

**CITY OF NEW YORK  
DEPARTMENT OF FINANCE**

**Regulatory Agenda for Fiscal Year 2012**

In compliance with section 1042 of the New York City Charter, the following is the regulatory agenda for rules that the Department of Finance anticipates that it may promulgate during the fiscal year beginning July 1, 2011 and ending June 30, 2012.

An approximate schedule for adopting the proposed rules and the name and telephone number of a Department of Finance official knowledgeable about each subject area involved are listed below each section.

**1. AMENDMENTS TO GENERAL CORPORATION TAX RULES**

Pursuant to chapter 6, subchapter 2 of title 11 of the Administrative Code, the General Corporation Tax is imposed on every domestic or foreign corporation for the privilege of doing business, employing capital, owning or leasing property, or maintaining an office in the City of New York. Corporations subject to the tax will be subject to these rules. The Department intends to amend these rules to reflect legislative changes, court decisions and existing departmental policies not presently addressed by the rules and to eliminate obsolete provisions. The Department anticipates that due to the scope of this project, the rules will be amended in stages, several of which were completed in prior fiscal years but the remainder of which may not be completed during the coming fiscal year.

Second half of fiscal year 2012  
Andrew Eisner (718) 403-3600

The Department intends to amend these rules to conform with State rules by treating as business capital repos and securities lending agreements when held by registered securities brokers or dealers.

First half of fiscal year 2012  
Andrew Eisner (718) 403-3600

The Department intends to amend these rules to reflect changes in the forms required for extensions of time for filing returns.

First half of fiscal year 2012  
Andrew Eisner (718) 403-3600

## **2. PROMULGATE RULES RELATING TO REASONABLE CAUSE FOR LATE PAYMENT AND LATE FILING**

Pursuant to title 11 of the Administrative Code, the provisions pertaining to the various income and excise taxes impose penalties for late payment of taxes and late filing of returns. The Department intends to promulgate rules to provide guidance as to what constitutes reasonable cause in the context of these penalties.

Second half of fiscal year 2012  
Andrew Eisner (718) 403-3600

## **3. AMENDMENTS TO UNINCORPORATED BUSINESS TAX RULES**

Pursuant to chapter 5 of title 11 of the Administrative Code, the Unincorporated Business Tax is imposed on unincorporated businesses carried on in the City of New York. Individuals and unincorporated entities are subject to these rules. The Department intends to amend these rules to reflect legislative changes and existing departmental policies not presently addressed by the rules and to eliminate obsolete provisions. The Department anticipates that due to the scope of this project, the rules will be amended in stages, several of which were completed in prior fiscal years but the remainder of which may not be completed during the coming fiscal year.

Second half of fiscal year 2012  
Andrew Eisner (718) 403-3600

The Department intends to amend these rules to reflect changes in the forms required for extensions of time for filing returns.

First half of fiscal year 2012  
Andrew Eisner (718) 403-3600

## **4. AMENDMENTS TO REAL PROPERTY TRANSFER TAX RULES**

Sections 302 through 307 of chapter 170 of the Laws of 1994 amended the State enabling law authorizing the imposition of the Real Property Transfer Tax and chapter 21 of the Administrative Code to provide for temporary tax rate relief for qualifying real estate investment trust transfers. Chapter 309 of the Laws of 1996 further amended the State enabling law and the Administrative Code to make tax rate relief for qualifying real estate investment trust transfers permanent. Chapter 85 of the Laws of 2002 made technical corrections to those provisions. The Department intends to amend all those sections of the Rules Relating to the Real Property Transfer Tax that are affected by the enactment of the real estate investment trust transfer provisions. The Department also intends to amend the rules to conform with any other legislative changes made since the last amendment of the rules.

Second half of fiscal year 2012  
Andrew Eisner (718) 403-3600

**5. AMENDMENTS TO REAP RULES**

Pursuant to chapter 6-B of Title 22 of the Administrative Code, the Relocation and Employment Assistance Program provides for credits against the GCT, UBT, Bank Tax and Utility Tax for eligible businesses that relocate to eligible premises in New York City in areas other than Manhattan south of 96th Street. The Department intends to amend these rules to reflect legislative changes.

First half of fiscal year 2012  
Andrew Eisner (718) 403-3600

**6. LMREAP RULES**

Pursuant to chapter 6-C of Title 22 of the Administrative Code, the Lower Manhattan Relocation and Employment Assistance Program provides for credits against the GCT, UBT, Bank Tax and Utility Tax for eligible businesses that relocate to eligible premises in lower Manhattan. The Department intends to promulgate rules to provide guidance to taxpayers with respect to this program.

Second half of fiscal year 2012  
Andrew Eisner (718) 403-3600

**7. UPDATE OF OUTDATED REFERENCES IN AGENCY RULES**

The Department plans to review all its rules to revise outdated references, which include changes to agency unit names and addresses.

First half of fiscal year 2012  
Robert Dauman (718) 403-3600

**8. RULES RELATING TO THE INDUSTRIAL AND COMMERCIAL ABATEMENT PROGRAM**

The Industrial and Commercial Abatement Program (“ICAP”) was enacted by Local Law 47 of 2008 to replace the Industrial and Commercial Incentive Program (“ICIP”). ICAP provides abatements from real property taxes for construction, alteration, or improvement of eligible industrial or commercial properties in the City of New York. The local law that enacted ICAP allowed applications for benefits to be made until March 1, 2011. If ICAP is extended by law, then the Department intends to promulgate rules to provide guidance as to eligibility for the program.

First half of fiscal year 2012  
Robert Dauman (718) 403-3600

**9. PROMULGATE RULES RELATING TO THE DISABILITY RENT INCREASE EXEMPTION (DRIE) PROGRAM**

Local Law 75 of 2005 enacted the DRIE program, under which qualifying disabled tenants receive an exemption from rent increases otherwise authorized on rent regulated properties, and the owners of affected properties receive an abatement of real property taxes in an amount equal to the rent increase exemption. These new rules will be promulgated to explain aspects of this program. The rules will include a definition of “aggregate household disposable income” with respect to the amount under which the combined income of the tenants in an apartment must fall if the apartment is to be eligible for the exemption.

First half of fiscal year 2012  
Robert Dauman (718) 403-3600

**10. PROMULGATE RULES RELATING TO THE SENIOR CITIZEN RENT INCREASE EXEMPTION (SCRIE) PROGRAM**

Local Law 44 of 2009 transferred administration of the Senior Citizen Rent Increase Exemption (SCRIE) Program from the Department for the Aging to the Department of Finance. This program offers eligible senior citizen tenants an exemption from rent increases, while the owner of the building receives a corresponding abatement of the building’s real property taxes. The Department of Finance intends to promulgate rules to provide guidance to tenants and property owners with respect to eligibility under the program and applications for the rent exemption and tax abatement.

First half of fiscal year 2012  
Robert Dauman (718) 403-3600

**11. PROMULGATE RULES RELATING TO ABATEMENTS AND EXEMPTIONS ON COOPERATIVELY OWNED PROPERTY**

Individual homeowners and condominium owners who are granted individual real estate tax exemptions or abatements such as the co-op/condo abatement, Senior Citizen Homeowner Exemption and School Tax Relief Exemption (STAR), automatically realize their tax benefit because their properties are individually assessed and taxed. Tenant-shareholders in cooperatively owned buildings do not receive individual tax bills. Instead, the benefits granted to individual tenant-shareholders reduce the tax liability for the co-op property. Although each statute includes a provision that the benefit belongs to the eligible tenant-shareholder and must be appropriately credited, co-op shareholders have complained that they have had difficulties with their co-op board and/or managing agent on this issue. As a result, the Department of Finance intends to draft rules, based on the provisions in the STAR statute, which would fully inform co-op boards and managing agents as to their obligations. The rule would deal with the method of crediting or refunding these benefits as well as timing of the credits.

Second half of fiscal year 2012  
Fran Joseph (718) 403-3600

**12. AMENDMENT TO RULES RELATING TO THE BANKING CORPORATION TAX**

These rules apply to the tax imposed on banking corporations, including commercial and savings banks, savings and loan associations, trust companies, and certain subsidiaries of banks that do business in New York City in a corporate or organized capacity. The Department intends to amend these rules to reflect changes in the forms required for extensions of time for filing returns.

First half of fiscal year 2012  
Andrew Eisner (718) 403-3600

**13. AMENDMENTS TO REFUND PROVISIONS OF INCOME AND EXCISE TAX RULES**

The Department intends to review its rules that relate to application for refunds of overpayments of income and excise taxes in order to update them where necessary to reflect revisions intended to expedite the refund process.

First half of fiscal year 2012  
Robert Dauman (718) 403-3600

**14. AMENDMENT TO RULES RELATING TO THE SALE OF TAX LIENS**

Local Law 15 of 2011 amended provisions of the Administrative Code relating to the sale of tax liens. The Department of Finance intends to amend the Rules Relating to the Sale of Tax Liens to provide updated guidance as to the eligibility of real property for the tax lien sale, and the procedures relating to the sale of tax liens.

Local Law 15 of 2011 requires that no later than September 1, 2012, the Department of Finance promulgate rules governing installment agreements for payment of arrears in real property taxes and other property-related charges, to be entered into by property owners in order to prevent the sale of tax liens on their property. The rules will include the terms and conditions of installment agreements, payment schedules and the definition and consequences of default.

Section 11-319 of the Administrative Code contains the provisions that determine whether a tax lien on real property is eligible for sale by the City in order to enforce payment of arrears. The law provides the length of time for which tax liens on different types of property, including “abandoned property,” must remain unpaid to become eligible for inclusion in a tax lien sale. Section 11-319 authorizes the Commissioner of Finance to promulgate a rule to define “abandoned property” as the term is used in that

section, and the Department may amend the Rules Relating to the Sale of Tax Liens to add such a rule.

First half of fiscal year 2012  
Robert Dauman (718) 403-3600

**15. PROMULGATE RULES RELATING TO CHALLENGES TO THE VALIDITY OF REAL PROPERTY TAXES**

Local law 15 of 2011 requires that no later than September 1, 2011, the appropriate agency promulgate rules identifying or describing existing procedures governing challenges to the validity of any real property tax, sewer rent, sewer surcharge, water rent, emergency repair charge or alternative enforcement expense or fee. The Department of Finance intends to promulgate such rules concerning challenges to the validity of real property taxes, which will affect property owners and others with an interest in real property who believes that a real property tax lien on real property was not properly imposed and wishes to challenge its validity.

First half of fiscal year 2012  
Robert Dauman (718) 403-3600

**16. AMENDMENTS TO RULES RELATING TO THE COMMERCIAL MOTOR VEHICLE TAX**

These rules apply to owners of commercial motor vehicles and motor vehicles operated for the transportation of passengers. When the commercial motor vehicle tax is paid, the Department of Finance issues a stamp which must then be displayed on the vehicle as evidence that the commercial motor vehicle tax applicable to the vehicle has been paid. The legality of this requirement is under question due to a federal ruling that is being appealed. The Department plans to amend these rules to reflect the final federal decision, and, if the requirement for a stamp is upheld, the Department intends to amend the rules to provide that no tax stamp will be issued to any owner who is in arrears in the commercial motor vehicle tax for any period, and to provide that a payment made by a vehicle owner intended to pay the current commercial motor vehicle tax may be applied instead by the Department of Finance to unpaid commercial motor vehicle tax owed to the Department by the vehicle owner for any prior period.

Second half of fiscal year 2012  
Andrew Eisner (718) 403-3600

**17. AMENDMENTS TO RULES RELATING TO THE FILING OF INCOME AND EXPENSE STATEMENTS**

These rules pertain to the requirement of Administrative Code §11-208.1 that owners of income producing property annually file income and expense statements. The Department intends to amend the rules in several areas concerning findings of nonfiling and the imposition of penalties, which will address the opportunity for a property owner to cure nonfiling prior to the imposition of penalties, and practice and procedure for hearings concerning findings of nonfiling. The Department also intends to promulgate amendments that will require net lessees of hotels to submit income and expense information for the operation of the hotel, and for net lessees of gas stations and car washes to submit income and expense information for the operation of those businesses. Additional amendments may address the right of the Department to audit, certifications of exclusion from the filing requirement, filing requirements for those who took ownership of property only a short time prior to the filing deadline, filing requirements for condominium and cooperative properties that were formerly rental properties, and mailing rules concerning submission of paper documents. The Department may promulgate additional amendments to reflect current policies.

First half of fiscal year 2012  
Robert Dauman (718) 403-3600

**18. AMENDMENTS TO RULES RELATING TO PARKING VIOLATIONS**

The Department plans to update the rules to conform with current laws and agency practices. The amendments will apply to any party that incurred a parking violation in New York City.

First half of fiscal year 2012  
Robert Dauman (718) 403-3600

\_\_\_\_\_  
S/S  
David M. Frankel  
Commissioner of Finance