
THE CITY OF NEW YORK
DEPARTMENT OF FINANCE
OFFICE OF TAX POLICY

**LEGISLATIVE REPORT
FOR 2001**

RUDOLPH W. GIULIANI, MAYOR • ANDREW S. ERISTOFF, COMMISSIONER

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REPORT PREPARED BY THE
OFFICE OF TAX POLICY
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REPORT ON 2001 STATE AND LOCAL LEGISLATIVE SESSIONS

The following are brief summaries of New York State and New York City laws enacted during 2001 that affect City taxes and other programs administered by the Department of Finance. Citations are provided after each summary for readers who wish to consult the laws themselves.

Property Tax

Tax Abatement Extended for Class Two Cooperatives and Condominiums

Pursuant to section 467-a of the Real Property Tax Law, the City grants an abatement of real estate taxes to eligible Class Two cooperative and condominium units. This amendment extends the program for an additional three years through FY 2004. For units in buildings with an average assessed value per unit of \$15,000 or less, the abatement is equal to 25 percent of the net real property taxes attributable to or due from such units. For all other units, the rate of abatement is equal to 17.5 percent. Cooperatives and condominiums that are eligible for the abatement for the first time for FY 2002 must file an application within 60 days of the effective date of this statute, September 7, 2001. Cooperatives that have previously received the abatement and filed an information return pursuant to subdivision (g) of section 11-2105 of the Administrative Code as of February 15, 2001 are not required to file an application within this 60-day period.

Chapter 294, NYS Laws of 2001

Cap Reduced on Market Value Adjustments to Real Property Class Shares

Article 18 of the Real Property Tax Law requires that the adjusted base proportions of the four real property tax classes be revised each year to reflect relative changes in market values, subject to a five-percent limit on any increase in a class's share of the tax levy. The Legislature, however, has amended this provision by reducing the maximum increase from five percent to two percent, effective only for the FY 2002.

Chapter 344, NYS Laws of 2001

Third Party Notice for School Tax Relief (STAR) Exemption

This amendment to the STAR program allows senior citizens who receive the enhanced exemption to request that a duplicate copy of the annual notice to re-apply be sent to an adult third party. Such request must be made by the senior citizen no later than the taxable status date. The bill requires the locality to maintain a list of all eligible property owners residing in such jurisdiction who have requested a duplicate notice. Such notice must be sent to the designated third party at the same time and in the same manner as the notice given to the eligible taxpayer. The effective date of this amendment is December 3, 2001.

Chapter 233, NYS Laws of 2001

Exemption from School Taxes Authorized for Elderly Homeowner Exemption

Section 467 of the Real Property Tax Law authorizes localities to grant qualifying senior citizen homeowners a partial real estate tax exemption. However, the exemption does not apply to taxation for school purposes if the property is the residence of a child who attends a public elementary or secondary school. The legislature has amended this provision, authorizing school districts to adopt a resolution to provide for such exemption. The amendment is effective January 1, 2002.

Chapter 199, NYS Laws of 2001

Establishment of Special Franchise Assessments

This amendment to section 608 of the Real Property Tax Law authorizes the State Board of Real Property Services to establish a separate tentative and final special franchise value or assessment for physical property that had been omitted from an assessment roll for a preceding fiscal year. Such values shall be entered and taxed in accordance with section 551 of the RPTL. Conversely, the amendment also authorizes the Board to deduct the value of incorrectly included properties from the tentative and final assessment rolls. Finally, section 610 of the RPTL is amended to include a new subdivision three regarding appearances by non-complainant parties at hearings for the review of special franchise assessments. Specifically, if a complaint is filed by the assessing jurisdiction but not the special franchise owner, the owner may appear at the hearing to testify or provide written statements with supporting documentation. It offers the same opportunity for the assessing jurisdiction if the owner is the complainant.

Chapter 322, NYS Laws of 2001

Extension of Public Housing Exemption

This law amends section 52 of the Public Housing Law to extend the 60-year exemption period applicable to federal projects for an additional 60 years. The new subdivision (6) authorizes municipalities to: (a) fix an annual payment that shall be paid by the authority for each project; (b) waive any right to payment by the authority for any year or years; or (c) fix a sum to be paid by the authority as a payment in lieu of tax for any year or years. However, the amount of payment may not exceed the amount of taxes last levied on the property prior to its acquisition by the authority or such greater amount as the federal government may provide.

Chapter 352, NYS Laws of 2001

Extension of Real Property Tax Exemption for Mutual Redevelopment Company (“Penn South”)

An amendment to the Private Housing Finance Law enacted 14 years ago extended a property tax exemption for the Penn South residential complex for 25 years. This bill extends the exemption period for an additional 10 years. The new law also puts a limitation on the taxes that Penn South will be required to pay during the 21 remaining years of the exemption. Total taxes cannot exceed an amount equal to the greater of ten percent of the annual rent or carrying charges of the project minus utilities for the residential portion (shelter rent) or the taxes payable by such company in the fourteenth year of the 25-year extension period. The law also amends section 423 of the Real Property Tax Law. Section 423 authorizes a ten-year phase out exemption for redevelopment companies. The new amendment makes the ten-year phase out inapplicable to redevelopment companies if the total exemption period would exceed 60 years.

Chapter 118 (Part EE), NYS Laws of 2001

Authorization to File an Application for a Real Property Tax Exemption

Although each law deals with specific organizations and facts, the following statutes authorize each not-for-profit organization to file, retroactively, for real property tax exemptions for the current year and/or prior fiscal years (as far back as 1984). It also authorizes the cancellation of any taxes, fines, penalties and interest remaining unpaid and the refund of any tax that has been paid.

NYS Laws of 2001:

Chapter 90: Saint Ann’s School (Brooklyn)

Chapter 142: Congregation Shaaray Tefila, aka Congregation Gates of Prayer (Queens)

Chapter 219: Bronx Arya Samaj

Chapter 266: The Gingerbread Learning Center (Staten Island)

Chapter 293: New York Public Library, Astor, Lenox and Tilden Foundations (the Bronx)

Chapter 332: The Brooklyn Cultural Center of New York, Inc.

Assessment of Commercial Buildings During the Course of Construction (Local Law)

Prior to this amendment, the City provided a one-year exemption from taxation for increases in value resulting from new construction that remains incomplete as of the taxable status date. This bill extends this exemption for up to three years during the course of constructing a commercial building. Under this statute, a commercial building is defined as a “building that is intended to be used ... exclusively for buying, selling or otherwise providing goods or services or for other lawful business, commercial or manufacturing activities, excluding hotel services....” The amendment also applies to

buildings, other than a hotel, that have a residential component, if the residential portion is or will receive a partial exemption pursuant to section 421a of the Real Property Tax Law or if it is eligible for a full exemption.

NYC Local Law 35 of 2001

Modification of the Industrial and Commercial Incentive Program (Local Law)

The City Council adopted a local law to implement changes to the Industrial and Commercial Incentive Program authorized by State law in 2000. The amendments ease restrictions regarding the availability of benefits for commercial construction in commercial and manufacturing areas (“commercial revitalization areas”), excluding Manhattan south of 96th Street. It also expands the use of tax abatements for industrial construction work by allowing a proportionate abatement if the portion of the building to be used for industrial purposes will be at least 25 percent of the total net square footage but not more than 75 percent.

NYC Local Law 42 of 2001

Extension of J-51 Benefits for the Installation of Sub-metering Systems (Local Law)

This amendment to the J-51 program would provide tax benefits to cooperatives, condominiums and housing development fund companies that convert from a direct metering system to a sub-metering system in their buildings. In a direct metering system, the utility company directly bills customers based on each customer’s total usage. Under a sub-metering system, the distribution of utility services consists of a master meter for the entire building and individual sub-meters for individual housing units. The goal of the bill is to facilitate billing customers on the basis of time of usage (peak v. off-peak hours) as well as the amount of usage and, thus, to further encourage energy conservation.

NYC Local Law 44 of 2001

Extension of Tax Lien Sale Laws (Local Law)

The City’s ability to sell tax liens was extended two years, to October 31, 2003. In addition, the Council amended several provisions of the laws. First, section 11-319 of the Administrative Code was amended to provide that:

- a tax lien on a Class Two property that is not in cooperative or condominium form of ownership or a Class Three property cannot be sold unless such tax lien included a real property tax component as of the date of the first publication of the notice of sale. However, any tax lien remaining unpaid after such date may be sold whether or not it includes a real property tax component;
- a tax lien on a Class Four property cannot be sold unless such tax lien included a real property tax component, a sewer rent or surcharge component or water rent

component as of the date of the first publication of the notice of sale. However, any tax lien remaining unpaid after such date may be sold whether or not it includes a real property tax, sewer rent/surcharge or water rent component.

Section 11-319 a-1, regarding the sale of subsequent tax liens, also has been amended to include similar provisions. Third, the language of section 11-332 has been amended to provide that any amounts due (on tax liens) shall be paid directly to the holder of the tax lien certificate rather than to a person or entity designated by the Commissioner of Finance. Additionally, upon satisfaction of the tax lien, the holder of such tax lien shall issue a certificate of discharge to the person who satisfied such tax lien, certifying that the lien has been paid or otherwise satisfied. Fourth, section 11-333 has been amended to streamline the process for discharge of a tax lien. Finally, the bill amends section 26-517.1 of the Administrative Code with regard to rent stabilization fees.

NYC Local Law 36 of 2001

Income and Excise Taxes

Commercial Rent Tax Exemption and Credit Amounts Increased (Local Law)

Under two bills enacted during 2001, the rent threshold below which a tenant is exempt from the commercial rent tax has been increased in two steps. For the period from December 1, 2000 to May 31, 2001, a tenant is exempt from the tax if its annualized base rent for the period is not over \$149,999 (formerly \$99,999). Beginning June 1, 2001, the tax does not apply to any tenant whose annual base rent is less than \$250,000.

Corresponding adjustments have been made to the commercial rent tax credit that is designed to phase in the tax due from tenants whose rents exceed the exemption levels. Thus, for the period from December 1, 2000 to May 31, 2001, a credit, decreasing in four steps--from 80% to 20% of tax liability--is allowed where a tenant's annualized base rent for the period is at least \$150,000 but not more than \$189,999. No credit is allowed where the annualized base rent exceeds \$189,999. Beginning June 1, 2001, a tenant whose base rent is at least \$250,000 but not over \$300,000 is allowed a credit determined by multiplying 3.9% of base rent by a fraction whose numerator is \$300,000 less the amount of base rent and whose denominator is \$50,000. No credit is allowed where base rent exceeds \$300,000.

New York City Local Laws 6 and 38 of 2001

City Personal Income Tax Surcharge Reduced (Local Law)

Since 1991 the City has levied an across-the-board 14% surcharge on the City resident personal income tax. A local law adopted late in 2000 reduced the surcharge to 7% for the 2001 tax year on taxable income below specified levels. The 7% rate applied to the first \$90,000 of taxable income for joint filers and surviving spouses, the first \$60,000 for heads of households and the first \$50,000 for single individuals, married persons filing separately and estates and trusts. The 14% rate remained applicable to the portion of taxable income that exceeded these levels. In 2001 a second local law made further reductions in the surcharge rates for the 2001 tax year. For the taxable income brackets mentioned above, new blended annual rates of 5.25% and 12.25% were adopted, with the objective of producing effective surcharge rates of 3.5% and 10.5% beginning July 1, 2001. (Unless additional local legislation is enacted, the original 14% surcharge rate will be reinstated for tax years beginning after 2001.)

New York City Local Laws 68 of 2000 and 37 of 2001

Various City Taxing Authorizations Extended

Various state laws, most dating back to the 1970's, have authorized the City to impose certain taxes or levy taxes at increased rates, but have contained sunset provisions that must be extended periodically. Most recently, these authorizations, which were set to expire at the end of 2001, have been amended to continue in effect until the end of 2003. These taxes and rates are as follows.

- the special 4% City sales tax on credit rating and credit reporting services;
- the current higher basic rate tables for the City resident personal income tax, which specify a maximum rate of 3.2%;
- the City minimum resident personal income tax and the current higher minimum income tax rate of 2.85%;
- the City resident personal income tax surcharge, which can be imposed at a maximum rate of 14%;
- the current higher City cigarette tax rate of 8 cents per pack;
- the current special 4% City sales tax on certain personal services such as beauty, barbering, manicuring and health salon services and services sold by weight control and gymnasium facilities;
- the higher rates of the City general corporation tax, currently 8.85% on taxable income, 1.5 mills on business and investment capital, .75 mill on subsidiary capital and a \$300 fixed dollar minimum tax.

Chapter 118 (Part LL), NYS Laws of 2001

Certain City Corporate Tax Provisions Conformed to State Counterparts (Local Law)

In an effort to promote greater uniformity between New York City and New York State corporate income tax laws, the following amendments have been made to the City's general corporation tax and banking corporation tax provisions in order to bring these sections into conformity with their State counterparts. These amendments were made through local legislative action as permitted by law.

- City general corporation tax provisions that penalized certain highly leveraged mergers, consolidations and acquisitions are repealed for tax years beginning after 1999;
- the provision designating the corporate officers that are authorized to certify a corporation's tax returns is amended to specifically permit any duly authorized person to certify a report required to be filed by a publicly-traded partnership, an association or a business conducted by one or more trustees;
- the provisions requiring general and banking corporation taxpayers to report Federal or New York State audit changes and certain other actions to the Department of Finance are amended to permit corporations that file combined returns to report such changes within 120 days, rather than 90 days, following the Federal or State change;
- the mandatory first installment of estimated tax equal to 25% of the prior year's tax, formerly determined by ignoring certain credits allowed against the prior year's tax, has been modified to allow all credits to be deducted in determining the amount of the prior year's tax used in calculating a general or banking corporation's first installment;
- various general corporation tax provisions relating to determining the limitations on assessment, claims for refund and interest have been amended to treat deficiencies or overpayments attributable to a "capital loss" carry-back" in the same manner as deficiencies or overpayments attributable to a net "operating loss" carry-back;
- the provision that carries an automatic lien on property (other than certain real property) as of the due date of a corporate tax return is amended to provide for the expiration of the lien after 20 years (formerly it continued indefinitely); a 10-year expiration period continues to apply to the lien as it relates to certain good faith purchasers of, or holders of mortgages on, real property.

New York City Local Law 57 of 2001

Lower Manhattan Tax Incentive Program Sunset Dates Extended

The City's Energy Cost Savings Program (ECSP) includes provisions that allow eligible tenants in Lower Manhattan to obtain lower cost electricity. Certain sunset dates that relate to the eligibility of the buildings in which such benefits are available are extended from August 1, 2001 to March 31, 2004. The real property tax abatement program for tenants in Lower Manhattan, designed to produce lower rental costs, is extended from August 2, 2001 to March 31, 2004. In addition, the benefit period of the abatement is extended from March 31, 2007 to March 31, 2010. A requirement of the abatement program concerning expenditures for improvements to common areas of an eligible building has been amended to permit such expenditures to qualify under the law where the improvement work is completed by September 30, 2004, rather than September 30, 2001. In connection with the commercial rent tax abatement for tenants in Lower Manhattan, the end of the period during which the special tax reduction is allowed has been extended from March 31, 2007 to March 31, 2010.

Chapter 118 (Part FF), NYS Laws of 2001

Bank Tax Extended

The City and State bank taxes have been extended to tax years beginning before January 1, 2003. In addition, various transitional provisions relating to the City/State tax treatment of financial services companies in light of the enactment of the federal Gramm-Leach-Bliley Act, which deregulated various financial services activities, have been modified and extended to taxable years beginning before January 1, 2003.

Chapter 383, NYS Laws of 2001

Parking Fines

Authorize Treble Damages for Fraud in PVO Cases

Under current law, if the dismissal of a parking summons was found to be the result of a vehicle owner's fraud, the original fine is reinstated with only a small lateness penalty. This legislation allows the Department of Finance to impose a penalty equal to three times the total fine plus a lateness penalty otherwise payable where a summons is reinstated due to fraud.

Chapter 409, NYS Laws of 2001

Sunset Dates for Parking Violations Penalties/Surcharge Extended

The sunset dates for various Vehicle and Traffic Law sections authorizing current parking violations penalty levels and the \$5 per summons surcharge were extended from November 1, 2001 to November 1, 2003.

Chapter 95, NYS Laws of 2001