

Instructions for Form CR-A

FINANCE
NEW YORK



Commercial Rent Tax Annual Return

Applicable for the tax period June 1, 2000, to May 31, 2001, ONLY

IMPORTANT CHANGES

- A 35% rent reduction is allowed in computing base rent subject to tax.
- The Base Rent Before Rent Reduction (line 7, or line 11a if applicable, on page 2) NOT the line 12 amount, determines your tax rate. Transfer the amount on line 12 to the rate class on lines 13 through 18 which corresponds to the amount on line 11a, Column A, or Column B, as applicable.
- Taxpayers whose annual or annualized base rent before the 35% rent reduction is less than \$100,000 for the tax period 6/1/2000 - 11/30/2000 and \$150,000 for the tax period 12/1/2000 - 5/31/2001 are no longer subject to the Commercial Rent Tax. However, a tax return may be required to be filed.
- A tax return is no longer required to be filed with respect to any premises if your gross rent paid is \$75,000 or less and you do not receive over \$75,000 in rent from any subtenant.
- A tax credit is allowed for taxpayers whose annual or annualized base rent before the 35% rent reduction is at least \$100,000, but less than \$140,000 for tax period 6/1/2000 - 11/30/2000 and at least \$150,000 but less than \$190,000 for tax period 12/1/2000 - 5/31/2001. The tax credit is incorporated into the tax rates on page 1 of Form CR-A.
- In computing base rent, all rents received from subtenants may be deducted by a prime tenant, regardless of amount.
- The submission of this return represents an automatic protective refund claim for any overpayment of the tax reported on this return that results from the inclusion in base rent of NYC Real Property Tax escalation payments for which the tenant/taxpayer subsequently receives a refund or credit from the landlord. Notwithstanding the protective refund claim, no refund of Commercial Rent Tax will be paid unless and until the property tax refund or credit is received from the landlord and the tenant submits, with a copy of this return, sufficient information to establish the amount of any such overpayment.

GENERAL INFORMATION

FORMS TO BE USED AND PERIODS COVERED

An annual return (CR-A) is required to be filed by every tenant, on or before June 20, covering the preceding year from June 1 to May 31. Every tenant subject to tax for a period must file a quarterly return (Form CR-Q). Quarterly returns are due for the three-month periods ending on the last days of August, November and February of each tax year and must be filed within 20 days after the end of the period they cover.

Every tenant subject to tax must file an annual return on Form CR-A. In addition, every tenant not subject to tax for the tax year beginning on June 1, 2000 and ending on May 31, 2001 because its annualized base rent before the 35% rent reduction is less than the taxable threshold must file an annual return (CR-A) **except with respect to any premises where the annual or annualized gross rent is \$75,000 or less, and it does not receive over \$75,000 in rent from any subtenant.**

If a tenant ceases to do business, the tax is due immediately, and the tenant must file a final return for the entire year (Form CR-A) within 20 days from the date the tenant ceases to do business. However, if the tenant nevertheless continues to pay rent for the taxable premises, the tenant must continue to file returns and pay the tax.

If a tax return or payment is delivered to the Department of Finance by U.S. mail after the due date, the date of the U.S. Postal Service postmark stamped on the envelope will be considered the date of delivery, provided the postmark date falls on or before the due date including any extension and the return was deposited in the mail, postage prepaid and properly addressed. Non-U.S. Postal Service postmarks will also be recognized, provided delivery to the Department of Finance occurs within five days of the postmark date. If the five-day limit is exceeded, the taxpayer must establish: a) the item was actually deposited in the mail by the due date; b) the delay in receipt was due to a delay in the transmission of the mail; and c) the cause of the delay.

If the due date falls on a Saturday, Sunday or legal holiday, the due date is extended to the next succeeding business day.

For late filings of quarterly returns, interest must be paid on the amount of the underpayment from the due date until the earlier of (1) 20 days after the end of the tax year, or (2) the date as of which the tax paid for the tax year equals 75% of the full tax required to be paid for the tax year. **The interest may only be paid**

with the annual return, not with a quarterly return. For calculation of interest, call Taxpayer Assistance at: 718-935-6000. Interest amounting to less than \$1 need not be paid.

WHO IS A TENANT

A tenant is a person who pays or is required to pay rent for premises as a lessee, sublessee, licensee or concessionaire. No tax return need be filed if the tenant paying or required to pay rent is the individual or entity that owns the premises. The tax form should be returned to the Department of Finance stating the owner's name and address, Employer Identification Number or Social Security Number, the address of the property and the block and lot number as shown on the real estate tax bill. Shareholders in cooperative corporations are not considered "owners of record."

The following situations do not exempt the tenant from tax:

- a) where a building is owned, not by a tenant but by a spouse or parent of the tenant;
- b) where a building is owned by the tenant jointly or in common with another person, other than a spouse;
- c) where a building is owned by a corporation of which the tenant is an officer or holder of all or part of the corporate stock;
- d) where the tenant is a corporation and the building is owned by a subsidiary corporation or by a parent corporation;
- e) where the tenant is a corporation and the building is owned by an officer or stockholder of the corporation.

TAXABLE PREMISES

Taxable premises are premises used or intended to be used to carry on any trade, business, professional, vocational or commercial activity, including premises used solely for the purpose of renting the same in whole or in part to subtenants. Taxable premises include a specific part of particular space in a warehouse rented for the storage of goods, or in a garage, parking lot or parking area rented for the parking of motor vehicles, in connection with the tenant's conduct of business or professional activity; also included is a safe deposit box or locker or beach cabana if used for business purposes.

WHAT CONSTITUTES RENT

Rent is the consideration paid or required to be paid by a tenant for the use or occupancy of premises, valued in money, whether received in money or otherwise, including all credits, property, or services of any kind, as well as any payment required to be made by a tenant on behalf of the landlord for real estate taxes, water and sewer charges, or any other expenses (includ-

ing insurance) normally payable by a landlord who owns the realty, other than expenses for the improvement, repair or maintenance of the tenant's premises.

Where the rent paid by a tenant for the occupancy of taxable premises is measured in whole or in part by the gross receipts from the sales within the premises, the rent, for purposes of computing the Commercial Rent Tax is the actual percentage of gross receipts due the landlord, but not in excess of 15% of gross receipts.

Tenant shareholders in cooperative buildings should calculate the amount of rent subject to tax as provided in Section 7-01 "Rent" of the Commercial Rent Tax Rules. (Title 19, Rules of the City of New York, Chapter 7) If a tenant uses two or more taxable locations in the same building at the same time, the total rent paid for all such locations constitutes rent paid for one taxable premises.

WHAT CONSTITUTES BASE RENT

Base rent is generally the rent paid for each taxable premises by a tenant to the landlord for a period, less the amounts received by or due such tenant for the same period from any subtenant of any part of the premises. (See instructions to line 4, Rent from Subtenant(s))

Where the base rent is for a period of less than one year it must be annualized. Base rent is annualized by assuming it was paid on an equivalent basis for the entire year.

In computing base rent, a prime tenant may deduct rent received from a subtenant subject to the tax or exempt from the tax for the tax year because its annualized base rent before the 35% rent reduction is less than the taxable threshold, and rent received from a subtenant that is a governmental entity, the UN, or a nonprofit religious, charitable or educational entity exempt from the tax.

NOTE: Base rent paid by a tenant for one taxable premise cannot be reduced by deducting rents received by that tenant for another taxable premise of which he is also a tenant.

A tenant is also entitled to deduct from the base rent amounts paid by the tenant for the tenant's own use of the premises:

- for railroad, air, or omnibus transportation purposes;
- for piers, insofar as they are used in interstate or foreign commerce;
- which are located in, on, above, or under a public place and are defined by law as special franchise property;
- which are advertising space or signs, vending machines, or newsstands in subway or elevated railroad premises operated by the New York City Transit Authority when the rent is payable to the Transit Authority; or
- which is parking space subject to the addi-

tional 8% parking tax imposed under Administrative Code Section 11-2049.

For a more detailed discussion of deductions in calculating base rent refer to Section 11-704 of the NYC Administrative Code and Section 7-01 "Base Rent" of the Commercial Rent Tax Rules. (Title 19, Rules of the City of New York, Chapter 7)

EXEMPTIONS

The following are exempt from payment of the Commercial Rent Tax:

1. A tenant whose annualized base rent before the 35% rent reduction is less than \$100,000 for the period from June 1, 2000 to November 30, 2000 and \$150,000 for the period from December 1, 2000 to May 31, 2001. The annualized base rent for a period of less than one year is determined as if the rent had been paid on an equivalent basis for an entire year;
2. a tenant who uses premises for 14 days or less (whether or not consecutive) in a tax year, and is not required to pay rent for a longer period;
3. a tenant (other than the operator of a hotel, apartment hotel or lodging house) who uses premises for residential renting to others to the extent of 75% or more of the rentable floor space;
4. a tenant who uses premises for certain dramatic or musical arts performances for less than 4 weeks where the performances are not intended to continue for less than 4 weeks. A tenant who uses taxable premises for the production and performance of a theatrical work is exempt from the tax with respect to the rent paid for the taxable premises for a period not exceeding 52 weeks from the date production commenced. For purposes of this exemption, production will be considered to commence on the date public performances begin; and
5. various governmental bodies, the U.N., and nonprofit religious, charitable, and educational organizations. Other nonprofit organizations may be exempt from the tax. For more information, see Sections 7-04 through 7-06 of the Commercial Rent Tax Rules (Title 19, Rules of the City of New York, Chapter 7).

COMBINED BUSINESS/RESIDENTIAL USE

Where a tenant pays an undivided rent for a premises used both for residential and business purposes, the tax applies to that part of the rent that is attributable to the part of the premises used for business purposes. In such a case, the rent attributable to business use is the amount which the tenant deducts as rent for the premises for federal income tax purposes.

CHANGE OF BUSINESS INFORMATION

Correct any errors in printed name, address, employer identification/social security number and account identification number. Enter the business code applicable to your business as used on the federal return.

WHEN AND WHERE TO FILE

File your return within 20 days after the end of the period covered by this return. Penalty and interest will be assessed for returns filed late. The return should be mailed to:

**NYC Department of Finance
P.O. Box 5150
Kingston, NY 12402-5150**

HOW TO COMPLETE ANNUAL TAX FORM CR-A

- Complete this return by beginning on page 2.
- Complete the entire schedule for each premises.
- If you rent more than two premises or have more than one subtenant, attach an additional schedule.

SPECIFIC INSTRUCTIONS

PAGE 2 - Computation of Base Rent

For purposes of completing this form round off cents to the nearest whole dollar.

LINE 1 - TAXABLE PREMISES

Enter address and zip code of each taxable premises. If you have more than two such premises, make copies of page 2 or attach a schedule giving the same information required by the form showing figures and computations clearly. Make sure the copies or the schedule bear the taxpayer's name, address, period covered by the return, Account ID Number, and Employer Identification Number or Social Security Number.

LINE 2 - GROSS RENT PAID

Enter the gross rent paid for each premises. (Refer to What Constitutes Rent, page 1.) If your gross rent is based in whole or in part on a percentage of sales receipts, exclude so much of that portion based on sales as exceeds 15% of those receipts. If you rent an entire apartment, hotel suite, or other accommodation that you use or occupy for commercial activities and claim as a business deduction, the full amount of the rent must be entered. If you pay a single rent to one lessor for two or more taxable premises, see section 7-01 "Allocation of single rent for two or more taxable premises" of the Commercial Rent Tax Rules (Title 19, Rules of the City of New York, Chapter 7) for the method to be used to allocate rent among the taxable premises.

LINE 3 - RESIDENTIAL RENT

If you use your home for business and residential purposes, enter here the amount of the rent attributable to residential use only. It is presumed that the amount you claimed as a business deduction for rent on your federal income tax return is the amount of rent attributable to business use of the premises.

LINE 4 - RENT FROM SUBTENANT(S)

Enter here amounts paid or due to you as rent from any subtenant. In computing base rent, rent received from a subtenant subject to the tax or not subject to tax because its annualized rent is less than the taxable threshold and rent received from a tenant that is a governmental entity, the UN, or a nonprofit religious, charitable or educational entity exempt from the tax, may be deducted by a prime tenant

Also enter the subtenant's name, Employer Identification Number (for corporations or partnerships) or Social Security Number (if a sole proprietorship). Note that such rents may be deducted only from the gross rent of the premises which the subtenant occupies and may not be applied against any other premises rented by the taxpayer.

If you have more than one subtenant, make copies of page 2 or attach a schedule giving the same details as required on page 2.

In entering amounts paid by subtenants whose rent is based in whole or in part on a percentage of sales receipts, exclude so much of that portion based on sales as exceeds 15% of those receipts.

Amounts received by a garage or parking lot operator for allowing the parking of a vehicle anywhere on his premises is not deductible unless:

- a) a particular space has been permanently assigned for the exclusive use of the tenant; and
- b) the vehicle is used for commercial purposes by the tenant; and
- c) a completed Certificate of Assigned Space Use has been taken from the tenant.

LINE 5 - OTHER DEDUCTIONS

Enter here any amounts included in gross rent which are allowable as deductions, and detail such deductions on an attached schedule.

If you are claiming a special reduction under the NYC Commercial Revitalization Program, attach a copy of either your Certificate of Abatement from Real Estate Tax, or your Certificate of Eligibility for Commercial Rent Tax Benefits. A separate Certificate must be attached for each premises for which the special reduction is claimed.

The NYC Commercial Revitalization Program provides both Real Estate Tax and Commercial Rent Tax benefits with respect to qualifying leases of premises in the Title 4 abatement zone, defined generally as the area in Manhat-

tan bounded by Murray Street and Frankfort Street on the north, and South Street, Battery Place and West Street on the east, south and west, respectively. Leases must be new, renewal or expansion leases with lease commencement dates between April 1, 1995 and March 31, 2001, and must meet minimum lease term and expenditure requirements. To be eligible for benefits, the premises must be located in a building constructed before 1975 and be used for either office or retail purposes.

The special reduction allowed under this program is not taken into account in determining whether a taxpayer is exempt because its base rent is below \$100,000 for periods up to November 30, 2000 or 150,000 for periods beginning on or after December 1, 2000 and is not taken into account in determining whether and to the extent to which the taxpayer is eligible for a tax credit.

For more information concerning eligibility requirements under the NYC Commercial Revitalization Program, call (212) 669-7216.

LINE 6 - TOTAL DEDUCTIONS

Add lines 3 through 5 and enter the total deductions in line 6.

LINE 7 - BASE RENT BEFORE RENT REDUCTION

Subtract line 6 from line 2 to obtain the amount of your Base Rent Before Rent Reduction.

LINE 8 - AMOUNT OF LINE 7 ATTRIBUTABLE TO TAX PERIOD 6/1/2000 - 11/30/2000

Enter amount of line 7 (Base Rent Before Rent Reduction) attributable to period 6/1/2000 to 11/30/2000. If the amount on line 8 is less than \$70,000, transfer line 8 amount to line 10a Column A. If line 8 amount is \$70,000 or more, skip lines 10 through 17 and enter 65% of line 8 amount on line 18.

LINE 9 - AMOUNT OF LINE 7 ATTRIBUTABLE TO TAX PERIOD 12/1/2000 - 5/31/2001

Subtract line 8 from line 7 to obtain the Base Rent Before Rent Reduction attributable to period 12/1/2000 to 5/31/2001. If the amount on line 9 is less than \$95,000, transfer line 9 amount to line 10a Column B. If line 9 amount is \$95,000 or more, skip lines 10 through 17 and enter 65% of line 9 amount on line 18.

SPECIAL NOTE FOR ELIGIBLE TAXPAYERS

Taxpayers eligible for the special reduction under the NYC Commercial Revitalization Program must add back the amount of the special reduction to the amount on line 7, or in annualizing the base rent (lines 10-11a) to ascertain the applicable effective tax rate.

ANNUALIZATION OF BASE RENT

Complete lines 10 through 12 only if line 8 or line 9 amounts are less than \$70,000 and \$95,000 respectively. Eligible taxpayers claiming the Special reduction under the NYC Commercial Revitalization Program, see "Special Note for Eligible Taxpayers".

LINE 10 - MONTHS AT PREMISES

Enter the dates (month and year) that occupancy or use of such premises began and ended. Compute the number of months occupied or used to the nearest full month and enter.

LINE 10A - AMOUNTS FROM LINES 8 AND 9

Enter amount from line 8 on line 10a Column A. Enter amount from line 9 on line 10a, Column B.

LINE 11 - MONTHLY BASE RENT BEFORE RENT REDUCTION

Divide line 10a by line 10 to arrive at the average monthly base rent before rent reduction.

LINE 11a - ANNUALIZED BASE RENT BEFORE RENT REDUCTION

Multiply line 11 by 12 (months).

LINE 12 - BASE RENT SUBJECT TO TAX AFTER 35% RENT REDUCTION

Multiply line 10a Column A and/or Column B amount(s) by .65 to arrive at the net Base Rent Subject to Tax.

LINES 13 THROUGH 18 - RATE

CLASSES A - F - Eligible taxpayers claiming the Special reduction under the NYC Commercial Revitalization Program, see "Special Note for Eligible Taxpayers".

- If lines 10 through 12 are **not** applicable, transfer 65% of the amount on line 7 to the rate class on line 18.
- If lines 10 through 12 are **applicable**, then transfer the amount on line 12 Column A to the rate class on line 13 through 18 that corresponds to the amount on line 11a Column A. Likewise, transfer the amount on line 12 Column B to the rate class on line 13 through 18 that corresponds to the amount on line 11a Column B.

PAGE 1 - Computation of Tax

LINE A - PAYMENT

Enter the amount of payment remitted with this return in the space provided.

LINES 1 THROUGH 6 - COMPUTATION OF TAX DUE

Enter the number of taxable premises you have occupied or used during the tax period in the appropriate columns on lines 1 through 6.

Enter on lines 1 through 6, whichever applies, your base rent totals for all premises in each

class calculated on lines 13 through 18 from page 2. Multiply "total base rent" on lines 1 through 6 by the corresponding tax rate and enter the result in the column under "tax due."

When reporting the NUMBER of premises on page 1, if one of the premises is taxed at two different rates, report that location in the row with the lower tax rate. Therefore, the amount of base rent listed with respect to each of the premises on page 1 may not correspond to that listed on page 2. For example, it is possible that because the location is counted at Rate Class B, the number of premises listed on Page 1 with respect to "Class E" may be zero while there may be base rent reflected on the Class E line that is subject to tax. HOWEVER, the TOTAL number of premises on page 1 must agree with the number of premises reported on page 2.

LINE 7

Add lines 1 through 6 and enter the total on line 7.

LINE 8 - ENERGY COST SAVINGS CREDIT

Enter the Energy Cost Savings (ECS) credit available to energy users certified as eligible by the New York City Department of Business Services and suppliers of fuel services. Attach Form NYC-ECS if claiming the ECS credit.

If the total available credit from Form NYC-ECS exceeds the tax shown on line 7, enter only that portion of the allowable credit that reduces the balance to zero. The excess credit must be carried forward to future tax periods or applied to other eligible taxes.

Effective November 1, 2000, the ECS credit is no longer available due to the repeal of the law.

LINE 9 - BALANCE

Subtract line 8 from line 7 and enter the result on line 9.

LINE 10 - PAYMENTS

Enter on line 10 the payments you have previously made with your quarterly returns (Forms CR-Q).

LINE 11 - BALANCE DUE

Deduct line 10 from line 9. The result will be:

- your balance of tax due for the tax year, which you will enter on line 11; or
- your overpayment, if line 10 is greater than line 9, which you will enter on line 13.

LINE 12 - INTEREST/ADDITIONAL CHARGES

Enter any interest and/or penalty on line 12.

Interest

If the tax due with a quarterly return is not filed with the Department of Finance on or before the due date of the quarterly return, interest must be paid on the amount of the underpayment from the due date until the earlier of (1) 20 days after the end of the tax

year, or (2) the date as of which the tax paid for the year equals 75% of the full tax required to be paid for the tax year. The interest must be paid with the annual return. If the tax payable with the annual return is not paid by the due date, interest on the amount of the underpayment must be paid from the due date of the annual return to the date paid. For calculation of interest, call Taxpayer Assistance at: (718) 935-6000. Interest amounting to less than \$1 need not be paid.

Additional Charges

- A **late filing penalty** is assessed if you fail to file an annual return when due, unless the failure is due to reasonable cause. For every month or partial month that this form is late, add to the tax (less any payments made on or before the due date) 5%, up to a total of 25%.
- If the annual return is filed more than 60 days late, the penalty imposed under a will not be less than the lesser of (1) \$100 or (2) 100% of the amount required to be shown on the form (less any payments made by the due date or credits claimed on the return).
- A **late payment penalty** is assessed if you fail to pay the tax shown on this form by the prescribed filing date, unless the failure is due to reasonable cause. For every month or partial month that your payment is late, add to the tax (less any payments made) 1/2%, up to a total of 25%.
- The total of the additional charges in a and c may not exceed 5% for any one month except as provided for in b.
- If a tenant, exempt from tax because the rent for the entire year is less than the applicable threshold amounts, fails to file an annual return if required, a penalty of \$100 may be imposed.

LINE 13 - OVERPAYMENT/REFUND

Complete this line only if line 10 is greater than the sum of line 9 and line 12.

LINE 14 - TOTAL REMITTANCE DUE

- To obtain the total amount due (line 14), add line 11 and line 12. However, if line 10 does not exceed the sum of lines 9 and 12, to obtain the total amount due, add lines 9 and 12 and subtract line 10. Enter the total amount due on line A.
- Make your check payable to the order of: **NYC DEPARTMENT OF FINANCE.**

- Be sure that your name, EIN or SSN and Account ID Number appear on the face of the check.
- Don't forget to sign your return.

TAXPAYER ASSISTANCE

If you have a tax-related question or problem, please contact a Taxpayer Assistance representative at **(718) 935-6000**. Taxpayer representatives are available Monday through Friday, between the hours of 9:00 a.m. and 4:30 p.m. Hearing and speech impaired customers can call our TTY number at **(718) 935-6500**. You can obtain information on how to e-mail your Commercial Rent Tax inquiries at:

www.nyc.gov/contactfinance

You can also receive information by visiting the Department of Finance's Internet web site at:

www.nyc.gov/finance

For recorded tax information, please call our free Citytax Dial tape library at **(718) 935-6736**. Follow the audio instructions and choose one of the following Commercial Rent Tax messages:

- 425 - Who must file a return?
- 426 - Forms to be used and the periods covered
- 323 - What are considered Taxable Premises?
- 324 - What is considered Rent?
- 427 - Exemptions
- 428 - How to compute the tax
- 326 - Interest and Penalty Rates
- 327 - Refunds
- 429 - What constitutes Base Rent?

PRIVACY ACT NOTIFICATION

The Federal Privacy Act of 1974, as amended, requires agencies requesting Social Security Numbers to inform individuals from whom they seek this information as to whether compliance with the request is voluntary or mandatory, why the request is being made and how the information will be used. The disclosure of Social Security Numbers for taxpayers is mandatory and is required by section 11-102.1 of the Administrative Code of the City of New York. Such numbers disclosed on any report or return are requested for tax administration purposes and will be used to facilitate the processing of tax returns and to establish and maintain a uniform system for identifying taxpayers who are or may be subject to taxes administered and collected by the Department of Finance, and, as may be required by law, or when the taxpayer gives written authorization to the Department of Finance for another department, person, agency or entity to have access (limited or otherwise) to the information contained in his or her return.