Annual Reassessment programs

Keep in mind that the criteria examined to determine whether a sale is excluded for any of the 'ratio' purposes is broader than that examined for appraisal/valuation purposes. For appraisal/valuation purposes one needs to consider the selling price information (and inventory) but not corresponding assessment data. For ratio uses, however, one must consider not only the selling price information but also the appropriate assessment data. As a result, *assessment data must always be considered in any sales exclusion determinations, in addition to examination of market data*. In order to maintain statewide consistency in the evaluation of sales for the various uses, the following criteria are used by staff and within computer systems of the NYS Dept. of Taxation and Finance - Office of Real Property Tax Services.

**EXCLUSION CONDITIONS/CRITERIA**

***Sale Excluded for Appraisal Purposes and Excluded for all Ratio Purposes***

*Existence of any of the following ten 'market'/arms length conditions immediately excludes a sale from further consideration for any and all appraisal/valuation and ratio purposes - the sale is considered Non Arms Length and Ratio Excluded.*

- Sale Between Relatives or Former Relatives
- Sale Between Related Companies or Partners in Business
- One of the Buyers is also a Seller
- Government Agency or Lending Institution
- Deed Type Not *Warranty* or *Bargain and Sale*
- Fraction of or Less than Fee Interest Conveyed
  - Life Estate
  - Seller separates and retains Mineral or Other Rights at the time of sale
- Sale of Business Included in Sale Price
- Other Unusual Factors (Condition Code = I)
  - Estate Sale and Trust Sales
    - *A conveyance under powers granted in a will or trust may not represent an arm's length transaction, particularly if the sale takes place soon after the will has been filed and admitted to probate in order to satisfy the decedent's debts or the wishes of an heir.*
  - Charity, Religious, Education, Subsidized Housing
  - Forced Sale
    - *Foreclosure or in lieu of, Auction, Referee, Tax Sale, Bankruptcy, Divorce, Judicial Order*
  - Substantial Personal Property - Good Will Business Value
    - *10% or More of Full Sales Price - If Amount of Personal Property not specified*
  - Sale Price is Suspect
    - *Sale of Common Area for Condo or Assoc., Prior Relations Between Buyer & Seller - Neighbors, Friends, Tenant/Landlord, Trade of Property, Special Financing, Assumed Mortgage, Cash Consideration Not Reported, Contiguous Property*
  - Property Not Offered on Open Market
  - Uninformed Buyer/Seller
    - *Price above or below Market - Need some rationale such as price per sq. ft. comparison*
  - Correction Deed
  - Sale Price Restricted Trust
- More than 1 Year (365 days) Between Contract Date and Sale Date
- Full Sale Price Minus Personal Property equals \$10 or Less

(Note: If it is demonstrated that a sale represents the market, despite the existence of one of the 1<sup>st</sup> eight conditions above, the sale could be made arms length by eliminating/deleting the condition and providing the appropriate rationale/explanation, e.g., price/square foot.)

## **Sale Excluded for Specific Ratio Purposes - Additional Criteria**

Although a sale could be determined (above) to be 'arms length', the assessment data is subsequently examined to determine ratio usability. *Existence of any of the following nine ratio criteria immediately excludes a sale from further consideration for any and all ratio purposes (i.e., COD, RAR), unless otherwise specified – the sale is considered Ratio Excluded.*

- Significant Physical Change Occurred between Taxable Status and Sale Date - e.g., new construction or demolition
  - *Significant physical change has occurred between the taxable status date for the preceding final roll and the date of sale.*
  - *'Significant' means the value of physical change is approximately 10% or more of total market value of the property (not assessed value).*
  - *Assessment change must be reported on the subsequent year's roll – as physical change NOT as an equalization change.*
- Part of a Parcel was Transferred
- Multiple Parcels included in Transfer
  - *Sale includes several parcels within one or more municipalities.*
- Parcel is Located in Multiple Towns
  - *Parcel boundaries extend into more than one town.*
- Sale is a Condominium.
  - *Condo sale may be used for appraisal purposes and as observation in full value measurement in approved assessing units using the homestead provisions of Article 19. However, condos are excluded from RAR calculations.*
- Full Sale Price minus Personal Property is less than \$10,001
- Total Assessed Value is \$0
- The primary use of the parcel will change after the sale.
  - *Some examples of a change in use at time of sale are: a residential vacant lot or residence is purchased for commercial development, a hospital acquires residences and demolishes for hospital parking, agricultural vacant land is purchased for residential subdivision.*
  - *A residential vacant lot purchased for residential development does NOT constitute a change in use at time of sale.*
- Parcel is not Residential - Parcel is not in Property Class 200 Series
  - *EXCLUDED FOR RAR PURPOSES ONLY. All condominium sales are excluded from the RAR computation even in municipalities affected by the homestead provisions of Article 19.*

## **LEVEL OF EVIDENCE**

In order for a sale to be excluded, the conditions & criteria affecting the arms length nature or ratio usability must be met and be based on one of the following acceptable levels of evidence.

### In Factual Areas:

- Information is contained on the RP-5217 form
- Information resides on the sales database
  - Information may differ from the RP-5217 form if a correction/update was made
    - Correction types include 15-C Assessment Roll Match, RPS Updates, Assessor Corrections, ORPTS Data Quality edits, Third Party Corrections
- Information was provided based on conversation with, or correspondence from, assessor/correction agent, buyer, seller or agent

### In Areas of Judgment (such as 'Uninformed Buyer/Seller):

- Need some rationale such as a list of similar properties and their price as proof or price /sq. ft. comparison.

## **NOT ACCEPTABLE EXCLUSIONS**

The following reasons may be given in support of Condition Code = 'I' (Other Unusual Factors). However, these are NOT ACCEPTABLE as reasons for exclusion:

- Buyer and/or seller may get a tax advantage, or to support a mortgage commitment
- Buyer or seller is known to be someone who buys or sells as a business or a broker
- Seller holds a mortgage
- Buyer or seller is a relocation company
- Seller is having financial difficulty
- Owner is anxious to unload property
- Does not know the market for similar properties
- Low asking price
- Buyer pays more than market indicates (Need some market analysis/rationale as stated in 'Levels of Evidence – Areas of Judgment' on page 2.)
  - *Money is no object*
  - *Buyer needs to reinvest to avoid tax penalties*
  - *Buyer may have sold property in a market where prices are considerably higher than the market where he is purchasing so he thinks he is getting a good deal*
- There may be certain facts about the property that the seller does not disclose, and/or the buyer is not aware of until after he owns the property
  - *Electric, water, or septic problems*
  - *Exemptions*
  - *Structural deficiencies*
  - *Contamination*
  - *Ground water or flooding*
  - *Detrimental neighborhood or neighbors, traffic*
  - *Other factors not readily visible*