SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

WILBUR LOUIS ROSS JR., HILARY GEARY ROSS, and STEPHEN ALAN WYNN, Plaintiffs, -against- STATE OF NEW YORK, Defendant.	Index No. Hon. **COMPLAINT**

Plaintiffs Wilbur Louis Ross Jr., Hilary Geary Ross, and Stephen Alan Wynn (hereinafter collectively referred to as "Plaintiffs"), by and through their undersigned attorneys, submit this Complaint against Defendant State of New York (hereinafter referred to as "Defendant" or the "State"), and hereby allege as follows:

INTRODUCTION AND NATURE OF THE ACTION

1. This case arises out of Defendant's attempt to enact and enforce a discriminatory property tax that falls exclusively on nonresidents of New York City, in violation of the state and federal constitutions.

2. As recently enacted through the New York State Legislature's (hereinafter referred to as the "Legislature") budgeting process, Article 30-C of the New York Tax Law imposes a new annual surcharge on specified residential real property in a city having a population of one million or more (hereinafter referred to as the "PAT Tax" or "Article 30-C"). Only New York City meets that qualification, as there has never been another city in New York State with a population of one million or more. Although denominated at the last minute by the

Legislature as a "surcharge," the PAT Tax is, in substance and operation, an *ad valorem* tax on real property.

3. The PAT Tax is a state tax imposed on real property in New York City owned by targeted nonresidents. Whether the tax applies and the amount of the tax depends upon the government's valuation of that property. Article 30-C directed the New York City Department of Finance (hereinafter referred to as "DOF") to administer and enforce the PAT Tax, "to the greatest extent practicable," in the same manner as real property taxes. If the PAT Tax is not paid, it automatically becomes a lien on the real property in question, just as with any other property tax.

4. Article 30-C purports to establish the PAT Tax as "separate and distinct" from other taxes on real property, and purports to exclude revenue generated by the PAT Tax from the City's real property tax levy. It further directs that those revenues be treated as receipts "other than taxes on real property."

5. The Legislature cannot determine the constitutional character of a tax by fiat; the substance of the charge, and not the label attached by the Legislature, determines its nature for constitutional purposes. A levy triggered by the ownership of real property, measured by the value of that property, and administered through the real property tax system is unquestionably a tax on real estate regardless of the label the Legislature assigns to it.

6. That conclusion carries direct constitutional consequences. Article VIII, § 10 of the New York Constitution limits "the amount to be raised by tax on real estate in any fiscal year." The Legislature cannot circumvent that limit by directing that a tax on real estate be excluded from the constitutional calculation.

7. The PAT Tax also violates other provisions of the U.S. and New York Constitutions. The statutory scheme significantly raises the property tax obligations of nonresidents of New York City who own residential real estate in New York City exceeding certain valuation thresholds. Owners who occupy their homes as a primary residence—all New York State and City residents—are categorically exempt from the PAT Tax.

8. State lawmakers have made no secret that singling out nonresidents for disparate treatment was precisely the point of the PAT Tax. Through the enacting legislation and countless public statements, the State has consistently reaffirmed that the purpose of the PAT Tax is to force nonresidents to bear more of New York City's expenditure for municipal services provided predominantly for the benefit of full-time New York City residents, without adding to the tax burden of those residents.

9. These nonresidents, including Plaintiffs herein, already pay significant sums to the City in property taxes, the same taxes at the same rates paid by New York City residents occupying similarly assessed residential properties. However, as a matter of fact and logic, those who are not full-time residents use fewer municipal services than full-time residents do. At the same time, given the high threshold values for imposition of the PAT Tax, those targeted by the PAT Tax already pay more in property taxes to the City than the vast majority of full-time residents. Moreover, in addition to paying property and other City taxes, many of those nonresidents make major contributions to the City's charitable and cultural institutions, for the benefit of all New Yorkers.

10. The fact that, prior to the enactment of Article 30-C, non-full-time residents paid the same property taxes as full-time residents on similarly valued properties is not the cause of

the City's longstanding budget shortfall or lack of affordable housing, both of which have been cited as rationales for the PAT Tax.

11. Nonetheless, lawmakers have heralded the PAT Tax as a supposed solution to the City's longstanding budget problems that will generate substantial funds from "outsiders" without asking full-time New York City residents—that is, those who vote in New York State and City elections—to pay more. The PAT Tax, by design, impacts only those who have not made New York City their principal residence, and who, by definition, cannot vote against lawmakers imposing that new tax.

12. The Privileges and Immunities Clause and the Commerce Clause of the U.S. Constitution constrain the State's authority to impose discriminatory burdens on nonresidents and interstate economic interests. Moreover, the Equal Protection Clauses of the U.S. Constitution and the New York Constitution prevent the State from discriminatory classifications that burden the fundamental right to travel or lack a rational basis. The PAT Tax violates all of those limitations.

13. This dispute has potential consequences beyond the PAT Tax itself. If the PAT Tax were held to be constitutional, then every tax jurisdiction in the United States would be free to enact similarly discriminatory tax measures that favor their own residents in the ownership, maintenance, and sale of residential real estate. The Privileges and Immunities and Commerce Clauses of the United States Constitution were designed to, and do, prohibit such economic warfare between the States.

14. Legislative choices carry constitutional consequences. The Legislature cannot avoid those consequences through labels, exclusions, or statutory declarations. Nor can State

lawmakers enact discriminatory tax measures against nonresidents to insulate themselves from the political repercussions of raising taxes on their own voters.

15. Accordingly, Plaintiffs seek declarations that the PAT Tax imposed by Article 30-C of the New York Tax Law is an *ad valorem* tax on real property subject to the constitutional tax limit and that its imposition violates the state and federal constitutional protections pleaded in this Complaint, as set forth below.

THE PARTIES

16. Wilbur Louis Ross Jr. (hereinafter referred to as "Secretary Ross") was the 39th United States Secretary of Commerce. Secretary Ross and his wife, Hilary Geary Ross (hereinafter referred to as "Mrs. Ross") are residents of Florida, owners of residential property located in Southampton, New York, and owners of a residential cooperative unit located in New York, New York, with a DOF market value of $1 million or more.

17. Secretary Ross and Mrs. Ross received a notice of non-primary residence property surcharge dated July 24, 2026, from the DOF, indicating that their Manhattan property would be subject to a surcharge of $83,531.52, unless they were to be granted an exemption.

18. Stephen Alan Wynn (hereinafter referred to as "Mr. Wynn") is a resident of Florida and owner of residential property located in New York, New York, with a DOF market value of $1 million or more.

19. Mr. Wynn received a notice of non-primary residence property surcharge dated July 22, 2026, from the DOF, indicating that his Manhattan property would be subject to a surcharge of $183,094.69, unless he were to be granted an exemption.

20. Defendant is the State of New York.

JURISDICTION AND VENUE

21. This Court has jurisdiction over the subject matter of this action pursuant to, *inter alia*, CPLR § 301.

22. Venue in this Court is proper pursuant to CPLR § 503 because Secretary Ross and Mrs. Ross maintain a residence in this County.

FACTUAL ALLEGATIONS

A. Background and Enactment of the PAT Tax.

23. On January 21, 2026, New York State Governor Kathy Hochul presented her proposed New York State fiscal year 2026-2027 appropriations, revenue, and budget legislation to the Legislature.

24. The Governor's proposed budget legislation did not contain any provision imposing a tax or surcharge on a New York City residential property that does not serve as a primary residence. See S. 9009/A.10009, 2025-2026 Leg., Reg. Sess. (N.Y. 2026).

25. On February 20, 2026, and March 9, 2026, the Legislature amended the proposed budget legislation.

26. The amended budget legislation did not contain any provision imposing a tax or surcharge on a New York City residential property that does not serve as a primary residence. See S. 9009-A/A.10009-A, 2025-2026 Leg., Reg. Sess. (N.Y. 2026); S. 9009-B/A.10009-B, 2025-2026 Leg., Reg. Sess. (N.Y. 2026).

27. The New York Constitution requires approval of the State budget to meet the State's current fiscal year start of April 1. New York State Budget, N.Y. STATE SENATE, https://www.nysenate.gov/new-york-state-budget (last visited Sept. 27, 2026); see N.Y. CONST. art. VII, § 2; N.Y. State Fin. Law § 3(1).

28. On April 15, 2026, two weeks after the budget deadline and while the amended budget legislation remained pending before the Legislature, Governor Hochul proposed the addition of the PAT Tax to the State budget. See Press Release, Office of Governor Kathy Hochul, Video, Audio, Photos & Rush Transcript: Governor Hochul Announces Pied-à-Terre Tax Proposal for Luxury Second Homes Valued at $5 Million or More (Apr. 15, 2026), https://www.governor.ny.gov/news/video-audio-photos-rush-transcript-governor-hochul-announces-pied-terre-tax-proposal-luxury; Press Release, Office of the Mayor, Mayor Mamdani, Governor Hochul, Announce State's First Pied-à-Terre Tax, Requiring Ultrawealthy and Global Elites to Pay Their Fair Share (Apr. 15, 2026), https://www.nyc.gov/mayors-office/news/2026/04/mayor-mamdani--governor-hochul-announce-state-s-first-pied-a-ter.

29. On May 26, 2026, the proposed PAT Tax was added to the State's revenue bill, S.9009-C/A.10009-C (hereinafter referred to as the "Revenue Bill"), as Part HH, entitled "City Surcharge on Property That Does Not Serve as a Primary Residence." See S. 9009-C/A. 10009-C, pt. HH, 2025-2026 Leg., Reg. Sess. (N.Y. 2026).

30. On May 27, 2026, the Legislature passed the Revenue Bill containing Part HH.

31. On May 28, 2026, Governor Hochul signed the Revenue Bill containing Part HH into law.

32. Part HH added Article 30-C to the New York Tax Law. L. 2026, ch. 59, pt. HH § 2.

33. Article 30-C establishes the PAT Tax and sets out, among other things, the properties subject to the PAT Tax, the applicable valuation thresholds, and the manner in which the PAT Tax is calculated. See Tax Law §§ 1350-1356.

34. Title 11 of the New York City Administrative Code (hereinafter referred to as the "Administrative Code") and the New York City Charter were also amended to add provisions concerning the administration of the PAT Tax on behalf of the State.

35. Under Article 30-C, the PAT Tax is described as an annual "surcharge" on certain high-value residential properties in New York City that do not serve as a primary residence of the owner, certain immediate family members of the owner, or qualified tenants. See Tax Law §§ 1350, 1351(m); N.Y.C. Admin. Code §§ 11-3202, 11-3203(a).

36. The PAT Tax is "[i]n addition to any other tax or assessment" imposed by the New York Tax Law, the Administrative Code, or other law. Tax Law § 1350; N.Y.C. Admin. Code § 11-3202.

37. The PAT Tax applies to a "covered property" that meets statutory valuation thresholds. Tax Law § 1350. "[C]overed property" is defined as (1) all non-vacant "class one property;"[1] (2) all class two condominium dwelling units;[2] and (3) those class two cooperative properties where at least one unit is subject to the PAT Tax. Tax Law § 1351(e); N.Y.C. Admin. Code § 11-3201.

B. The Stated Purpose of the PAT Tax.

38. Part HH of the Revenue Bill is prefaced by a statement of legislative findings concerning the PAT Tax.

39. The legislative findings state, in relevant part:

> The residents of New York city and many who do business here contribute daily to the health and vibrancy of the city through their economic activity and the taxes they pay. However, many of the city's most valuable homes are held as second homes, allowing the owners of those homes to reap

[1] Class one property includes all one-, two-, and three-family residential properties other than cooperatives or condominiums. See Real Prop. Tax Law § 1802(1)(a)-(e).

[2] Class two property refers to "all other residential real property which is not designated as class one, except hotels and motels and other similar commercial property." Id. § 1802(1)(e).

> considerable benefits from the city's broader economy, from city services, and from a vibrant real estate market. The legislature finds that it is prudent to impose a surcharge on the owners of these second homes to maintain important city services.
>
> The legislature further finds that this surcharge should be applied to second homes with values of $5 million or more when measured by the sales of comparable properties.

L. 2026, ch. 59, pt. HH § 1.

40. Public statements by lawmakers about the PAT Tax and available legislative history for analogous proposals confirm that the State enacted the PAT Tax to (1) require nonresidents who cannot be subject to New York City income tax to contribute more to funding municipal services, (2) address New York City's longstanding budget shortfall, and (3) address the shortage of affordable housing in New York City.

i. Public Statements by Lawmakers.

41. At a press conference announcing the proposal, Governor Hochul described the PAT Tax as a way "New York State can help New York City with a budget gap that Mayor [Zohran] Mamdani inherited on day one." Press Release, Office of Governor Kathy Hochul, Video, Audio, Photos & Rush Transcript: Governor Hochul Announces Pied-à-Terre Tax Proposal for Luxury Second Homes Valued at $5 Million or More (Apr. 15, 2026), https://www.governor.ny.gov/news/video-audio-photos-rush-transcript-governor-hochul-announces-pied-terre-tax-proposal-luxury.

42. Governor Hochul stated that other ideas on "how to deal with the gap" would either "risk eroding our tax base by driving out people and possible corporate headquarters [and] corporate jobs," or "cut services that New Yorkers rely on, raise property taxes on everyone or raise the cost [for] every New Yorker." Id.

43. Governor Hochul stated that these alternatives were "non-starters," and reaffirmed that she would not consider "income taxes on New York City residents nor corporate taxes on New York businesses." Id.

44. Governor Hochul stated that the PAT Tax would instead consist of a "targeted surcharge on second homes and investor-owned apartments worth over $5 million; homes that in many cases sit vacant for a large part of the year – we have the inventory." Id.

45. As Governor Hochul described the targets of the PAT Tax: "They're part of our skyline, but those people are not part of our city." Id. She further distinguished the targets of the PAT Tax from "New York residents," stating: "[T]he people who own these pied-à-terres [sic] are not contributing in the same way that the 8.3 million New York residents do. And they benefit from everything New York City has to offer. Their property values keep rising, as I said, while many sit underutilized or empty." Id.

46. Notably, if those claims regarding the impact of purchases as second homes were true, full-time residents would equally benefit from rising property values, and the City would benefit from the collection of increased property revenues based on those rising values. In fact, the PAT Tax, which will inevitably depress prices for high-end residential properties in New York City, will have the perverse effect of depressing property tax revenues.

47. Governor Hochul likened the PAT Tax to legislation in Canada and France and stated that it is "a matter of fairness to all those millions of residents who actually live here." Id. Of course, neither Canada nor France is subject to the state or federal constitutions that govern here.

48. Governor Hochul went on to state: "Those who benefit from the city without living in a full-time capacity should contribute to the costs that it takes to run the city: public

safety, world class parks, amenities, the roads, the subway system. This proposal simply ensures that they're contributing in a meaningful way to keeping New York City the greatest city in the world. And it goes also to help the city's budget gap." Id.

49. Governor Hochul's press release announcing the PAT Tax similarly described the proposal as "a yearly tax surcharge aimed at ultrawealthy, non-New York City residents," designed to "generate much needed revenue for the city without impacting every day New Yorkers." Press Release, Office of Governor Kathy Hochul, Governor Hochul Announces Pied-à-terre Tax Proposal for Luxury Second Homes Valued at $5 Million or More (Apr. 15, 2026), https://www.governor.ny.gov/news/governor-hochul-announces-pied-terre-tax-proposal-luxury-second-homes-valued-5-million-or-more.

50. Governor Hochul's press release continued: "The tax would ensure that those that own luxury homes, but do not live in the City or pay City income tax are still fairly contributing towards the funding of the essential services like policing and parks that make New York City a global destination." Id. The Governor's statement, as well as those in the succeeding paragraphs, simply ignores the fact that those targeted by the PAT Tax are already paying property taxes at the same rate as those full-time residents with similarly assessed homes in New York City.

51. Other New York lawmakers made statements in support of the PAT Tax and its stated rationale: to require nonresidents, who cannot legally be required to pay New York City income tax, to fund the municipal services used by New York City residents by paying property taxes well in excess of those paid by New York City residents who own similarly assessed properties.

52. For example, Manhattan Borough President Brad Hoylman-Sigal stated: "If you can afford a $5 million second home, you should appropriately contribute to the subways, schools, and public services that protect and sustain your investment." Id.

53. New York City Council Speaker Julie Menin stated that the PAT Tax was a "revenue raiser that would really affect those who aren't living in New York City" (Marcia Kramer & Mark Prussin, NYC Council Speaker Julie Menin Agrees with Mamdani on Pied-à-Terre Tax, but City Still Needs Cuts, CBS NEWS (Apr. 19, 2026), https://www.cbsnews.com/newyork/news/julie-menin-nyc-pied-a-Terre-tax-mamdani-budget/.) and was needed "to strengthen the City's fiscal footing and tackle the affordability crisis without burdening working New Yorkers." Press Release, Office of Governor Kathy Hochul, Governor Hochul Announces Pied-à-terre Tax Proposal for Luxury Second Homes Valued at $5 Million or More.

54. Since the initial proposal, Governor Hochul and her public relations team have continued to emphasize that the PAT Tax is a selective property tax that would solely burden nonresidents of New York City.

55. Jen Goodman, a spokesperson for Governor Hochul, stated that the PAT Tax was "asking some of the wealthiest people in the world to contribute a bit more to generate targeted revenue while avoiding unintended consequences for New York's tax base." Josephine Stratman, A New Tax on NYC Real Estate Sales Aimed at Helping Mamdani Close City Budget Gap, NEW YORK DAILY NEWS (May 14, 2026), https://www.nydailynews.com/2026/05/14/albany-new-tax-cash-sales-property-pied-a-terre-tax-details/.

56. On May 29, 2026, Governor Hochul appeared as a guest on a local television news show, "Pix on Politics," where she spoke about the PAT Tax as a selective tax on "out-of-towner[s]":

> If you're a New Yorker, we want you to be here, stay here, appreciate you. You don't have to pay this tax. If you're an out-of-towner, someone who's just here dropping in on occasional weekends, or even like the Russian oligarchs or the Saudi princes, and you're buying up properties and driving up costs . . . then you should be paying to help cover the cost of police services, and . . . clearing the streets in the winter time, etc. So we'll figure out the right formula. So it'll be market value at 5 million. So you start looking at units that are about assessed at 1 million, because there's dramatic under assessments in the city.

Press Release, Office of Governor Kathy Hochul, Audio Rush Transcript: Governor Hochul is a Guest on PIX11'S 'Pix on Politics' (May 29, 2026), https://www.governor.ny.gov/news/audio-rush-transcript-governor-hochul-guest-pix11s-pix-politics.

57. On July 15, 2026, Governor Hochul appeared as a guest on Fox 5's "Good Day New York," where she again stated that the PAT Tax is targeted at "people who are not necessarily New Yorkers, and [who are] buying a second home, maybe a third or maybe fourth home, a $5 million or higher." Press Release, Office of Governor Kathy Hochul, Audio Rush Transcript: Governor Hochul is a Guest on FOX 5's 'Good Day New York' (July 15, 2026), https://www.governor.ny.gov/news/audio-rush-transcript-governor-hochul-guest-fox-5s-good-day-new-york-1.

58. Governor Hochul explained that she believes these nonresidents are "not paying [their] fair share to basically be a New Yorker," and that they benefit from "police services [and] fire services." Id. She continued:

> And so if you want to be a New Yorker, make this your primary home – you don't have to pay the tax. But as long as you're someone from the outside, you're going to contribute more to the services that you use. It just makes sense, instead of putting that burden on the people who really do call New York home – that's what we decided to do.

Id.

59. Likewise, Mayor Mamdani has promoted the PAT Tax as raising revenue for services New Yorkers use, but which only part-time residents would pay.

60. Mayor Mamdani's mayoral campaign included tax proposals to raise income taxes on the top 1% of New Yorkers by 2%, and to raise the State's top corporate tax rate as well. Mayor Mamdani projected that those two initiatives would raise $9 billion for the City. However, Governor Hochul repeatedly stated that she was unwilling to consider raising income taxes or the corporate tax rate.

61. Mayor Mamdani did not specifically endorse a pied-à-terre tax until he joined in Governor Hochul's April 15, 2026, calls for passage of the PAT Tax.

62. On April 15, 2026, Mayor Mamdani stated:

> Thanks to the support of Governor Hochul, we are one step closer to balancing our budget by taxing the ultra-wealthy and global elites with a pied-à-terre tax—the first of its kind in our state. Alongside the governor, our administration is fighting every day to make sure we address this fiscal deficit fairly, where the wealthy contribute what they owe and our budget reflects our commitment to the working New Yorkers being priced out of our city.

Press Release, Office of Governor Kathy Hochul, Governor Hochul Announces Pied-à-Terre Tax Proposal for Luxury Second Homes Valued at $5 Million or More (Apr. 15, 2026), https://www.governor.ny.gov/news/governor-hochul-announces-pied-terre-tax-proposal-luxury-second-homes-valued-5-million-or-more.

63. Mayor Mamdani also released a video announcing the PAT Tax on April 15, 2026. The video was entitled: "Happy Tax Day, New York. We're taxing the rich." He filmed that video while standing outside the Manhattan penthouse of Ken Griffin. He described the PAT Tax as a fulfillment of his campaign promise to "tax the rich," and stated that the PAT Tax is "an annual fee on luxury properties worth more than $5 million whose owners do not live full-

time in the city—like this penthouse, which hedge fund CEO Ken Griffin bought for $238 million." NYC Mayor's Office, Happy Tax Day, New York. We're Taxing the Rich. YOUTUBE, at 0:10 (Apr. 15, 2026), https://www.youtube.com/watch?v=FLKZnVB4F9k&t=1s.

64. The current property rate for condominium apartments in New York City is 12.439%, so the apartment singled out in the Mayor's video already bore a very substantial property tax, and his unsubstantiated claim that the apartment was seldom occupied is irrelevant to the tax burden it already bears.

65. Mayor Mamdani further asserted that the PAT Tax targets "those who store their wealth in New York City real estate, but who don't actually live here . . . And most of the time, these units are sitting empty since, again, they don't actually live here." Id. at 0:35. He went on to state that he believes "everyone has a role to play in contributing to our city. And some, a little bit more than others." Id. at 0:54.

66. On April 15, 2026, Mayor Mamdani participated in a Tax Day forum where he described the PAT Tax as "a tax on properties worth more than $5 million that are owned by people who do not reside in New York City" and "a tax on secondary homes owned by non-New Yorkers that are worth more than $5 million." NYC Mayor's Office, Mayor Mamdani Holds Tax Day Forum with Economists Gabriel Zucman and Joseph Stiglitz, YOUTUBE, at 22:06 (Apr. 15, 2026), https://www.youtube.com/watch?v=hPxpxAf9ieY&t=9s. Mayor Mamdani referred to Mr. Griffin's apartment as "a residence that is so often empty." Id. at 30:11. Presumably, if it is "often empty," Mr. Griffin consumes fewer city services than he would if that apartment were his primary residence, although the aggregate property tax paid, including the PAT Tax, would be lower if it were Mr. Griffin's primary residence.

67. On May 12, 2026, Mayor Mamdani held a press conference to discuss the City's $124.7 billion Executive Budget for Fiscal Year 2027. Mayor Mamdani addressed the PAT Tax in response to a question as to whether the budget is an "admission" that two of Mayor Mamdani's major campaign proposals—income tax hikes and corporate taxes—are "not happening this year":

> I don't know how else to describe a tax on secondary homes of nonresident New Yorkers worth more than $5 million than as a tax on the rich. And I think as you make clear in the question, wealth is measured in many different ways —in income, in profit, also in property.

NYC Mayor's Office, Mayor Mamdani Releases $124.7 Billion Executive Budget for Fiscal Year 2027, YOUTUBE, at 44:52 (May 12, 2026), https://www.youtube.com/watch?v=askcIj8pzz0&t=1s.

ii. Related Legislative History.

68. On April 30, 2026, New York City Comptroller Mark Levine issued Fiscal Note 2-2026, entitled "The Pied-à-Terre Tax and Its Potential Revenues." Noting that details concerning the proposed PAT Tax were "hard to find," the NYC Comptroller based his observations on the PAT Tax partly on New York State Senate Bill S44B ("S44B"). S44B was a 2019 proposal to amend the Real Property New York Tax Law. N.Y. City Comptroller, The Pied-à-Terre Tax and Its Potential Revenues, 3 (Apr. 30, 2026), https://comptroller.nyc.gov/wp-content/uploads/documents/The-Pied-a-Terre-Tax-and-Its-Potential-Revenues-1.pdf (hereinafter referred to as the "April Fiscal Note.").

69. Like the PAT Tax, S44B contemplated "an additional tax surcharge on certain non-primary residence class one and class two properties" in New York City.[3] S. 44-B, 2019–2020 Leg., Reg. Sess. (N.Y. 2019), https://legislation.nysenate.gov/pdf/bills/2019/S44B.

[3] Assembly Bill A1044 is a version of S44B introduced in the 2025-2026 legislative session.

70. The S44B Sponsor Memorandum explains that S44B would generate revenue by targeting "out-state purchasers [who are] increasingly buying up high-end properties in New York City that they rarely, if ever, occupy." Sponsor's Mem in Support of S. 44-B, 2019–2020 Leg., Reg. Sess. (N.Y. 2019), https://www.nysenate.gov/legislation/bills/2019/S44.

71. The S44B Sponsor Memorandum states that these out-of-state purchasers "do not pay city income taxes" while "low-income New Yorkers continue to face a critical shortage of affordable housing." Id.

iii. There is No Support for the Stated Legislative Purpose.

72. The legislative record for the PAT Tax is devoid of any competent study, analysis, or other evidence that nonresidents who own New York City residential property consume municipal services that they do not pay for or consume more municipal services than residents of New York City, and logic dictates that no such study could be produced.

73. In fact, the rationale that the targets of the PAT Tax consume excessive municipal services that they do not contribute towards is demonstrably false.

74. The targets of the PAT Tax, including all Plaintiffs in this action, pay significant New York City property taxes annually, on the full assessed value of their properties in New York City.

75. Given the valuation thresholds for imposing the PAT Tax, Plaintiffs own residential properties that are generally assessed at higher values than the average residential property in New York City. To the extent that Plaintiffs' residential properties exceed certain valuation thresholds, they are now required to, and will unless Article 30-C is invalidated, pay more in property taxes than residents of New York City who own comparable properties.

76. They will also pay more than those residents of New York City who rent rather than own residential real property as their primary residence. Such renters do not own any residential property, and therefore pay no property tax at all, other than indirectly through rent payments; notably, such property taxes on rental properties take no account of the full or part-time residence status of their tenants.

77. Further, Plaintiffs who reside in cooperatives or condominium buildings are ineligible for the Cooperative and Condominium Tax Abatement made available to similarly situated unit owners who are primary residents of New York City.

78. According to the Department of Finance, property taxes represented 41% of all City tax dollars collected in fiscal year 2026, which ended on June 30, 2026. Property Tax Bills and Payments, NYC DEPARTMENT OF FINANCE, https://www.nyc.gov/site/finance/property/property-bills-and-payments.page (last visited Sep. 28, 2026).

79. According to the Department of Finance, City tax dollars were allocated approximately to health and welfare (23%), education (30%), police, fire, sanitation, and corrections (26%), and other governmental programs and expenditures (21%). Id.

80. The State and its elected officials have claimed, without any factual or logical support, that imposing the PAT Tax as a second property tax on targeted nonresidents is necessary to equitably distribute the burden of funding municipal services.

81. In fact, by definition, those properties subject to the PAT Tax are occupied less than half the year in New York City (and according to its sponsors and proponents, typically far less than half the year). As a matter of logic, Plaintiffs consume significantly fewer of the municipal services their property tax dollars already contribute to.

82. As noted above, the legislative record for the PAT Tax is likewise devoid of any competent study, analysis, or other evidence that nonresidents who own New York City residential property are the cause of New York City's budget shortfall or affordable housing shortage, or that it will bring the City's budget into balance.

C. Anticipated Revenue Under PAT Tax Legislation.

83. Governor Hochul, Mayor Mamdani, and other governmental proponents of the PAT Tax have made several public statements claiming that the PAT Tax will yield $500 million or more in additional revenue for the City.

84. Following enactment of the PAT Tax, New York City Comptroller Mark Levine analyzed FY 2026 property tax data and calculated that the PAT Tax would result in approximately $1.0 billion in notional revenue across 13,586 properties before accounting for primary-residence exemptions and appeals. N.Y. City Comptroller, Comments on New York City's Executive Budget for Fiscal Year 2027 and Financial Plan for Fiscal Years 2026-2030, 68 (June 9, 2026), https://comptroller.nyc.gov/reports/comments-on-new-york-citys-executive-budget-for-fiscal-year-2027-and-financial-plan-for-fiscal-years-2026-2030/.

85. The Comptroller's notional estimate is approximately $500 million more than the State's original $500 million estimate.

86. It is also significantly higher than the Comptroller's pre-passage estimate. In April, the Comptroller projected that the proposed tax could raise up to approximately $500 million from a little over 11,200 properties, but noted that such revenue could fall to roughly $340 million to $380 million after accounting for "exclusions for rented units and behavioral changes following the imposition of the tax." April Fiscal Note at 3.

87. As of July 2026, the City has notified approximately 17,000 property owners that their properties "may be subject" to the PAT Tax. Index No. 85217/2026, NYSCEF Doc. No. 29 ¶¶ 14-15.

D. Assessment, Administration, and Enforcement of the PAT Tax.

88. Article 30-C requires DOF to administer and enforce the PAT Tax "to the greatest extent practicable . . . in the same manner used to administer and enforce real property taxes." Tax Law § 1354; N.Y.C. Admin. Code § 11-3205(c).

89. Consistent with its role in administering the City's real property tax, DOF is charged with (i) determining which properties are subject to the PAT Tax (see N.Y.C. Admin. Code § 11-3203); (ii) collecting the PAT Tax (see N.Y.C. Admin. Code § 11-3205); (iii) carrying out certain appeals processes (see N.Y.C. Admin. Code § 11-3205(i)(1); 19 RCNY § 62-06(b)-(c)); and (iv) promulgating rules necessary to implement the PAT Tax (N.Y.C. Admin. Code § 11-3205(i)(1)).

90. Pursuant to the State's mandate, DOF promulgated rules to implement and enforce the PAT Tax. Those rules are codified in Chapter 62 of Title 19 of the Rules of the City of New York (hereinafter referred to as the "Rules").

i. Determination of Taxable Status: Market Value.

91. Article 30-C provides that the market values of class one properties and class two residential condominium dwelling units and cooperative units are to be determined by DOF pursuant to Chapter 58 of the New York City Charter (hereinafter referred to as the "Charter"), which establishes DOF's powers and duties in assessing and administering the City's real property taxes. Tax Law § 1351(k)-(l).

92. Indeed, in its Notice of Adoption of Final Rules, DOF confirmed the legislation provides that "market values for purposes of the surcharge are based on DOF market values calculated for real property tax purposes." N.Y.C. Dep't of Fin., Notice of Adoption of Final Rules Relating to Surcharge on Certain Non-Primary Residences, at 11 (July 14, 2026), https://www.nyc.gov/assets/finance/downloads/pdf/rules/final-rules-relating-to-surcharge-on-certain-non-primary-residences-signed.pdf (hereinafter referred to as "Notice of Adoption").

93. For fiscal years beginning in July 2026 (hereinafter referred to as "Phase One"), class one properties with a market value of $5 million or more and residential cooperative dwelling units and condominium dwelling units with a market value of $1 million or more are subject to the PAT Tax. See Tax Law § 1353.

94. Beginning in July 2028 (hereinafter referred to as "Phase Two"), class one properties, residential cooperative dwelling units, and residential condominium dwelling units with a market value of $5 million or more are subject to the PAT Tax. See id.

95. Although the market value thresholds applicable to residential cooperative and condominium dwelling units change between Phase One and Phase Two, the method for calculating the PAT Tax specifically for residential cooperative units alters significantly. During Phase One, the PAT Tax is calculated based on the number of shares allocated to the unit relative to the total number of shares in the cooperative, which is used to determine the unit's proportionate share of the cooperative property's market value. Tax Law § 1350(h). However, during Phase Two, DOF instead relies on the market value of the cooperative unit as determined based on comparable sales of similar residential cooperative dwelling units. See id. § 1350(l)(3).

96. Similar to Article 30-C, the Administrative Code likewise requires DOF to follow existing property-tax mechanisms by instructing DOF to make the annual records of its market

value determinations available to the public in the same manner as its real-property-tax assessment records. N.Y.C. Admin. Code 11-3205(d). In effect, the legislation requires an annual appraisal of each residence subject or potentially subject to the PAT Tax.

97. As noted by DOF, such publication constitutes a "critical step in the administration of the real property tax levy," and, consistent with its role in administering the property tax, is incorporated into the implementation of the PAT Tax. Index No. 85217/2026, NYSCEF Doc. No. 30 at 23.

ii. Determination of Taxable Status: Primary Residence.

98. Once DOF establishes that a property meets the applicable valuation threshold, it determines whether a property owner qualifies for a PAT Tax exemption based on whether their property is used as a primary residence (hereinafter referred to as the "Initial Determination"). See 19 RCNY § 62-06(a)(1).

99. In making its Initial Determination, DOF considers information available to it, including (i) information collected in administering certain property-tax abatements and exemptions; (ii) whether the owner identified the property as their permanent home address on their state or federal income-tax returns; (iii) whether the owner occupied the property for a majority of days during the immediately prior calendar year; and (iv) other documents the owner previously submitted to the City. 19 RCNY § 62-06(a)(2)-(3).

100. DOF will also consider whether the property qualifies for an exemption where the property owner does not reside there full-time, including where the property is the primary residence of (i) a tenant or subtenant; (ii) an immediate family member of the owner; (iii) a majority interest holder in an entity that owns the property; or (iv) the sole beneficiary or

beneficiaries of a trust, provided the applicable eligibility requirements and documentation are satisfied. 19 RCNY § 62-06(b).

iii. Administration of the PAT Tax.

101. Should DOF determine that a property is subject to the PAT Tax, DOF is required to provide notice of its Initial Determination to the property owner. 19 RCNY § 62-06(a)(4).

102. DOF "may provide such notice electronically if [DOF] has an email address for an owner of a covered property in records of the department and determines that communicating such notice by email would be practical and feasible, provided that for the fiscal year beginning on July 1, 2026, the department will [only] provide such notice via mail." Notice of Adoption at 6.

103. The applicable mailing address for these notices is not expressly specified in the Tax Law, the Administrative Code, or DOF's Rules. However, if the mailing address used is the subject property, which State and City officials have claimed are infrequently occupied, then this would appear to be designed to give notice that is calculated not to reach the recipient in time to challenge it.

104. Pursuant to DOF's Rules, such notices must include the "surcharge amount" but need not explain the basis for DOF's determination for fiscal year 2026/2027. 19 RCNY § 62-06(a)(4); Notice of Adoption at 6.

105. In fact, failure by DOF to provide such notice does *not* affect the validity of the PAT Tax under the final rules, despite the due process rights of the property owner against whom the PAT Tax is being assessed. 19 RCNY § 62-06(a)(4).

106. Pursuant to Section 11-3205(a) of the Administrative Code, when collecting the levy, DOF is required to add the amount owed to the property's existing statement of account.

This statement of account is the same billing statement that DOF is required to provide property owners for taxes, charges, and assessments on their real property pursuant to Section 11-129 of the Administrative Code. Accordingly, rather than using a separate mechanism for collecting the PAT Tax, DOF is again required to utilize the City's existing real-property tax system.

107. Likewise, Section 11-3205(b) mandates that the levy "shall be due and payable in the same manner as real property taxes are due and payable." N.Y.C. Admin. Code § 11-3205(b).

108. Section 11-3205(b) further mandates that any property owner who fails to pay the PAT Tax is subject to applicable penalties and interest in the same manner as real property taxes pursuant to N.Y.C. Admin. Code § 11-224.1. Id. § 11-3205(b).

109. The levy, along with any penalties and interest, constitutes a lien on the property until paid. Id.; Notice of Adoption at 11.

iv. Administrative Review and Appeals.

110. DOF's Rules provide that an owner who disputes DOF's Initial Determination may file an appeal no later than thirty days after DOF transmits notice of its Initial Determination. 19 RCNY § 62-06(b)(1).

111. During DOF's notice-and-comment period, several commenters expressed concern that the thirty-day period for filing a primary residence appeal was not sufficiently long. Notice of Adoption at 6.

112. DOF dismissed those concerns, concluding that "any extensions of this time period are unnecessary" and asserting that the thirty-day period appropriately balances due process and "operational efficiency" in implementing the surcharge. Id.

113. Pursuant to Section 62-06(b)(1)(i)-(iii) of the Rules, an appeal must include a certification that the property or dwelling unit in question is used as a primary residence, as well as additional documentation proving that the property is exempt from the PAT Tax.

114. Section 62-04(a) of the Rules further provides that the Tax Commissioner may audit such certifications or documentation of primary residency at any time within six years after their submission. Any deficiency determined following such a determination or certification is a lien against the property, even if it has been sold and is now occupied by a full-time resident. N.Y.C. Admin. Code § 11-3205(b).

115. Any denial of an appeal "shall be a final determination" by DOF and may thereafter be challenged before the Tax Commission. See N.Y.C. Admin Code § 11-3206; 19 RCNY § 62-06(c)(1).

116. However, where an owner fails to appeal DOF's Initial Determination or provide proof that his or her property qualifies for an exemption, the Initial Determination constitutes a final determination and is generally not subject to challenge pursuant to Section 11-3206 of the Administrative Code. See N.Y.C. Admin. Code § 11-3203(a)(4).

117. DOF may also impose a penalty of up to fifty percent of the levy if, after notice and an opportunity for a hearing, it determines that (i) any certification or other documentation submitted to DOF is inaccurate, misleading, or was submitted negligently or in bad faith, or (ii) that a covered property consisting of a residential condominium unit has been divided into more than three units to avoid application of the surcharge and the owner made such division in bad faith. N.Y.C. Admin. Code § 11-3205(i)(2).

118. In the context of cooperative properties, the cooperative corporation—the single taxpayer on record, and not the owner who is a part-time New York City resident—and hence all

of the cooperative's shareholders, including those who make their primary residence in New York City, is liable for any unpaid assessments and penalties.

AS AND FOR A FIRST CAUSE OF ACTION
(For Declaratory Judgment Pursuant to CPLR § 3001)

119. Plaintiffs repeat and reallege each and every allegation in the foregoing paragraphs as if fully set forth herein.

120. Although denominated a "surcharge," the PAT Tax is an *ad valorem* tax on real property.

121. The PAT Tax is imposed on the ownership of specified real property that meets statutory valuation thresholds and does not qualify for the primary-residence exemption.

122. Under Article 30-C, whether a property is subject to, and the amount of, the PAT Tax is determined by reference to the value of the property as determined by DOF.

123. Article 30-C requires DOF to administer and enforce the PAT Tax, "to the greatest extent practicable," in the same manner used to administer and enforce other real property taxes. Tax Law § 1354.

124. Consistent with that statutory mandate, the PAT Tax relies upon DOF's market-value determinations and assessment records; is added to the property's existing statement of account; is due and payable in the same manner as real property taxes; is subject to penalties and interest in the same manner as real property taxes; and, if unpaid, constitutes a lien upon the subject property.

125. The PAT Tax's statutory regime further subjects PAT Tax market-value determinations to administrative review before the New York City Tax Commission and judicial review pursuant to Article 7 of the Real Property Tax Law.

126. The primary-residence exemption does not change the character of the tax. Property taxes routinely contain exemptions for particular owners and properties.

127. Here, every covered property that meets the statutory valuation threshold is subject to the PAT Tax unless an exemption applies.

128. Thus, the PAT Tax is imposed because real property is owned, is measured by the value of the property and, as required by Article 30-C, is administered and enforced through the City's property-tax system.

129. The constitutional character of a tax depends upon its substance and operation, not the label assigned to it by the Legislature.

130. The Legislature cannot circumvent constitutional limitations on its taxing power by denominating a tax on real property a "surcharge."

131. There is an actual justiciable controversy between Plaintiffs and Defendant concerning whether the PAT Tax imposed by Article 30-C of the New York Tax Law constitutes an *ad valorem* property tax.

132. This case presents a clear and immediate controversy, ripe for adjudication because administration and collection of the PAT Tax has already begun, Plaintiffs have been notified that they are subject to the PAT Tax, and Plaintiffs have not claimed an exemption under the statutory scheme.

133. Declaratory judgment on this issue would bring finality to the present controversy among the parties, relieve the present uncertainty about the parties' legal obligations, and settle the legal issues involved in the dispute.

134. Accordingly, Plaintiffs are entitled to a declaratory judgment that the PAT Tax imposed by Article 30-C of the New York Tax Law constitutes an *ad valorem* property tax.

AS AND FOR A SECOND CAUSE OF ACTION
(For Declaratory Judgment Pursuant to CPLR § 3001)

135. Plaintiffs repeat and reallege each and every allegation in the foregoing paragraphs as if fully set forth herein.

136. The PAT Tax is an *ad valorem* property tax.

137. Because the PAT Tax is an *ad valorem* property tax, it is subject to the constitutional limitations on the City's real estate tax levy under Article VIII, § 10 of the New York Constitution.

138. Article VIII, § 10(e) limits the total amount of property tax that the City can levy to pay for its operating expenses. This limit equals 2.5 percent of the five-year average of the full value of taxable real estate, minus certain adjustments.

139. The constitutional tax limit cannot be overridden or varied by legislation.

140. The Comptroller has estimated the fiscal year 2027 constitutional tax limit at approximately $38.3 billion and projected the City's operating margin, after deducting the levy subject to the constitutional tax limit, at approximately $5.6 billion. N.Y. City Comptroller, Comments on New York City's Executive Budget for Fiscal Year 2027 and Financial Plan for Fiscal Years 2026-2030, Table F-8.

141. Article 30-C provides that the PAT Tax is "separate and distinct from any other tax levied on real property," purports to exclude all PAT Tax receipts from the calculation of the real-property-tax levy, and directs that such revenue "be considered receipts other than taxes on real property" for purposes of New York City Charter § 1515.

142. Accordingly, the Comptroller has confirmed his view that PAT Tax revenues will not be included in the levy subject to the constitutional tax limit, and that the $5.6 billion operating margin he has estimated does not include any projected PAT Tax revenues.

143. The Legislature cannot alter the constitutional character of a tax on real estate, or exclude it from the constitutional calculation, by statutory label or accounting direction.

144. Nor can the Legislature avoid the constitutional tax limitation after expressly directing that the PAT Tax be administered and enforced in the same manner as real property taxes.

145. If a levy constitutes a tax on real estate within the meaning of Article VIII, § 10(e), as the PAT Tax does, the revenues raised through that levy must be included in determining the amount raised by tax on real estate for purposes of the constitutional limitation.

146. Article 30-C is therefore unconstitutional to the extent it purports to exclude PAT Tax revenues from the amount raised by tax on real estate for purposes of Article VIII, § 10(e).

147. This claim does not depend upon whether inclusion of PAT Tax revenues would cause the City to exceed the numerical constitutional limit in any particular fiscal year.

148. Rather, the present controversy concerns whether the Legislature may exclude revenue raised through a tax on real estate from the constitutionally prescribed calculation by re-labeling it.

149. There is an actual and justiciable controversy between Plaintiffs and Defendant concerning whether Article 30-C of the New York Tax Law violates Article VIII, § 10(e) of the New York Constitution by expressly excluding PAT Tax revenues from the constitutional tax limit and directing that PAT Tax revenues be treated as receipts other than taxes on real property.

150. Declaratory judgment on this issue would determine the proper constitutional treatment of PAT Tax revenues and resolve the parties' present rights and obligations under Article VIII, § 10(e).

151. Accordingly, Plaintiffs are entitled to a declaratory judgment that Article 30-C of the New York Tax Law is unconstitutional to the extent it excludes revenues raised through the PAT Tax from the amount raised by tax on real estate for purposes of Article VIII, § 10(e) of the New York Constitution.

152. Accordingly, Plaintiffs are entitled to a declaratory judgment that revenues raised through the PAT Tax constitute amounts raised by tax on real estate for purposes of Article VIII, § 10 of the New York Constitution.

AS AND FOR A THIRD CAUSE OF ACTION
(For Declaratory Judgment Pursuant to CPLR § 3001)

153. Plaintiffs repeat and reallege each and every allegation in the foregoing paragraphs as if fully set forth herein.

154. The Privileges and Immunities Clause of the United States Constitution provides that "[t]he Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States." U.S. Const., art. IV, § 2.

155. The Privileges and Immunities Clause "plac[es] the citizens of each State on equal footing with citizens of other States, as far as the advantages resulting from citizenship in those States are concerned." See City of New York v. State, 94 N.Y.2d 577, 592 (2000), citing Supreme Ct. of New Hampshire v. Piper, 470 U.S. 274, 279-280 (1985).

156. The Privileges and Immunities Clause prevents the States from discriminating against nonresidents regarding fundamental rights. See United Bldg. and Const. Trades Council of Camden County and Vic. v. Mayor and Council of City of Camden, 465 U.S. 208, 220 (1984). Accordingly, the Privileges and Immunities Clause prohibits the States from making noncitizenship or nonresidence a basis for imposing a burden on the exercise of fundamental rights. Austin v. New Hampshire, 420 U.S. 656, 662 (1975).

157. The Privileges and Immunities Clause applies equally to distinctions based on municipal residency. See United Bldg. and Const. Trades Council, 465 U.S. at 216.

158. When a law distinguishes between residents and nonresidents in matters of taxation, the State must demonstrate both (1) a substantial and permissible reason for the difference in treatment and (2) a substantial relationship between the discrimination against nonresidents and the State's legitimate objectives. Piper, 470 U.S. at 284 (1985).

159. The fundamental rights protected by the Privileges and Immunity Clause include the right to purchase, own and possess real property, and to travel from one state to another.

160. The PAT Tax unconstitutionally burdens all three of those rights and discriminates against residents of other states, including Plaintiffs.

161. Imposing a tax burden on those who have their primary residences in other states, like the Plaintiffs here, in an effort to reduce a local shortfall in tax receipts, is not a legitimate or permissible purpose for adopting a discriminatory tax.

162. The PAT Tax therefore violates the Privileges and Immunities Clause.

163. Moreover, the State's supposed justification for imposing the PAT Tax—the alleged overconsumption of local services by those subject to the PAT Tax—is unsupported by any evidence and fails as a matter of logic.

164. There is an actual justiciable controversy between Plaintiffs and Defendant concerning whether the PAT Tax violates the Privileges and Immunities Clause of Article IV, Section 2 of the United States Constitution.

165. This case presents a clear and immediate controversy, ripe for adjudication because administration and collection of the PAT Tax has already begun, Plaintiffs have been

notified that they are subject to the PAT Tax, and they have not claimed an exemption under the statutory scheme.

166. Declaratory judgment on this issue would bring finality to the present controversy among the parties, relieve the present uncertainty about the parties' constitutional obligations, and settle the legal issues involved in the dispute.

167. Accordingly, Plaintiffs are entitled to a declaratory judgment that Article 30-C of the New York Tax Law violates the Privileges and Immunities Clause of Article IV, Section 2 of the United States Constitution.

AS AND FOR A FOURTH CAUSE OF ACTION
(For Declaratory Judgment Pursuant to CPLR § 3001)

168. Plaintiffs repeat and reallege each and every allegation in the foregoing paragraphs as if fully set forth herein.

169. The Commerce Clause provides that "[t]he Congress shall have Power . . . [t]o regulate Commerce . . . among the several States." U.S. Const., art. I, § 8.

170. The Commerce Clause prevents individual States from unjustifiable interference with, or discrimination against, interstate trade. See Oregon Waste Sys., Inc. v. Dept. of Envtl. Quality of State of Or., 511 U.S. 93, 98-99 (1994).

171. State action discriminates against interstate commerce when it authorizes "differential treatment on in-State and out-of-State economic interests that benefits the former and burdens the latter." City of New York v. State, 94 N.Y.2d at 597, citing Oregon Waste, 511 U.S. at 99.

172. A law that is facially discriminatory may only survive under the Commerce Clause if the State can show that the tax advances a legitimate local purpose that could not be

adequately served by reasonable nondiscriminatory alternatives. Oregon Waste, 511 U.S. at 100-101.

173. On its face, the PAT Tax is discriminatory against interstate commerce.

174. The PAT Tax treats in-State and out-of-State economic interests differently by taxing nonresidents simply because they travel across State lines and purchase residential property in New York City.

175. Moreover, a stated purpose of the PAT Tax is to circumvent New York City's inability under the Constitution to collect income tax from nonresidents on income earned outside of New York City.

176. Accordingly, the PAT Tax is intended to, and does, collect income generated from commercial activities outside of the City, to which the City is not entitled, directly interfering with interstate commerce.

177. The PAT Tax does not advance a legitimate local purpose that could not be adequately served by reasonable nondiscriminatory alternatives.

178. The targets of the PAT Tax already pay New York City property taxes on the same basis as real property owned and occupied by full-time residents. There is no legitimate reason why they alone should bear additional costs for funding municipal services when they use significantly less than full-time City residents.

179. Accordingly, Article 30-C of the Tax Law violates the Dormant Commerce Clause doctrine embodied in Article I, Section 8 of the United States Constitution.

180. There is an actual justiciable controversy between Plaintiffs and Defendant concerning whether the PAT Tax violates the Dormant Commerce Clause embodied in Article I, Section 8 of the United States Constitution.

181. This case presents a clear and immediate controversy, ripe for adjudication because administration and collection of the PAT Tax has already begun, Plaintiffs have been notified that they are subject to the PAT Tax, and Plaintiffs have not claimed an exemption under the statutory scheme.

182. Declaratory judgment on this issue would bring finality to the present controversy among the parties, relieve the present uncertainty about the parties' constitutional obligations, and settle the legal issues involved in the dispute.

183. Accordingly, Plaintiffs are entitled to a declaratory judgment that Article 30-C of the New York Tax Law violates the Dormant Commerce Clause embodied in Article I, Section 8 of the United States Constitution.

AS AND FOR A FIFTH CAUSE OF ACTION
(For Declaratory Judgment Pursuant to CPLR § 3001)

184. Plaintiffs repeat and reallege each and every allegation in the foregoing paragraphs as if fully set forth herein.

185. The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution provides that the State may not deny to any person within its jurisdiction the equal protection of the laws. U.S. Const., amend. XIV, § 1.

186. The rights to purchase, own and possess real property and to interstate and intrastate travel are fundamental rights protected under the Equal Protection Clause. See Memorial Hospital v. Maricopa Cty., 415 U.S. 250, 261-263 (1974); Selevan v. New York Thruway Auth., 584 F.3d 82, 100 (2d Cir. 2009).

187. Legislative classifications that burden a fundamental right are subject to strict scrutiny under the Equal Protection Clause. Id.

188. A state law implicates the right to travel when it actually deters travel, when impeding travel is its primary objective, or when it uses any classification which serves to penalize the exercise of that right. Attorney General of New York v. Soto-Lopez, 476 U.S. 898, 903 (1986).

189. Residential classifications, particularly those that burden the fundamental right to travel, must be narrowly tailored to serve a compelling governmental interest.

190. The PAT Tax distinguishes between New York residential property owners who occupy their homes as primary residences and those who do not.

191. The legislative history and public commentary by New York lawmakers confirms that the PAT Tax is intended to, and will, deter interstate and intrastate travel by imposing a second tax on New York City residential property owned by nonresidents.

192. The PAT Tax is a discriminatory assessment that imposes additional financial burdens on Plaintiffs to deter Plaintiffs from owning New York City residential property specifically because they do not intend to reside there permanently.

193. The PAT Tax is not narrowly tailored to serve any compelling or legitimate governmental interest.

194. In the alternative, state tax measures that apply residential classifications and do not burden a fundamental right must bear a rational relationship to a conceivable legitimate governmental objective.

195. The PAT Tax purports to require nonresidents who use *fewer* municipal services to pay an additional tax to fund those services.

196. The PAT Tax is an irrational and selective second property tax on a limited class of taxpayers who lack political power within the State, in that they do not vote here.

197. Accordingly, Article 30-C of the Tax Law violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

198. There is an actual justiciable controversy between Plaintiffs and Defendant concerning whether the PAT Tax violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

199. This case presents a clear and immediate controversy, ripe for adjudication because administration and collection of the PAT Tax has already begun, Plaintiffs have been notified that they are subject to the PAT Tax, and they have not claimed an exemption under the statutory scheme.

200. Declaratory judgment on this issue would bring finality to the present controversy among the parties, relieve the present uncertainty about the parties' constitutional obligations, and settle the legal issues involved in the dispute.

201. Accordingly, Plaintiffs are entitled to a declaratory judgment that Article 30-C of the New York Tax Law violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

AS AND FOR A SIXTH CAUSE OF ACTION
(For Declaratory Judgment Pursuant to CPLR § 3001)

202. Plaintiffs repeat and reallege each and every allegation in the foregoing paragraphs as if fully set forth herein.

203. Article 1, Section 11 of the New York Constitution provides that "[n]o person shall be denied the equal protection of the laws of this state or any subdivision thereof."

204. The rights to purchase, own and possess real property within the State, and to intrastate and interstate travel are fundamental rights protected by the New York Constitution.

205. Discriminatory legislative classifications that burden a fundamental right are subject to strict scrutiny under Article 1, Section 11 of the New York Constitution.

206. Residential classifications that impinge upon a fundamental right, including the right to travel must be narrowly tailored to serve a compelling governmental interest.

207. The PAT Tax distinguishes between New York residential property owners who occupy their homes as primary residences and those who do not.

208. The legislative history and public commentary by New York lawmakers confirms that the PAT Tax is intended to, and will, deter interstate and intrastate travel by imposing a second tax on New York City residential property owned by nonresidents, and discriminate against one class of property owners, part-time residents, without any rational or legitimate basis.

209. The PAT Tax is a discriminatory assessment that imposes additional financial burdens on Plaintiffs and will deter Plaintiffs from owning New York City residential property specifically because they do not reside permanently within the State.

210. The PAT Tax is not narrowly tailored to serve any compelling or legitimate governmental interest.

211. In the alternative, state tax measures that apply residential classifications and do not burden a fundamental right must bear a rational relationship to a conceivable legitimate governmental objective.

212. The PAT Tax's residential classifications are not rationally related to the State's purposes of addressing a budget shortfall and affordable housing shortage or protecting the municipal tax bases.

213. The PAT Tax's residential classifications do not depend on vacancy or the actual municipal service demands of secondary residences.

214. The PAT Tax purports to require nonresidents who use *fewer* municipal services to pay an additional tax to fund those services.

215. The PAT Tax is an irrational and selective second property tax on a limited class of taxpayers.

216. Accordingly, the PAT Tax violates Article 1, Section 11 of the New York Constitution.

217. There is an actual justiciable controversy between Plaintiffs and Defendant concerning whether the PAT Tax violates Article 1, Section 11 of the New York Constitution.

218. This case presents a clear and immediate controversy, ripe for adjudication because administration and collection of the PAT Tax has already begun, Plaintiffs have been notified that they are subject to the PAT Tax, and they have not claimed an exemption under the statutory scheme.

219. Declaratory judgment on this issue would bring finality to the present controversy among the parties, relieve the present uncertainty about the parties' constitutional obligations, and settle the legal issues involved in the dispute.

220. Accordingly, Plaintiffs are entitled to a declaratory judgment that Article 30-C of the Tax Law violates Article 1, Section 11 of the New York Constitution.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment as follows:

(a) On the first cause of action, a declaration that the PAT Tax imposed by Article 30-C of the New York Tax Law constitutes an *ad valorem* property tax;

(b) On the second cause of action, a declaration that Article 30-C of the New York Tax Law is unconstitutional to the extent it excludes revenues raised through the PAT Tax from the amount raised by tax on real estate for purposes of Article VIII, § 10(e) of the New York Constitution;

(c) On the third cause of action, a declaration that Article 30-C of the New York Tax Law violates the Privileges and Immunities Clause of Article IV, Section 2 of the United States Constitution;

(d) On the fourth cause of action, a declaration that Article 30-C of the New York Tax Law violates the Commerce Clause of Article I, Section 8 of the United States Constitution;

(e) On the fifth cause of action, a declaration that Article 30-C of the New York Tax Law violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution;

(f) On the sixth cause of action, a declaration that Article 30-C of the New York Tax Law violates Article 1, Section 11 of the New York Constitution;

(g) Awarding Plaintiffs their taxable costs and disbursements, pursuant to CPLR § 8301; and

(h) Granting such further and additional relief as this Court deems just and proper.

Dated: New York, New York
September 28, 2026

Respectfully submitted,

PILLSBURY WINTHROP SHAW PITTMAN LLP

By:_____

James M. Catterson
Robert L. Sills
Michael Kosnitzky
Brianna S. Walsh
Stephanie LaGumina
31 West 52nd Street
New York, NY 10019-6131
Phone: 212.858.1000
Fax: 212.858.1500
james.catterson@pillsburylaw.com
robert.sills@pillsburylaw.com
michael.kosnitzky@pillsburylaw.com
brianna.walsh@pillsburylaw.com
stephanie.lagumina@pillsburylaw.com

Attorneys for Plaintiffs