

NEW YORK CITY DEPARTMENT OF FINANCE
OFFICE OF TAX POLICY

LEGISLATIVE REPORT FOR 1999

*A Summary of State and Local Legislation
Affecting New York City's Tax System
and the Department of Finance*

Table of Contents

REAL PROPERTY TAX 1

Coop/Condo Abatement Program Extended for 2 Years
Reduction in Cap on Market Value Adjustments to Class Shares
Four-Year Extension of the Industrial and Commercial Incentive Program (ICIP)
Increase in Income Limitation for Disabled Persons
Low-Income Housing Exemption Extended to Limited Liability Companies
State Board Directed to Study Real Property Tax Impact of Utility Deregulation
Senior Citizens Homeowner’s Exemption Extended to Holders of Life Estates
Escrow Account Reductions Required on Account of STAR Exemptions
Alternative Veteran’s Exemption Liberalized for Recipients
of Expeditionary Medal
Property Tax Rolls Required to Show Assessment Ratio and Parcel’s Full Value
Amendment to Tax Treatment of Residential Construction in an
Urban Development Action Area Project

BUSINESS INCOME AND EXCISE TAXES 3

Four-Year Extension of the Relocation and Employment Assistance Program (REAP)
Three-Year Extension of the Transfer Tax Reduction
For Real Estate Investment Trusts (REITs)

SALES TAX 3

New Sales Tax Holidays on Clothing Purchases and Delayed Start to Permanent Exemption
Sales Tax Exemption Extended to Certain Equipment
Used by Cable TV and Telecommunications Companies
Computer Hardware Used in Designing Web Sites Exempted from Sales Tax
City’s Theatrical Sales Tax Exemption Extended to State Sales tax
Special Parking Tax Enforcement Rules Extended
Sales Tax Rules Adopted for Sales of Prepaid Telephone Calling Services

PERSONAL INCOME TAX 5

New York City Non-Resident Tax Repealed
Nazi Persecution Victims Granted Tax Relief
Federal Innocent Spouse Protection Extended to State/City PIT
Limits on Tax Benefits in Certain Merger and Acquisition Transactions Repealed

OTHER LEGISLATION **6**

Two-Year Extension of Temporary Tax Provisions
Study Ordered of Local Taxes and Fees on
 Telecommunication Companies and Consumers
Enhanced Powers of City Marshals Continued
“Combat Zone” Designation Extended to Yugoslavia
Importation and Affixation of Cigarette Tax Stamps
 on Certain Cigarettes Prohibited
Increase in Handicap Parking Fine and Establishment of a
 Handicap Parking Education Program
Energy Cost Savings Program (ECSP) Sunset Date Postponed

REAL PROPERTY TAX

Coop/Condo Abatement Program Extended for Two Years

The 1996 law that established a three-year real estate tax abatement program for owners of Class Two cooperative and condominium apartments expired Dec. 31, 1998. The new law extends the program an additional two years through December 31, 2000. The bill also includes a provision that replaces a requirement under the real property transfer tax that coops and condos file semi-annual information returns listing the unit sales in a building with a simplified procedure requiring the filing of an annual return in conjunction with the coop/condo abatement program.

Chapter 407, NY Laws of 1999

Reduction in Cap on Market Value Adjustments to Class Shares

The above bill also included a reduction in the maximum allowable percentage increase in calculating the class shares of the four property classes for the FY 2000 property tax levy. The maximum increase allowed for any property class had been 5 percent. This bill limited the increase to 2.5 percent.

Chapter 407, NY Laws of 1999

Four-Year Extension of Industrial and Commercial Incentive Program (ICIP)

The ICIP real property tax incentive program was extended for four years until June 30, 2003. This will allow benefits to continue for new construction in Lower Manhattan and for renovations in Manhattan south of 59th Street.

Chapter 143, NY Laws of 1999 and NYC Local Law 44 of 1999

Increase in Income Limitation for Disabled Persons

Persons with disabilities are entitled to a real property tax exemption on property in which they reside subject to income limits. The State Legislature has increased the maximum income allowable under this program from \$18,500 to \$19,500. The higher amount would conform to the income limitation of the senior citizen homeowner's exemption program. The bill requires local approval for its provisions to take effect. The City Council has not yet acted on this bill.

Chapter 238, NY Laws of 1999

Low-Income Housing Exemption Extended to Limited Liability Companies

Effective June 22, 1999, the real property tax exemption under Real Property Tax Law §420-c for certain low-income housing accommodations owned by corporations or partnerships has been extended to such accommodations owned by limited liability companies.

Chapter 104, NY Laws of 1999

State Board Directed to Study Real Property Tax Impact of Utility Deregulation

The New York State Board of Real Property Services has been mandated to study and prepare a written report on the real property tax implications of the divestiture of generating assets by investor-owned utilities, and make recommendation on ways to address any negative implications of such divestiture on local governments. The report is due by January 1, 2000.

Chapter 239, NY Laws of 1999

Senior Citizen Homeowners' Exemption Extended to Holders of Life Estates

Section 467 of the Real Property Tax Law, which provides a real property tax exemption to eligible senior citizens who own their homes, has been amended to make the exemption applicable to persons holding a legal life estate in a home, provided they otherwise meet the requirements for exemption. (Section 467 had previously been interpreted as applying to holders of life estate.)

Chapter 270, NY Laws of 1999

Escrow Account Reductions Required on Account of STAR Exemptions

Effective July 27, 1999, mortgage investing institutions are required to reduce a homeowner's escrow account obligation to reflect a reduction in real property taxes as a result of the receipt of a STAR (School Tax Relief) exemption under that recently enacted program.

Chapter 400, NY Laws of 1999

Alternative Veteran's Exemption Liberalized for Recipients of Expeditionary Medal

The alternative veteran's real property tax exemption under section 458-a of the Real Property Tax Law has been extended to all recipients of an Army, Navy or Marine Corps expeditionary medal granted for service in a hostile area during peace time, effective January 1, 2000. Formerly, only participants in the operations in Lebanon, Grenada or Panama could claim the exemption. All expeditionary medal recipients have also been made eligible for the additional 10 percent alternative exemption formerly available only to veterans who received a campaign medal for service in a designated combat zone.

Chapter 566, NY Laws of 1999

Property Tax Rolls Required to Show Assessment Ratio and Parcel's Full Value

The Real Property Tax Law has been amended to require local assessment rolls to show the uniform percentage (or percentages where property is assessed by class) of value applicable to the assessment unit and the full value of each separately assessed parcel included in the roll. The new requirement applies to rolls based on taxable status dates occurring after January 1, 2000.

Chapter 611, NY Laws of 1999

Amendment to Tax Treatment of Residential Construction in an Urban Development Action Area Project

Chapter 645 amends section 696 of the General Municipal Law, which defines the tax incentives available for residential construction in an urban development action area project. Section 696 provides a 20-year tax exemption for all or part of the increase due to such improvements, except for assessments for local improvements and land value (“minimum tax”). Chapter 645 provides that the minimum tax during the exemption period shall be based upon the lower of: (a) the assessed value immediately preceding commencement of construction; or (b) the assessed valuation of the land appearing on the assessment roll in the first year after completion of construction. This will enable the minimum tax on land of a newly constructed property built on land previously zoned for non-residential use to receive Class One property treatment.

Chapter 645, NY Laws of 1999

BUSINESS INCOME AND EXCISE TAXES

Four-Year Extension of Relocation and Employment Assistance Program (REAP)

This economic development incentive program was extended for four years until July 1, 2003. The program provides a \$1,000 tax credit for each eligible employee relocated from Manhattan South of 96th Street or from any location outside New York City to an eligible premises anywhere else in the City. The credit is applied against tax liability owed under the general corporation tax, bank tax or unincorporated business tax. The bill also extends the credit to companies that are required to file the City’s utility tax.

Chapter 149, NY Laws of 1999

Three-year Extension of Transfer Tax Reduction for Real Estate Investment Trusts (REITs)

The new State budget includes a provision that would continue to provide a 50 percent reduction in State and City real property transfer taxes for conveyances of real property to existing REITs. This tax benefit was extended until September 1, 2002.

Chapter 407, NY Laws of 1999

SALES TAX

New Sales Tax Holidays on Clothing Purchases and Delayed Start to Permanent Exemption

The new State budget establishes two sales tax free weeks for clothing and footwear costing under \$500 per item. The first exemption period takes place from September 1-7, 1999 followed by another week-long holiday from January 15-21, 2000. The permanent exemption for clothing and footwear under \$110 has been delayed from December 1, 1999 to March 1, 2000. Localities are authorized to grant the same exemption for local sales tax purposes. The City Council has passed a resolution extending the one-week holidays for local sales tax purposes.

Chapter 407, NY Laws of 1999

Sales Tax Exemption Extended to Certain Equipment Used by Cable TV and Telecommunications Companies

Effective March 1, 2001, machinery, equipment or apparatus (including related parts, tools and supplies) used or consumed directly and predominantly to upgrade cable television systems to permit them to be used in providing telecommunications services for sale will be exempt from NYS and local sales and use taxes. An equivalent exemption will be granted to telecommunications companies that provide Internet access services.

Chapter 407, NY Laws of 1999

Computer Hardware Used in Designing Web Sites Exempted from Sales Tax

Computer system hardware used or consumed directly and predominantly in providing the service, for sale, of designing and developing Internet web sites will be exempt from NYS and local sales and use taxes beginning March 1, 2001.

Chapter 407, NY Laws of 1999

City's Theatrical Sales Tax Exemption Extended to State Sales Tax

In 1997, a special New York City sales and use tax exemption was enacted for tangible personal property (and certain services) used or consumed directly and predominantly in the production of live dramatic or musical arts performances in a theater. This exemption will also apply for New York State sales and use tax purposes beginning March 1, 2001.

Chapter 407, NY Laws of 1999

Special Parking Tax Enforcement Rules Extended

Special rules designed to improve the enforcement of New York State and City sales taxes on parking services in Manhattan, which were due to expire on November 30, 1999, have been extended until November 30, 2004. These rules (found in section 1142-A of the NYS Tax Law) impose special record keeping and filing requirements on garage operators in Manhattan and allow State Tax Department employees to enter and observe the business operations in these garages.

Chapter 407, NY Laws of 1999

Sales Tax Rules Adopted for Sales of Prepaid Telephone Calling Services

Effective March 1, 2000, New York State and local sales and use taxes will apply to the total amount paid, at the time of sale, for "prepaid telephone calling service," which is defined as the right--paid for in advance--to purchase telecommunication services that permit the origination of intrastate, interstate or international telephone calls using an access number or authorization code. The taxes will

apply regardless of whether the right to use the service is evidenced by a card. If the sale of the prepaid calling service does not take place at the vendor's place of business, it will be deemed to take place at the purchaser's shipping address or, if there is no item shipped, at the purchaser's billing address.

Chapters 649 and 651, NY Laws of 1999

PERSONAL INCOME TAX

New York City Non-Resident Tax Repealed

Without the City's consent and over its objections, legislation was enacted that exempted New York State residents from the City nonresident earnings tax as of July 1, 1999, while continuing the tax in effect for out-of-state residents. The legislation provided that if a court determined that limiting the tax to out-of-state residents was unconstitutional, the entire tax would be repealed. A court has ruled that the legislation unconstitutionally discriminated against out-of-state residents and the court rejected the City's argument that passage of the legislation violated the City's home rule powers. The City has appealed the decision.

Chapter 5, NY Laws of 1999

Nazi Persecution Victims Granted Tax Relief

Qualified settlement amounts received from an eligible settlement fund or trust (as defined in the Internal Revenue Code) by victims or targets of Nazi persecution, including individuals, corporations, partnerships and other entities, have been exempted from all NYS and local taxes on or measured by income. In addition, an entity that is treated as an eligible settlement fund or trust will be exempt from all NYS and local taxes imposed on or measured by income, the City's commercial rent tax and all NYS and local sales and use taxes.

Chapter 407, NY Laws of 1999

Federal Innocent Spouse Protection Extended to State/City Personal Income Tax

For tax years beginning after 1998, spouses who file joint NYS/ NYC personal income tax returns are eligible for the protection from joint and several liability afforded innocent spouses under the provisions of IRC section 6015. A determination by the IRS relieving an individual of Federal income tax liability will create a rebuttable presumption that he or she is entitled to equivalent relief under State/City taxes. The State Tax Commissioner is required to include in all appropriate publications and instructions information about a taxpayer's right to innocent spouse relief.

Chapter 407, NY Laws of 1999

Limits on Tax Benefits in Certain Merger and Acquisition Transactions Repealed

Various provisions found in the New York State corporate and personal income tax statutes, which denied or limited certain tax benefits to taxpayers involved in certain highly leveraged merger and acquisition transactions, have been repealed, effective for tax years beginning after 1999. One of these

provisions, which partially disallowed a deduction for “acquisition-related interest,” also applied for New York City personal income tax purposes; it, too, has been repealed.

Chapter 407, NY Laws of 1999

OTHER LEGISLATION

Two-Year Extension of Temporary Tax Provisions

Various City taxes were scheduled to revert to lower rates after December 31, 1999. The taxes included the resident personal income tax, the general corporation tax and the cigarette tax. In addition, the 14 percent personal income tax surcharge, the special sales tax on beauty, barbering and certain other personal services and the special city sales tax on credit rating and credit reporting services were due to expire on December 31, 1999. The provisions due to sunset were extended for two years until December 31, 2001.

Chapter 406, NY Laws of 1999

Study Ordered of Local Taxes and Fees on Telecom Companies and Consumers

The State Tax Department and the State Board of Real Property Tax Services have been directed to conduct a study of and issue a report on local taxes, fees and other governmental charges imposed on telecommunications and cable television companies and consumers of such services. A preliminary report must be issued by September 1, 2000, and a final report by December 1, 2000. The agencies conducting the study are to be assisted by an advisory panel composed of representatives of local governments and affected industries, academic experts and persons with accounting and legal expertise.

Chapter 407, NY Laws of 1999

Enhanced Powers of City Marshals Continued

Legislation was enacted in 1997 that extended to City Marshals the powers held by the City Sheriff to enforce money judgements rendered by the Supreme Court and Family Courts in New York City. The sunset date for this provision has been changed from June 30, 1999 to June 30, 2004.

Chapter 71, NY Laws of 1999

“Combat Zone” Designation Extended to Yugoslavia

For purposes of various New York State and local tax provisions that extend tax benefits to individuals serving in a “combat zone,” the Federal Republic of Yugoslavia will be deemed a combat zone as of March 24, 1999.

Chapter 34, NY Laws of 1999

Importation and Affixation of Cigarette Tax Stamps on Certain Cigarettes Prohibited

Beginning January 23, 2000, it will be illegal to import into New York, or to affix cigarette tax stamps to, any cigarettes that are marked for export outside the United States in compliance with Federal regulations, or that are in violation of Federal labeling requirements.

Chapter 384, NY Laws of 1999

Increase in Handicapped Parking Fine and Establishment of a Handicapped Parking Education Program

Effective April 1, 2000, the fine for illegally parking in handicapped parking spaces is increased from \$55 to \$80. A portion of the increased fine revenues is to be used by localities, including New York City, to fund a handicapped parking education program (to provide increased awareness of handicapped parking laws) and a disability awareness program for local law enforcement agencies.

Chapter 497, NY Laws of 1999

Energy Cost Savings Program (ECSP) Sunset Date Postponed

Legislation was enacted that postpones the sunset date for participation in the Energy Cost Savings Program from June 30, 1999 to June 20, 2000.

Chapter 154, NY Laws of 1999