

**NEW YORK STATE AND NEW YORK CITY TAX LAWS PASSED
IN THE 2000 LEGISLATIVE SESSION**

Department of Finance, Office of Tax Policy and Intergovernmental Affairs
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The following are brief summaries of New York State laws and New York City local laws approved to date in 2000 that affect City taxes or other areas within the Department of Finance's jurisdiction. Citations are provided after each summary for readers who wish to consult the laws themselves.

Corporate Tax Transitional Provisions Adopted in Wake of Federal Financial Industry Deregulation

Legislation has been adopted to permit certain corporations that were subject to the City general corporation tax or banking corporation tax in 1999 to continue the same taxable status in 2000 rather than shifting to the other tax. This legislation is intended to forestall abrupt shifts in taxable status that might otherwise occur as a result of the enactment of the Federal Gramm-Leach-Bliley Act of 1999, eliminating restrictions that had prevented the affiliation of banks and other financial services firms. The legislation also permits certain corporations organized during 2000 to elect to file under either the general or banking corporation tax for the 2000 tax year if they are either 65 percent-or-more owned by a financial holding company or 65 percent-or-more owned by financial subsidiaries of a bank. Special rules are also prescribed concerning the filing of combined returns for 2000 by bank holding companies that have elected under the Federal Bank Holding Company Act to be financial holding companies.

Chapter 63 (Part HH), NYS Laws of 2000

New Bank Tax and UBT Allocation Rules Adopted for Mutual Fund Management Fees

The income allocation formulas of the City's banking corporation tax and unincorporated business tax have been amended to permit receipts from management, administration or distribution services performed for regulated investment companies (mutual funds) to be allocated based on the domicile of the mutual fund's shareholders. This allocation method is already permitted for City general corporation tax purposes. The amendment is effective for tax years beginning on or after January 1, 2001.

Chapter 63 (Part AA), NYS Laws of 2000

City's Energy Cost Savings Programs Restructured

In light of the accelerating deregulation of the markets for electricity and natural gas, several restructuring changes have been made in the City's Energy Cost Savings Program and Lower Manhattan Energy Program. Under the current programs, eligible businesses receive a 30 percent rebate on their total electric bills and a 20 percent rebate on their total natural gas bills. A full benefit is allowed for eight years, followed by a four-year phase-out. The utility company that gives the rebate is compensated for its lost revenue by means a credit against its City utility tax liability.

Under the revised scheme, taking effect on November 1, 2000, the discount will be based on the transmission or distribution charge billed by the local utility. This change is in recognition of the fact that energy users are now able to purchase the electric or natural gas commodity from outside suppliers in the deregulated market. In order to approximate the former benefit, a 45 percent rebate will be applied to the delivery portion of electric bills and a 35 percent rebate will be applied to the delivery portion of natural gas bills. To ensure that energy customers whose delivery bills are lower than normal receive a rebate similar to that received under the old law, the Commissioner of the Department of Business Services is authorized to adopt rules under which increased rebate percentages could be made applicable to specified customers. In addition to these restructuring changes, several liberalizing changes have been made in the eligibility requirements for participation in the two programs.

The current energy programs, which had been scheduled to sunset on June 30, 2000, have been extended through October 31, 2000, in order to provide continuity until the revised provisions take effect on November 1.)

Extension of Current Program until October 31, 2000: Chapter 103, NYS Laws of 2000

Restructuring of Program Effective November 1, 2000: Chapter 472, NYS Laws of 2000

City Economic Development Programs Expanded

Several tax incentive programs designed to promote economic development in designated "commercial revitalization" areas, excluding Manhattan below 96th Street, were enacted in this session:

- The Relocation and Employment Assistance Program (REAP) has been amended to provide an enhanced level of benefits to firms located in certain commercial or industrial zones (excluding the area below 96th Street in Manhattan) designated "revitalization areas." Under REAP, eligible firms can receive credits against the City general corporation tax, banking corporation tax, unincorporated business tax or utility tax for the relocation and

creation of jobs in any part of the City except Manhattan below 96th Street. The enhanced benefit, available to revitalization area firms that receive certificates of eligibility after July 1, 2000, provides a \$3,000-per-employee credit instead of the \$1,000-per-employee credit otherwise available. In addition, to the extent that it exceeds tax liability the enhanced credit is made refundable for the taxable year of the relocation and the four succeeding years (unlike the \$1,000 credit, which is eligible only for a five-year carryforward).

- The Industrial and Commercial Incentive Program (ICIP) encourages business development projects through the granting of real property tax exemptions and deferrals. The amendments liberalize several eligibility requirements for projects in “commercial revitalization areas”. In these areas, a “waiting period” requirement is eliminated that denied benefits for commercial projects where at least 15 percent of the property had been used for manufacturing during the 24 months (48 months in Long Island City) prior to the ICIP-application filing date. Also eliminated is a requirement that denied benefits for industrial projects where less than 75 percent of the property is used for manufacturing; instead, such projects can qualify for a prorated benefit, provided at least 25 percent of the space is devoted to manufacturing. These new requirements apply to projects for which an application for a certificate of eligibility is filed on or after July 1, 2000.
- The Citywide Revitalization Program (CRP), which offers landlords that improve their buildings real estate tax abatement benefits that they must pass along to their eligible commercial tenants, has been expanded and extended. (The CRP covers Upper Manhattan and the other boroughs; a special revitalization program is available in Lower Manhattan.) Formerly limited to office space and related retail space in designated commercial districts in the CRP abatement zone, the program has been expanded to encompass manufacturing districts in the zone and to buildings used for any business, commercial or manufacturing activities, excluding, however, retail activities. Buildings constructed before 1999 (formerly 1975) have also been made eligible for the program and certain time periods pertaining to eligibility, benefits and application filings have been extended.

Chapter 261, NYS Laws of 2000

City Authorized to Reduce Personal Income Tax Surcharge

Since 1991, the City has imposed an across-the-board 14 percent personal income tax surcharge. Legislation enacted this year authorizes the City to reduce the rate of the surcharge and to impose it at different rates depending on a taxpayer’s filing status and income level.

Chapter 184, NYS Laws of 2000

Marriage Penalty Reduced for State and City Personal Income Tax Purposes

In order to reduce the “marriage penalty” under the New York State and New York City personal income taxes, the standard deduction for a husband and wife filing jointly or a surviving spouse will be increased from its current \$13,000 level. The new standard deduction will increase to \$13,400 for tax years beginning in 2001, \$14,200 for tax years beginning in 2002, and \$14,600 for tax years beginning after 2002. The standard deduction for single filers is currently \$7,500.

Chapter 63 (Part P), NYS Laws of 2000

Personal Income Tax Credit or Itemized Deduction Offered for College Tuition Payments

Beginning in 2001, New York resident taxpayers will be given the option of claiming a refundable credit or an itemized deduction on their New York State personal income tax returns for a portion of the undergraduate college tuition paid for the taxpayer, the taxpayer’s spouse or a dependent. Although a credit is not allowed against the New York City personal income tax, a taxpayer claiming a state itemized deduction will also be allowed an itemized deduction on the City return. The credit or deduction is phased -in in 25 percent increments over a four-year period beginning in 2001, and is based on only the first \$10,000 of allowable tuition expenses.

Chapter 63 (Part DD), NYS Laws of 2000

Sales Tax Exemption Enacted for Internet Data Center Operators

Purchases of machinery, equipment and certain other tangible personal property and services by the operator of an Internet data center that sells Internet web site services will be exempted from state and local sales taxes beginning September 1, 2000. For purposes of this exemption, an Internet data center operator is a firm that operates a facility housing servers on which Internet web sites reside, and that sells the Internet web site services of uninterrupted Internet access to it’s customers web pages and continuous Internet traffic management for such web pages.

Chapter 63 (Part C), NYS Laws of 2000

Certain Vending Machine Sales of Food and Drink Exempted from Sales Tax

Candy, soda and certain fruit drinks will be exempted from state and local sales taxes, starting September 1, 2000, when sold through vending machines for 75 cents or less.

Chapter 63 (Part O), NYS Laws of 2000

Telecommunications and Cable Service Providers Granted New Sales Tax Exemptions

An existing state and local sales tax exemption for certain telephone and telegraph equipment has been expanded to include all tangible personal property (and certain related services) used in providing telecommunications services for sale or Internet access services for sale. A new exemption is also provided for machinery, equipment, parts, tools, supplies and certain related services used in upgrading cable television systems to enable them to offer digital cable TV service for sale or Internet access service for sale. These exemptions take effect September 1, 2000; however, the cable TV exemption will expire on September 1, 2003.

Chapter 63 (Part S), NYS Laws of 2000

Broadcasters Exempted from Sales Tax on Program Production and Transmission Equipment

Television and radio broadcasters have been exempted from state and local sales taxes on machinery, equipment and other tangible personal property (as well as certain related services) used in producing live or recorded programs for over-the-air broadcast or transmission through a cable television or direct broadcast satellite system. Also exempted are the machinery, equipment and other tangible personal property (and related services) used in the broadcasting or transmission of such programming. These exemptions take effect September 1, 2000.

Chapter 63 (Part T), NYS Laws of 2000

Sales Tax Treatment of Gas and Electric Purchases Revised

In connection with a major revamping of the New York State corporate franchise tax scheme as it applies to gas and electric companies, the following state and local sales tax changes affecting gas and electric purchases have also been made. (1) Since energy deregulation has made it possible for New York consumers to purchase gas and electricity from out-of-state suppliers, such purchases will be subject to state and local compensating use taxes beginning June 1, 2000. (2) Beginning September 1, 2000, a state and local sales tax exemption will be phased in, over a four-year period, on purchases of the services of transporting, transmitting or distributing gas or electricity, when such services are bought from a company other than the vendor of the gas or electricity. For the one-year period beginning September 1, 2000, the tax on such services will be reduced by 25 percent; additional 25 percent reductions will occur in the following three years, and such services will be fully exempt beginning September 1, 2003. (3) Beginning June 1, 2000, a state and local sales tax exemption will apply to purchases of gas or electricity used in operating a gas pipeline or gas distribution line or an electric transmission or distribution line. Chapter 63 (Part Y), NYS Laws of 2000

Energy Used in Production Exempted from City Sales Tax

Conforming to a long-standing state sales tax exemption, the City sales tax has been amended, effective November 1, 2000, to provide an exemption for fuel, gas, electricity, refrigeration or steam used in the production of tangible personal property for sale. (Unlike the state provision, however, the City exemption does not cover energy used in producing gas, electricity, refrigeration or steam for sale.) Coupled with the allowance of this exemption is the repeal of a credit allowed under the City general corporation tax or unincorporated business tax for sales tax paid on electricity used in producing tangible products for sale. This amendment was included in the bill to restructure the energy cost savings program that was described previously.

Chapter 472, NYS Laws of 2000

Pollution Control Equipment Exempted from Sales Tax

Beginning March 1, 2001, a state and local sales tax exemption will apply to machinery and equipment used in the control, prevention or abatement of pollution or contaminants emanating from manufacturing or industrial facilities.

Chapter 63 (Part BB), NYS Laws of 2000

New Sales Tax Exemptions Authorized for “Empire Zone” Enterprises

Localities have been given the option to include an exemption identical to a new State sales tax exemption for purchases of tangible personal property and services by qualified enterprises located in Empire Zones (formerly known as Economic Development Zones). The state exemption takes effect on March 1, 2001. The optional local exemption can be adopted to take effect on the same date or on March 1 of any succeeding year.

Chapter 63 (Part GG), NYS Laws of 2000

Sales Tax Exemption for Promotional Materials Expanded

The existing state and local sales tax exemption for promotional materials has been extended to prospectuses and to paper and ink furnished to a printer for use in producing the promotional materials. In order to receive the exemption, the paper and ink must become a physical component part of the promotional materials and the printer must sell the promotional materials to the person who furnished the paper and ink. The exemption has also been extended to mechanicals, layouts, artwork, photographs, color separations and similar property furnished to a printer who uses them in producing certain exempt promotional materials that are then sold to the furnisher of those items. These changes are retroactive to March 1, 1997. Chapter 220, NYS Laws of 2000

Food and Drink Sales at Senior Citizen Residences Exempted for Sales Tax

Food and nonalcoholic beverages sold at dining facilities located in senior citizen residences (those housing persons age 55 or over) will be exempt from state and local sales taxes. The exemption is valid where use of the dining room is limited to residents and their guests but not the general public, and where the food and drink is served only in the dining room or a resident's room. The exemption does not apply to food or drink sold through vending machines. The exemption takes effect on the first day of the sales tax quarter beginning at least 60 days after the Governor signs the bill or December 1, 2000.

Chapter 403, NYS Laws of 2000

Certain Vessel Sales to Non- New York State Residents Exempted from Sales Taxes

An existing state and local sales tax provision that exempts motor vehicle purchases by out-of-state residents who meet certain conditions, despite the fact that the purchaser takes physical possession of the vehicle in New York, has been extended to purchases of vessels and trailers sold for use with the vessel. Similar rules that apply to motor vehicles purchased in one New York sales tax jurisdiction by residents of another New York sales tax jurisdiction--and subject the purchase to the rules and rates of the resident's tax jurisdiction--have also been amended to cover purchases of vessels and their trailers. These changes take effect on the first day of the sales tax quarter beginning at least 90 days after the Governor signs the bill.

Chapter 481, NYS Laws of 2000

Authority to Conduct Tax Lien Sales Extended

The NYC Commissioner of Finance's authority to sell tax liens for nonpayment of real estate taxes and charges, which had been set to expire at the end of 1999, was extended through July 31, 2000.

NYC Local Law 3 of 2000

Real Estate Tax Phased Out on Certain Machinery and Equipment of Utilities

Certain movable machinery and equipment that is owned by a gas or electric company becoming taxable under Article 9-A of the Tax Law will be fully taxable as real property until 2001. Thereafter, the property tax will be phased out in 10 percent increments, until such property becomes fully exempt in 2011.

Chapter 63 (Part Y), NYS Laws of 2000

Area Eligibility Limitations Continued for Multiple Dwelling Exemption Program

Pursuant to section 421-a of the Real Property Tax Law, the City grants real estate tax exemptions to newly constructed multiple dwellings that comply with statutory requirements. A provision in the City's Administrative Code that excludes from the program certain sections of Manhattan below 96th Street, but was set to expire on June 30, 2000, has been extended until June 30, 2003.

NYC Local Law 28 of 2000

Site Eligibility Limitations Liberalized for Multiple Dwelling Exemption Program

The section 421-a program, which provides real estate tax exemptions for the construction of new multiple dwellings, contains certain limitations on eligibility where a proposed site contained a nonresidential building 36 months prior to the commencement of the new construction. One limitation was that the floor area ratio of the building could not exceed 20 percent of the maximum floor area ratio permitted for residential buildings in the area; that percentage has been raised to 50 percent. Another limitation was that the assessed value of the building could not be more than 20 percent of the assessed value of the underlying land; that percentage has also been raised to 50 percent.

NYC Local Law 25 of 2000

Cap Reduced on Market Value Adjustments to Real Property Class Shares

A Real Property Tax Law provision that limits to five percent the maximum increase allowable in calculating the class shares of the four real property classes in the City has been amended so as to limit the increase for any property class to a maximum of two percent. This provision is effective only for the 2000-2001 fiscal year.

Chapter 257, NYS Laws of 2000

School Tax Relief (STAR) Exemption Extended to Mixed-Use Properties

The STAR exemption statute, which is designed to extend school tax relief to homeowners, has been amended to extend the exemption to the residential portion of mixed-use properties. The portion of the property that is the primary residence of the owner will be entitled to the STAR exemption based on the assessed value attributable to it.

Chapter 264, NYS Laws of 2000

Increase in Income Ceiling Authorized for Elderly Homeowner Exemption

The state law that authorizes localities to grant qualifying senior citizen homeowners a partial real estate tax exemption has been amended to permit the adoption of local legislation that raises the income ceiling for the basic exemption from \$19,500 to \$20,500. To date, the City has not acted to implement this change.

Chapter 198, NYS Laws of 2000

Disability Definition Expanded and Income Ceiling Raised under Disabled Homeowner Exemption Program

The state law that authorizes localities to grant partial real estate tax exemptions to disabled homeowners with limited incomes has been amended to include as a “person with a disability” one who is certified to receive a United States Postal Service disability pension. The law is also amended to increase the income eligibility ceiling from \$19,500 to \$20,500.

Extension to US Postal Employees Pensions: Chapter 421, NYS Laws of 2000

Increase in Income Ceiling: Chapter 222, NYS Laws of 2000

“Gold Star Parents” Made Eligible For Alternative Veteran’s Exemption

The alternative veteran’s exemption authorized under section 458-a of the Real Property Tax Law has been amended to enable localities to extend the exemption to a residence owned by “Gold Star Parents”. This designation refers to a parent of a child who died in the line of duty while serving in the U. S. armed forces during a period of war.

Chapter 326, NYS Laws of 2000

Reinvestment Period Clarified Under “Eligible Funds” Veteran’s Exemption

The veteran’s exemption under section 458 of the Real Property Tax Law, which is based on eligible funds received from certain designated sources, has been amended to provide that where a residence receiving the exemption is sold the exemption will carry over to a newly purchased residence. The exemption would apply regardless of when the residence is purchased so long as proceeds of the sale at least equal to the eligible funds are used to buy the new residence.

Chapter 334, NYS Laws of 2000

Real Estate Tax Exemptions Authorized For Home Additions to Accommodate Elderly Parent or Grandparent

Localities have been authorized to grant real property tax exemptions to homeowners for construction or reconstruction work that creates living quarters for a parent or grandparent who is at least age 62. The exemption is for any increase in assessed value attributable to the new construction, but cannot exceed the lower of 20 percent of the total assessed value of the property or 20 percent of the median sale price of residential property in the county. This exemption would apply to years beginning after 2000.

Chapter 377, NYS Laws of 2000

Environmental Control Board Judgments Becomes a Lien on Real Property

Certain judgments issued by the NYC Environmental Control Board, when filed with the Department of Finance, will become a lien against the affected property and subject to the same enforcement remedies as delinquent real estate taxes, including foreclosure or tax lien sale. Such judgments will also incur interest at the same rate as delinquent real estate taxes on the property. These new remedies apply to judgments arising out of violation notices issued on or after September 4, 2000 with respect to private dwellings, wooden-framed single room occupancy multiple dwellings and residential dwellings with fewer than four units.

Chapter 45, NYS Laws of 2000

Cigarette Tax Penalties Increased

A new legislative initiative designed to combat cigarette bootlegging and sales to minors includes increased civil and criminal penalties under the New York State and New York City cigarette tax laws. Under the new law, which takes effect November 14, 2000, the City's civil penalty for possessing unstamped or unlawfully stamped cigarettes is strengthened by permitting a penalty of up to \$100 for each carton in excess of five, instead of for each carton in excess of 10. In addition, an alternative penalty is authorized for the *knowing* possession of unstamped or unlawfully stamped cigarettes; the penalty increases in three steps, to a maximum of between \$100 and \$200 for each carton in excess of 100 cartons. A new criminal penalty is added, which makes it a Class D felony to willfully possess or transport for sale or sell 150 cartons or more of unstamped or unlawfully stamped cigarettes in violation of law. An existing misdemeanor penalty for dealing in bootleg cigarettes is increased to a Class E felony for a new violation committed within five years after a prior conviction.

The new law also bans direct sales of cigarettes to consumers via the Internet, telephone or mail order, and imposes penalties for violations.

Chapter 262, NYS Laws of 2000

Retail Cigarette Licensing Function Transferred to Consumer Affairs Agency

The responsibility for issuing retail cigarette dealer licenses in connection with the City cigarette tax has been transferred from the Department of Finance to the Department of

Consumer Affairs, effective for licenses issued or renewed on or after August 2, 2000. (Wholesale cigarette dealer licenses will continue to be issued by the Department of Finance.)

The fee for the newly issued biennial retail licenses will be \$110, instead of the former \$10 fee for an annual license. NYC Local Law 2 of 2000

City Sheriff's Mileage Fee Increased

The mileage fee payable to the New York City Sheriff has been increased from \$15 to \$25, effective October 1, 2000.

Chapter 337, NYS Laws of 2000

