



# **Guide to the NYC Senior Citizen Rent Increase Exemption (“SCRIE”) Program and NYC Disability Rent Increase Exemption (“DRIE”)**

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## Overview of the Rent Freeze Program

The New York City Rent Freeze Program was created pursuant to State enabling legislation with the purpose of ameliorating the adverse impact of ever-increasing rent obligations upon low-income senior citizens and disabled New Yorkers. There are two programs – Senior Citizen Rent Increase Exemption (“SCRIE”) and Disability Rent Increase Exemption (“DRIE”). An eligible SCRIE or DRIE program participant’s rent payment is “frozen” prospectively and subsequent legal rent increases are “paid” to the landlord in the form of a dollar-for-dollar property tax abatement credit. Eligibility for the SCRIE or DRIE Program hinges on there being a head of household who:

- Age or disability,
  - SCRIE -- Aged 62 or over
  - DRIE -- Receives one of the following – Supplemental Security Income (SSI), Social Security Disability Insurance (SSDI), Veteran’s Benefits, disability-related Medicaid or other disability benefits.
- Lives in an “eligible” apartment,
- Has a household income of maximum \$50,000/year for the prior year; and
- Has a monthly rent payment of more than one-third of monthly household income.

The SCRIE and DRIE benefits are an entitlement: applicants who are found eligible are entitled to receive the benefit. There is no waiting list and landlords cannot opt out. Landlords receive a dollar-for-dollar real-property tax exemption to cover any rent increases, which tenants in the SCRIE and DRIE Program are exempt from paying. The Program covers tenants residing in:

- Rent Controlled apartments;
- Rent Stabilized apartments;
- Rental or co-op apartments subject to the NYS Private Housing Finance Law (“PHFL”) (including current and former “Mitchell-Lama” developments) or Section 213 of the National Housing Act; and
- Rent Stabilized hotel rooms.

Two different New York City agencies administer the program depending on the type of housing that the tenant resides in. For Rent Controlled and Rent Stabilized tenants, the agency is the NYC Department of Finance (“DOF”) (59 Maiden Lane, 22nd floor, New York, New York 10038). For Mitchell-Lama and other types of subsidized tenants, the NYC Department of Housing Preservation and Development (“HPD”) (100 Gold Street, New York, New York 10038).

## I. SOURCES OF LAW

- Enabling Legislation: NYS Real Property Tax Law §§ 467-b & 467-c
  - State Law authorizing municipalities to enact local SCRIE laws consistent with the state statute covering Rent Controlled and Rent Stabilized apartments (RPTL § 467-b) and apartments in buildings subject to either Article II, IV, V of XI of the Private Housing Finance Law (PHFL) or § 213 of the National Housing Act (RPTL § 467-c) occupied by senior citizens.
- NYC Rent & Rehabilitation Law, NYC Admin. Code T. 26, Ch. 3 (§26-405m.)
  - Local law governing the SCRIE Program in NYC for Rent Controlled tenants.
- NYC Rent Stabilization Law, NYC Admin. Code T. 26, Ch. 4 (§26-509)
  - Local law governing the SCRIE Program in NYC for Rent Stabilized tenants.
- NYC Rent Increase Exemption for Low Income Elderly Persons, NYC Admin. Code T. 26, Ch. 7 (§§ 26-601 et seq.)
  - Local law governing the SCRIE Program in NYC for tenants in PHFL/“Mitchell-Lama”/§213 apartments.
- NYC Rent & Eviction Regulations, 9 NYCRR § 2202.20
  - DHCR regulations covering the SCRIE Program for both Rent Controlled and Rent Stabilized tenants; some provisions are different for the two different types of rent regulation. Since DHCR does not currently administer any aspect of the SCRIE Programs in NYC, the viability of these regulations is questionable.

## II. GENERAL ELIGIBILITY REQUIREMENTS

- **Applicant or recipient must be the named tenant.**
  - Cannot be a household member living with the tenant.
  - Only one tenant per household can have the benefit.
- **Age or disability**
  - Head of household is **62 years of age** or older for **SCRIE**.
  - Head of household is **disabled** for **DRIE**.
    - To be eligible for DRIE, the head of household must be “disabled” or otherwise meet the definition of a “person with a disability.”
    - Such term means an individual who is currently receiving SSDI or SSI benefits under the federal social security act, disability pension or disability compensation benefits provided by the United States Department of Veterans Affairs, or disability pension or disability compensation benefits provided by the United States Postal Service, or an individual who was *previously* eligible by virtue of receiving disability benefits under the SSI program or the SSDI program and is currently receiving medical assistance benefits based on a determination of disability as provided in section 366 of the social services law.
  - SCRIE-to-DRIE/DRIE-to-SCRIE Transfers
    - Recipients can transfer SCRIE <--> DRIE.
    - A surviving family member who lived with a SCRIE Program participant and is not eligible to take over SCRIE based on age may be entitled to the parallel benefit under DRIE. Alternatively, a DRIE Program



NYS form IT-201)

- Public assistance – cash assistance (not food stamps/SNAP)
- Net business income (gross receipts minus expenses)
- Capital gains
- IRA/Annuities Earnings
- All other income (rental income, income from estates or trusts, alimony, child support payments, gambling winnings, taxable and non-taxable dividends, cancellation of debt and monetary support received from family/friends for rent)
- If the applicant retired between the commencement of the last year and the date of filing the application, the income reported should be adjusted to exclude employment earnings and to project expected annual retirement income.
- Deductions very limited!
  - Federal/state/local income taxes
  - Social Security taxes
  - NOT health insurance, Medicare, medical expenses
- Income does **not** include cash gifts, inheritances, Nazi victim reparations, energy assistance payments, income tax refunds, IRA & annuity distributions (withdrawals), Supplemental Nutrition Assistance Program (SNAP) benefits, or personal injury awards.
- Income from all household members and roommates/subletters
  - All family members living in the apartment are considered part of the household even if that family member does not contribute any money toward the rent.
  - If an applicant has a roommate, the roommate's rent must be counted as income. Beware: rent stabilized tenants are barred from charging a roommate or boarder more than a *pro rata* share of the rent. If they charge more than the pro rata share, the boarder may be able to sue them for a rent overcharge.

### III. DOCUMENTATION

- To prove each factor for SCRIE and DRIE eligibility, applicants must provide **requisite documents** for each household member.
  - Age/disability
    - Photo ID; proof of government recognized disability.
  - Type of apartment
    - For rent-stabilized apartments: current lease, prior lease (signed by both the landlord and the tenant)
    - For Mitchell-Lama, HDFCs, Private Housing Finance Law Article II, IV, V or XI or National Housing Act § 213: current and previous Maximum Collectible Rent Form
  - Prior year income
    - Prior year tax return, including federal and state, including all schedules

and attachments.

- If an applicant did not file taxes, then applicant must provide:
  - Prior year Social Security benefit statement
  - IRA/annuity end-of-year statement
  - Pension statement
  - Signed letter from a boarder confirming rental payments.
  - Public assistance budget letter
  - Disability/workers' compensation statements
  - Student status letter for any non-working students living in the household
  - Signed letters from any individuals, including friends and family members, who have loaned applicant money
- Never send original documents, only copies.
- Always make a copy of the entire application packet.

#### IV. APPLICATION ISSUES and EFFECTIVE DATE

- Where to Apply
  - The Department of Finance accepts SCRIE and DRIE by mail and on-line.
    - To apply online, a tenant must create an account and apply here:
      - [https://www1.nyc.gov/account/login.htm?spName=Tenant%20Access%20Portal%20\(PROD\)&samlContext=us1\\_8176884\\_18af96ef-6e90-426d-986a-beecd9b6c114](https://www1.nyc.gov/account/login.htm?spName=Tenant%20Access%20Portal%20(PROD)&samlContext=us1_8176884_18af96ef-6e90-426d-986a-beecd9b6c114)
    - The paper applications can be found here:
      - <https://www.nyc.gov/assets/rentfreeze/downloads/pdf/scrie/scrie-initial-application-only.pdf>. and <https://www.nyc.gov/assets/rentfreeze/downloads/pdf/drie/drie-application.pdf>
  - The HPD SCRIE application form can be mailed or emailed to [scrie@hpd.nyc.gov](mailto:scrie@hpd.nyc.gov). Applications can be found <https://www.nyc.gov/assets/hpd/downloads/pdfs/services/scrie-application.pdf>
- Notice
  - DOF or HPD will send a notice to the tenant to indicate whether the application was approved, denied, or if more information is needed.
  - If approved, the letter will state:
    - The tenant's frozen share;
    - The tax credit share (called the tax account credit, or TAC);
    - The effective date.
- Effective Date
  - The "effective date" is the date on which the benefit begins.
  - The "eligibility date" is the date of commencement of the lease in effect at the time of application. Therefore, the rent should be frozen at the amount in the lease in effect **prior to** the lease in effect at the time of application.
  - For DOF SCRIE or DRIE, applications once processed are effective the first

day of the month following the month when received. Delaying the submission of an application could result in the benefit not starting until a later month.

- There are exceptions:
  - Where the SCRIE application is based upon a rent increase arising from an Order issued by the DHCR for an MBR/MCR/FCA (Rent Control); or an MCI (“major capital improvement”); or certain other less common situations.
  - If the applicant submits a SCRIE application within 90 days of the date the DHCR issues an MBR/MCR/FCA Order, the exemption begins on the Order’s effective date.
- For HPD SCRIE, HPD will issue a retroactive credit to the start of the year’s rent increase if it receives the application within 120 days of the increase.
  - If it receives the application after 120 days from the start of the increase, then the effective date of the SCRIE subsidy will be the first day of the month after HPD received your application. (e.g. If the increase date is January 1<sup>st</sup>, HPD must receive your application by May 1<sup>st</sup> for you to receive retroactive credit. If your application is received on or after May 2<sup>nd</sup>, then the effective date of your SCRIE subsidy will be June 1<sup>st</sup>.)
- **General advocacy tip:** Get applications in before the end of the month!
- Available Assistance
  - Tenants may contact the DOF SCRIE and DRIE Ombudsperson for help identifying and resolving issues with a tenant’s application or benefits. Tenants may contact the Ombudsperson’s office by mail, by filling out an on-line form, or by calling 311.
  - Tenants can also visit the DOF SCRIE/DRIE walk-in office from 8:30am - 4:30pm. This office is located in lower Manhattan at 66 John Street, 3rd Floor, New York, NY 10038.
  - Tenants can apply for legal assistance from one of the many offices that provide free legal representation to New Yorkers throughout the boroughs. To find out which offices serve a particular area, a tenant may consult [www.LawHelpNY.org](http://www.LawHelpNY.org) or call 311. VOLS provides legal assistance for tenants who need help applying for SCRIE and DRIE. Please contact our Benefits Law Project at 347-521-5720.

## V. RENEWAL

- SCRIE and DRIE benefits must be renewed or recertified when the lease or tenancy period expires.
  - It is the **tenant’s** responsibility to renew or recertify.
    - For rent stabilized and rent controlled tenants, the DOF mails tenants’ renewal forms about 60 days prior to the expiration of the program benefit.
    - For Mitchell-Lama, HDFC coops, and others, HPD will mail recertification forms to existing SCRIE or DRIE recipients.
  - DOF has a **six-month grace period** to process the renewal application. If the tenant is found eligible again, the resulting SCRIE order is retroactive to the expiration of the last SCRIE.

- Tenants must list all household members and all household income.
- Documentation required:
  - Completed renewal application
  - Proof of any new household members
  - Proof of any income for all household members
  - Documents to show rent increase<sup>1</sup>, although there may be some exceptions:
    - For Rent Stabilized tenants, a 1- or 2-year lease renewal;
      - By law, landlord must provide renewal lease every 1 or 2 years
      - If the landlord fails to provide a renewal lease, the tenant should complete and submit the applicable DOF “Certification of No Renewal Lease Form” which can be found [here](#).
    - For Rent Controlled tenants, DHCR Orders for MBR/MCR increases and Fuel Cost Adjustments (“FCA”)
    - For Rent Regulated Hotel tenants, a rent demand renewal increase or lease renewal increase;
    - For Rent Stabilized, Rent Controlled, and Rent Regulated Hotel tenants, proof of MCI increase, or an increase based upon the owner’s economic hardship;
    - For PHFL/NHA §213 tenants, any increase in rent excluding increases attributable to gas or electric utility charges and capital assessments.
    - **Note:** Rent increases due to an increase in dwelling space, services or equipment, including installation of new equipment or other individual apartment improvements, are **not** covered by the SCRIE program.
      - Where there is a rent increase based on a DHCR Order that is issued for an increase other than those that are covered by the renewal application – such as, for example, an MCI increase, which can occur at any time, or for a late-issued FCA or MCR increase – an adjustment can be sought.
- Exception for 5+ year recipients
  - Tenants who have received SCRIE for more than five years may use a “short form application” which only requires that recipients affirm there has not been an income increase of more than \$1000 in the past year and requires the recipient provide a renewal lease and information about new household members only.
- Lapsing
  - If a recipient **does not timely** recertify, the benefit can lapse.
  - This is a **common issue** for seniors and disabled tenants for a variety of reasons both related and unrelated to their age/disability.
    - It sometimes occurs because the tenant fails to receive (or return) the recertification forms which DOF mails out to SCRIE Program participants when their SCRIE/DRIE benefits are up for renewal.
  - A tenant **is liable** to the landlord for the difference between the amount the

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<sup>1</sup> *But see* Gentile v. City of New York Department for the Aging/SCRIE, 290 A.D.2d 395, 736 N.Y.S.2d 674 (1<sup>st</sup> Dep’t 2002), in which the court held that a SCRIE applicant who meets the eligibility criteria is entitled to a SCRIE, even where there has been no recent increase in the tenant’s legal regulated rent.

- tenant has paid under an automatically renewed order and the full legal rent in the event the tenant is ultimately found ineligible for the SCRIE renewal.
- The problem usually comes to light when a tenant receives word from her landlord that she owes rental arrears. This occurs when:
    - DOF audits the landlord’s taxes and notifies the landlord that it must repay a sum of money that represents tax abatement credits given to the landlord when the SCRIE program participant was ineligible.
    - The landlord then sues the tenant for rent arrears in a nonpayment eviction proceeding in Housing Court.
  - Advocacy tip:
    - Upon request, DOF may reinstate a lapsed SCRIE where it can be shown that the tenant was income-eligible at all times for SCRIE benefits and there is **good cause** to reinstate the benefits.
    - Where the tenant was not eligible at all relevant times, it is unlikely that the SCRIE will be reinstated, although the tenant may have certain defenses to a landlord’s nonpayment eviction proceeding in Housing Court. However, the landlord can bring a separate lawsuit, outside of Housing Court, seeking the unpaid rent monies representing the difference between the full legal rent and the amount paid by the tenant.

## VI. TERMINATION and REINSTATEMENT

- SCRIE or DRIE benefits are terminated upon:
  - Tenant death,
  - Tenant failure to recertify,
  - Or tenant fails to meet one or more of the eligibility requirements (such as the tenant’s income now exceeds the maximum household limit).
    - Note: If the tenant income goes back down in the next calendar year below the threshold, she may qualify to restore her old frozen rent. To reapply, please submit an initial application in the next calendar year.
- For HPD SCRIE, a tenant can seek reinstatement. To seek a reinstatement, a tenant must complete and submit a reinstatement application. For the current reinstatement form, the tenant should email SCRIE@hpd.nyc.gov or call (212) 863-8494

## VII. PORTABILITY

- Tenants with SCRIE/DRIE can transfer SCRIE/DRIE benefits to an eligible new apartment. However, it is only a certain dollar amount of the benefit that is “portable” (i.e., transferable to a new apartment).
- The amount is **the lowest** of three options:
  - Amount by which the new apartment’s rent exceeds the tenant’s “frozen” share of the rent in the old apartment
  - Amount of the SCRIE benefit in the old apartment; or
  - Amount by which the new apartment’s rent exceeds 1/3 of income.
- The tenant must provide the following information to calculate the three options:
  - Rent for the new *and* old apartment;

- Tenant’s “frozen” share of the rent in old apartment;
- Current SCRIE benefit level in old apartment; and
- Current income.
- Because the transferable benefit is **the lowest** of the three options, portability is not financially feasible for many individuals. Example:
  - i. Rent for new apartment = \$1500/month; Lease rent for old apartment = \$900/month; “Frozen” SCRIE share of the rent for old apartment = \$600/month; Tenant’s current SCRIE benefit in old apartment = \$300/month; Current income = \$900/month.
  - ii. OPTION 1 = \$1500 - \$600 = **\$900** (amount by which new rent exceeds frozen rent in old apartment); OPTION 2 = **\$300** (current SCRIE benefit); OPTION 3 = **\$1200** (1/3 income= \$300; new rent of \$1500 exceeds 1/3 income by \$1200). In this example, option 2 produces the **lowest** dollar figure. This means that **the portable SCRIE benefit is \$300**; with a new rent of \$1500, the tenant’s portion will be frozen at \$1200, and the SCRIE will be \$300, plus future increases. For this tenant with a frozen rent of \$600 in her old apartment, the move is not economically feasible, as she would have to pay a monthly rent of \$1200, which is \$300 more than her income.
- If the tenant’s new rent is lower than the existing frozen rent, the tenant should consider a new initial application.
- DOF’s form for effectuating “portability” is called the “Apartment Benefit Transfer Application.” That application can be found here: [https://www.nyc.gov/assets/finance/downloads/pdf/scrie/scrie\\_apartment\\_benefit.pdf](https://www.nyc.gov/assets/finance/downloads/pdf/scrie/scrie_apartment_benefit.pdf).

## VIII. ADJUSTMENTS TO TENANT SHARE

- Redetermination of tenant share due to decrease in income.
  - Where there has been more than 12 months since start of the SCRIE benefit and a **permanent decrease** in household income of 20% or more (generally due to the death/departure of a spouse or other family member), a DOF SCRIE holder is entitled upon request to a **redetermination**.
  - The redetermination will result in an increase in the amount of the SCRIE benefit to maintain the tenant’s rent payment at the same rent-to-income ratio as was represented in the last approved SCRIE application or recertification form, before the loss of household income. See Admin. Code § 26-405(m)(9) (rent control); Admin. Code § 26-509(b)(9) (rent stabilization).
  - Redetermination applications can be found here: [https://www.nyc.gov/assets/finance/downloads/pdf/scrie/scrie\\_redetermination.pdf](https://www.nyc.gov/assets/finance/downloads/pdf/scrie/scrie_redetermination.pdf).
  - Redetermination applications should be submitted within six months of the event causing income loss. Example:
    - Married couple on SSI has a total household income of \$1,475/month.
    - Rent payment was frozen under SCRIE many years ago at \$737.50/month, which is now ½ of the couple’s current monthly income.
    - One spouse dies, leaving the surviving spouse on SSI.
    - Upon the filing of a request for **redetermination**, tenant’s rent payment

- is reduced to ½ of the surviving spouse’s income: \$505.50.
- Changes in household composition
  - Any change in household composition should be reported to DOF. The Rent Freeze Program Change form can be found here: <https://www.nyc.gov/assets/rentfreeze/downloads/pdf/misc-forms/rent-freeze-change-form.pdf>
- Contact information change
  - Tenants should notify DOF/HPD of any contact information changes.

## **XI. EXTENSIONS IN TIME TO APPLY**

- Any tenant who needs more time to submit an application or document, or meet any other SCRIE deadline, due to a disability or physical or mental impairment may be eligible for an extension of time upon a showing of either:
  - Good Cause
    - Includes any events that occur during the six-month period following expiration of the rent increase exemption order which prevents the tenant from filing a timely renewal application, including:
      - the tenant was hospitalized for an illness or medical condition,
      - the tenant's apartment was damaged by fire, flood or natural catastrophe,
      - the tenant demonstrates other exceptional circumstances.
    - Upon showing good cause, the filing deadline of any application, appeal, and requested documentation will be extended for six-month period.
    - The tenant or their representative must submit sufficient documentary evidence demonstrating good cause.
    - Upon approval of the extension of the time to file and of the renewal application, such rent increase exemption order will be renewed retroactive to the date of expiration of the prior rent increase exemption.
  - Reasonable Accommodation
    - Under this showing, the time to file any application, appeals, and requested documentation will be extended for an additional period of time to be determined by the agency, which may exceed six months if the agency determines more time would be a reasonable modification of its procedure necessary to avoid discrimination on the basis of disability.
    - The determination should be consistent with the requirements of the Americans with Disability Act (42 U.S.C §§ 12101 et seq.) (ADA) or the New York City Human Rights Law (§§ [8-101](#) et seq. of the Administrative Code of the City of New York (NYCHRL))
    - The tenant or tenant representative must medical documentation from an appropriate health care professional showing that the tenant had a disability as defined by the ADA or the NYCHRL, and because of this disability, the tenant needed more time to file an application or appeal.
      - Appropriate health care professionals include doctors (including psychiatrists), psychologists, and licensed health professionals.
      - If the tenant cannot secure medical documentation from an

appropriate health care professional with reasonable efforts, an extension of time may be granted if other reliable documentation is provided as may be determined by the Department.

- Request for an Extension of Time Due to a Disability or Physical or Mental Impairment form can be found [https://www.nyc.gov/assets/rentfreeze/downloads/pdf/misc-forms/eo\\_extension\\_request.pdf](https://www.nyc.gov/assets/rentfreeze/downloads/pdf/misc-forms/eo_extension_request.pdf) here:
- Tenants can contact the DOF's Disability Service Facilitator at: [www.nyc.gov/contactdofeo](http://www.nyc.gov/contactdofeo)

## **X. ADMINISTRATIVE APPEALS**

- Tenants have the right to appeal a SCRIE or DRIE denial.
  - DOF appeals must be filed within 120 days of the denial.
  - The time to appeal may be extended for “good cause.”
  - A tenant is not required to have a lawyer prepare an appeal but it is advisable to seek the assistance of an advocate when preparing such an appeal.
- If an administrative appeal is denied, further review may be sought in a proceeding brought within four months of the unfavorable agency determination in State Supreme Court under Article 78 of the Civil Practice Law and Rules.
- The appeal form can be found here: [https://www.nyc.gov/assets/finance/downloads/pdf/drie/scrie\\_appeal\\_application.pdf](https://www.nyc.gov/assets/finance/downloads/pdf/drie/scrie_appeal_application.pdf)

## **XI. LANDLORD OBLIGATIONS**

- An owner of an apartment of a SCRIE/DRIE application/recipient must:
  - Verify tenant and building information upon DOF request.
  - Provide tenants, in a timely manner, with all necessary rental documents (such as leases for Rent Stabilized tenants; DHCR form numbers RN-26, RO-30 & R33.10 for Rent Controlled tenants; MCI orders).
  - Collect the correct amount of tenant rent and handle retroactive adjustments.
  - Monitor the DOF SCRIE Statement of Account each quarter to ensure receipt of all authorized credits.
  - Advising DOF of any rent increases or decreases, changes in building status, ownership, or changes in tenant's status due to a move or death.
  - Report any suspected fraudulent claim for SCRIE by a tenant.
- A landlord cannot:
  - Refuse to accept SCRIE/DRIE benefits under NYC Human Rights Law prohibiting discrimination based on lawful source of income.
  - Charge the tenant the full rent – it must charge only the frozen tenant share while SCRIE/DRIE benefits remain in effect.