

**ANNUAL
REPORT
ON
TAX
EXPENDITURES
OF
THE CITY OF NEW YORK
FISCAL YEAR 1990**

Department of Finance
David N. Dinkins, Mayor
Carol O'Cleireacain, Commissioner
February 1990





Finance

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To Our Readers:

I am pleased to present this Tax Expenditure Report for Fiscal Year 1990. The goal of the report is to assist elected officials and concerned citizens in evaluating both the policy and budget implications of special tax programs.

This report revises the Department of Finance's previously released October 1989 Tax Expenditure Report for FY90, in order to address requirements of the new City Charter approved last November. As before, the report includes comprehensive descriptions, legal citations and revenue estimates where possible for 48 tax expenditure programs under the City's property, business income and excise taxes. It also provides a summary of tax expenditure programs under the State-administered Personal Income Tax and Sales Tax.

To meet Charter requirements, the following additions have been made: the distribution by borough of Real Property tax expenditures and certain distributions by income; a summary of tax expenditure audits or evaluations performed within the last two years; the text of the new City Charter tax expenditure provisions; and a chart indicating which Charter requirements are met in this report and which will be met by FY91. A major addition planned for next year's report will be data to assist in the complex but critical process of evaluating the economic and social impact of tax expenditure programs.

This report is only a first step in accounting for City tax expenditure programs in compliance with the new City Charter. The Department of Finance, with the assistance of other City agencies, is committed to providing all available data -- even beyond the requirements of the Charter -- in order to fully inform City officials and the public about both the costs and the benefits of special City tax exemptions and credits.

Sincerely,

Carol O'Cleireacain
Commissioner

**ANNUAL REPORT ON TAX EXPENDITURES OF
THE CITY OF NEW YORK
Fiscal Year 1990**

**A report by
THE OFFICE OF TAX POLICY
NYC DEPARTMENT OF FINANCE
February 1990**

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**This report is an expanded version of an earlier
report published in October 1989, in compliance
with Section 240 of the new City Charter.**

EXECUTIVE SUMMARY

New York City provides a variety of programs to further social and economic objectives by means of targeted tax incentives or benefits which reduce tax liability, otherwise referred to as "tax expenditures." This report for fiscal year 1990 is the City's first annual accounting of its tax expenditures under provisions of the new City Charter, approved by voters in November 1989. Based on an intensive review of New York City and State tax law, the report identifies and describes over forty tax expenditure programs of taxes administered by the City, including property, business income and excise taxes. Tax expenditure estimates are provided for items for which data are available: real property tax preferences and special business tax credits and exemptions. Next year's report will provide estimates for additional items and will include data by which to estimate the economic and social impact of tax expenditure programs as required by the new City Charter.

The Real Property Tax is the single largest source of City tax expenditures. For the current fiscal year, fiscal 1990, tax expenditures for real estate tax programs total nearly \$1.3 billion.

- Housing benefits comprise 65 percent of the real property tax expenditure total. Tax incentives are provided for new construction or rehabilitation of various types of residential properties, ranging from small homes to multi-family buildings.
- Economic development incentives, which benefit commercial and industrial taxpayers, comprise 30 percent of City real property tax expenditure programs.
- Five percent of City real property tax expenditures provide benefits to individual property owners and tenants.
- The distribution of tax expenditures among New York City's boroughs varies by purpose and source. While Individual Assistance tax expenditure programs are concentrated in the outer boroughs, Housing and Economic Development programs are located largely in Manhattan.

Business income and excise taxes account for more than half of New York City tax expenditure items. Certain of these tax expenditures are designed to foster economic development, such as tax reductions to reduce the cost of energy or of relocation to the boroughs outside Manhattan. Other tax expenditures are created for

cultural and social objectives such as assistance to the dramatic arts or promotion of certain types of scientific research.

Information is also provided in this report on tax expenditures of two City taxes administered by New York State, the Personal Income Tax and the Sales and Use Tax, which largely conform with tax expenditures of their State counterparts. This information was derived from discussion papers prepared by the New York State Department of Taxation and Finance on State tax expenditures.

A copy of Section 240 of the new City Charter requiring tax expenditure reporting and a chart outlining the City's timetable for fully meeting the Charter mandates are included in the appendix to this report.

TABLE OF CONTENTS

	Page
<u>INTRODUCTION</u>	1
 <u>PART I</u>	
DEFINITION OF TAX EXPENDITURES.....	3
METHODOLOGY.....	4
- Application of City Tax Expenditure Criteria.....	4
- Data Reported.....	4
- Measuring Tax Expenditures.....	5
 <u>PART II</u>	
REAL PROPERTY TAX EXPENDITURES.....	7
- Overview.....	7
- Tax Expenditure Purposes.....	8
- Sources of Tax Expenditures.....	10
- Detailed Program Descriptions.....	12
-- City Programs.....	14
-- State-Wide Programs.....	29
-- Public Agencies.....	39
 <u>PART III</u>	
BUSINESS INCOME AND EXCISE TAX EXPENDITURES.....	51
- Overview.....	51
- Detailed Program Descriptions:	
-- Tax Credits and Special Exemptions.....	52
-- Other Tax Expenditures.....	60

	Page
 <u>PART IV</u>	
NEW YORK STATE TAX EXPENDITURES APPLICABLE TO NEW YORK CITY.....	79
- Introduction.....	79
- New York State Personal Income Tax Expenditures (1985).....	80
- New York State Sales Tax Expenditures (1988).....	83
 <u>PART V</u>	
SUMMARY OF AUDITS AND EVALUATIONS OF NEW YORK CITY TAX EXPENDITURES.....	87
- Introduction.....	87
- New York City Department of Finance, Annual Report to the City Council on the Industrial and Commercial Incentive Program, April 1989.....	88
 <u>PART VI</u>	
DESCRIPTIONS OF MAJOR NEW YORK CITY TAXES.....	89
 <u>APPENDICES</u>	
INTRODUCTION.....	93
I. NEW YORK CITY CHARTER SECTION 240.....	94
II. NYC TAX EXPENDITURE REPORTING TIMETABLE.....	95
 <u>SELECTED BIBLIOGRAPHY</u>	 97
 <u>INDEX TO TAX EXPENDITURE DESCRIPTIONS</u>	 99

CHARTS

	Page
Chart 1 Real Property Tax Expenditures by Purpose.....	9
Chart 2 Real Property Tax Expenditures by Source.....	11

TABLES

	Page
Table 1 City Programs: Real Property Tax Expenditures.....	14
Table 2 City Programs: Real Property Tax Expenditures, Borough Distribution.....	16
Table 3 State-Wide Programs: Real Property Tax Expenditures.....	29
Table 4 State-Wide Programs: Real Property Tax Expenditures, Borough Distribution.....	30
Table 5 Public Agencies: Real Property Tax Expenditures.....	39
Table 6 Public Agencies: Real Property Tax Expenditures, Borough Distribution.....	40
Table 7 Business Income and Excise Tax Credits and Special Exemptions.....	53

INTRODUCTION

(This report, a revised version of a Department of Finance report originally published in October 1989, is the first annual report on New York City tax expenditures) in compliance with Section 240 of the new City Charter, which requires the Mayor to submit an annual tax benefit report, more commonly referred to as a tax expenditure report, to the City Council.

Tax expenditures are deviations from a taxing jurisdiction's basic tax structure which reduce taxes for specific taxpayers. Traditionally, tax expenditures have been used to alter the distribution of the tax burden and to create incentives for taxpayers to change their economic behavior. Tax expenditures provide economic benefits and are often used as alternatives to direct governmental allocations. Improved reporting on tax expenditures has been a nation-wide trend in the last few years and such reporting is currently used by the federal government and twenty states, including California, Michigan and Minnesota. In New York City, the Executive Budget Message has reported on some tax expenditure items for nearly a decade.

The New York City Charter approved by the voters in November 1989 requires that the City expand dramatically its accounting of local tax expenditure programs. The new Charter mandates that an annual City tax expenditure report should include:

- a comprehensive listing of City-specific tax expenditures;
- the citation of legal authority and the objectives and eligibility requirements for each tax expenditure;
- data, as available, on the number and kind of taxpayers benefiting from City tax expenditure programs and the total value of these programs;
- data on the number and kind of taxpayers carrying forward tax benefits to future years and the total value of these carryforwards;
- data, as available, on the economic and social impact of City tax expenditure programs;
- a listing and summary of all evaluations and audits of City tax expenditure programs conducted during the previous two years.

(This revised report for the City's fiscal 1990 satisfies, to the extent that data are currently available, the mandates of the new City Charter.) (A major new feature of this report, not included in the City's October 1989 report, is borough and income distributional information for City real property tax expenditure programs.) As the City expands its data collection and analysis capabilities, future reports will include additional estimates and distributional information on City tax expenditure programs as well as data on the economic and social impact of these programs. Such data are intended to help policymakers evaluate the effectiveness of tax benefit programs.

(Part I of this report provides the criteria used to determine City tax expenditures and discusses the methodology used in the report. Parts II and III describe the City's Real Property Tax expenditures and the City's business income and excise tax expenditures, respectively. Part IV identifies New York State tax expenditures deriving from the State's Personal Income Tax and Sales Tax, with which comparable City taxes largely conform. Part V summarizes audits and evaluations of City tax expenditures which have been conducted during the previous two years. Part VI describes the main provisions of major New York City taxes.)

The Appendices to the report provide the provisions of New York City Charter Section 240 and the City's timetable for meeting the Charter's requirements.

PART I

DEFINITION OF TAX EXPENDITURES

Defining a normal tax structure and identifying specific tax expenditure items can be a subjective and controversial process. Some proponents of tax expenditure reporting recommend that tax expenditure lists be as inclusive as possible, identifying all deductions or credits which reduce the taxable base from 100 percent of income and wealth. Others recommend a more narrow definition of tax expenditures, focusing on specifically targeted tax relief measures that provide preferential treatment. This latter approach assumes that basic features of the tax structure such as the taxable entity and general rate schedules are part of the "normal" tax system.

The New York City Tax Expenditure Report utilizes the more focused approach. In accordance with City Charter requirements, the report identifies provisions of City-administered taxes which are intended to confer special tax benefits. This approach focuses attention on information needed for local policy evaluation and public accountability.

For City reporting purposes, a tax expenditure is defined as a revenue loss attributable to a provision of the tax law that allows a special exclusion, exemption, or deduction from gross income or which provides a special credit, preferential rate of tax, or deferral of tax liability.

This report classifies a provision of the tax law as a New York City tax expenditure if the following conditions are met:

- | | |
|---------------------|--|
| City-Specific | - The provision must be part of a tax administered by the City. |
| Targeted Preference | - The provision has to be "special" in that it is targeted to a narrow class of transactions or taxpayers. |
| Clear Exception | - The provision must constitute a clear exception to a general provision of the tax law. |

The "targeted preference" and "clear exception" criteria are used by the federal Office of Management and Budget for federal tax expenditure reporting purposes.

METHODOLOGY

Application of City Tax Expenditure Criteria

This report identifies tax expenditures of the following City-administered taxes: Real Property Tax, General Corporation Tax, Unincorporated Business Tax, Financial Corporation Tax, Utility Tax, Mortgage Recording Tax, Real Property Transfer Tax and Commercial Rent Tax. Tax expenditures deriving from City taxes administered by New York State, the Personal Income Tax and Sales and Use Tax, are also identified in this report.

The Real Property Tax section, in order to provide a full range of information, includes real property items which provide New York City benefits for targeted policy objectives, although some of these tax expenditures are applicable throughout New York State and others are granted by means of public authorities.

Tax exemptions provided to nonprofit organizations and to government entities which serve the public at large are not included as City tax expenditures since such exemptions are routinely granted by states and municipalities throughout the nation and generally reflect conformity with federal law.

Data Reported

Revenue amounts reported are for the City's fiscal year 1990 (July 1, 1989 - June 30, 1990). Amounts for New York City Real Property Tax exemptions are derived from Department of Finance data. Payments in Lieu of Taxes (PILOTs) are derived from data provided by the City's Office of Management and Budget. Amounts for selected business income and excise tax expenditures are projected from data for the most recent year available. Data are not currently available for many other City business income and excise tax expenditures; revenue estimates will be provided in the City's fiscal 1991 report for these items.

The Department of Finance is in the process of expanding the amount of tax data maintained on computer tapes. In addition, the Department's Office of Tax Policy is currently developing statistical programs to monitor the full range of data reported by business income taxpayers. Future reports will provide additional estimates and distributional information as more supporting data become available.

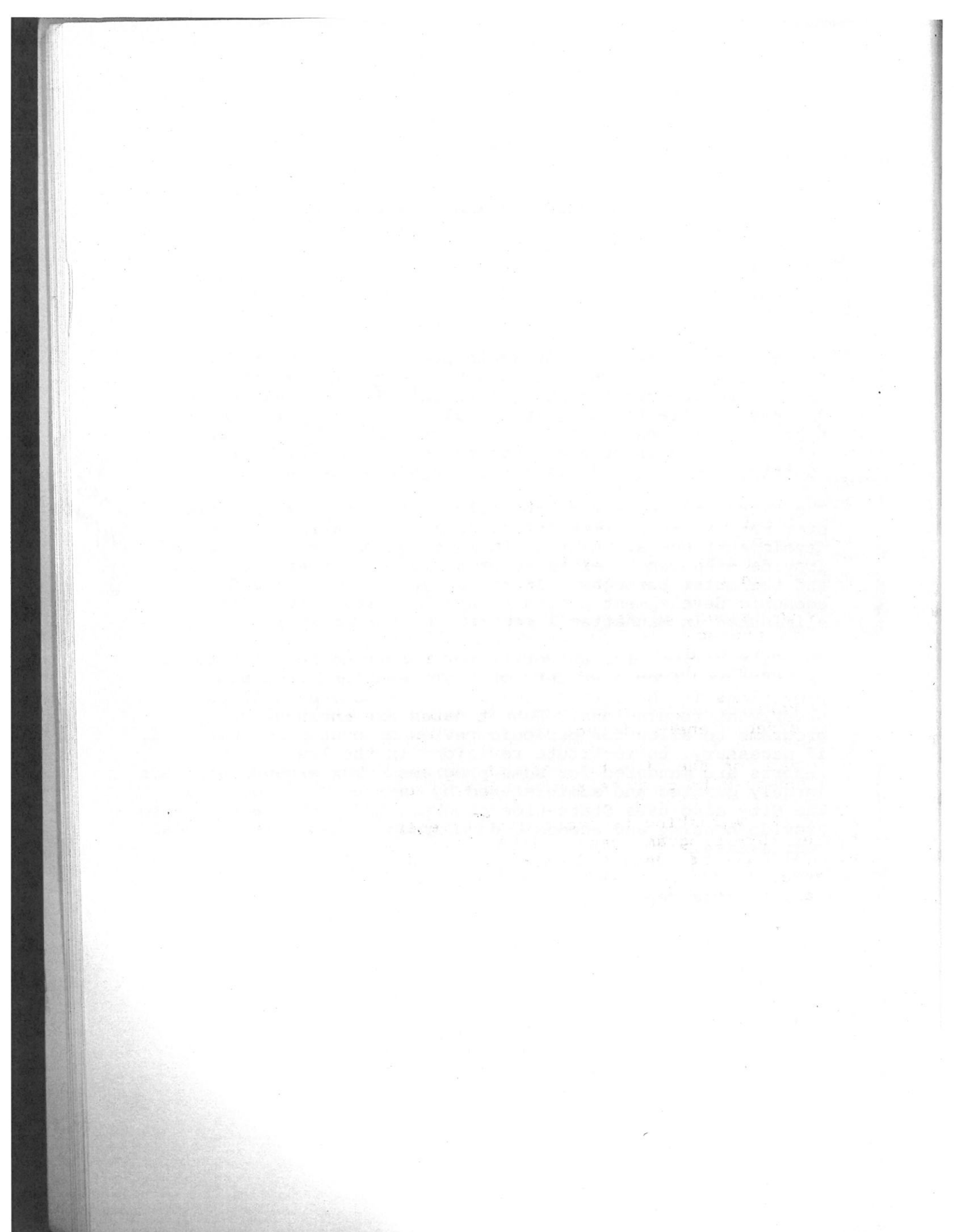
Measuring Tax Expenditures

In Parts II and III, the tax expenditure estimate provided for each item represents a direct mathematical calculation of the tax revenue foregone. The estimate is not intended to represent the potential revenue gain for the City if the expenditure was eliminated. For example, the absence of a tax expenditure may lead taxpayers to take advantage of other tax relief programs. In certain cases, the elimination of a tax expenditure may even result in a revenue loss if the benefit has been stimulating other taxable economic activity. The estimates provided in this fiscal 1990 report do not take into account the effect of tax expenditures on the economic behavior of taxpayers or on the City's overall economy.

In a special section of the Tax Expenditure Report for fiscal 1991, an attempt will be made to evaluate the overall economic and social impact of tax expenditure programs. The Department of Finance has begun research on various methodologies for estimating the economic and social effects of tax expenditures. Among the data the Department plans to provide in future reports are:

- the amount of economic activity that must be generated to produce tax revenue equivalent to the revenue foregone due to a tax expenditure program intended for economic development purposes (break-even analysis);
- various economic scenarios by which to evaluate the effectiveness of such tax expenditure programs;
- data on the effectiveness of tax expenditure programs enacted to promote social objectives.

Although evaluating the cost effectiveness of tax expenditure programs can be a controversial process, such evaluations, if conducted carefully, can yield useful information for policymakers and are an important part of tax expenditure reporting.



PART II

REAL PROPERTY TAX EXPENDITURES

Overview

The real property tax represents over 40 percent of New York City's total tax revenue of \$15.8 billion and is the single largest source of revenue. In fiscal 1990, tax expenditures for real estate tax programs total nearly \$1.3 billion. In aggregate, tax expenditures are provided to 163,000 real estate parcels through assessment reductions and to an additional 49,000 individuals through rent relief.

The City's property tax expenditure programs have evolved over many years in response to local housing and economic development needs. Many of these programs are targeted to provide enhanced benefits to projects in northern Manhattan and the outer boroughs. In recent years, housing and economic development programs have been scaled back or eliminated in Manhattan's central business districts.

The City derives its authority for providing real estate tax expenditures from a variety of State enabling laws and provisions in the City's Administrative Code as well as underlying regulations. Sunset dates are included for many programs to allow for periodic review of continuing need and, if necessary, to institute revisions in the law. Annual reports are mandated for some programs. Tax expenditures are largely granted and administered by various City agencies. The City also uses State-wide programs and public agencies to provide housing and economic development incentives to local real estate.

Tax Expenditure Purposes

Property tax expenditures support residential, commercial and individual assistance programs. (Chart 1)

Residential - Housing benefits comprise 65 percent of property tax expenditures, or the equivalent of \$840 million in fiscal 1990 revenues. In total, over 55,000 parcels are currently provided some form of assessment relief. Incentives are provided for new construction or rehabilitation, and extend from small homes to multi-family buildings. Some programs are combined with additional financial assistance to target benefits for moderate and middle income housing. Several housing programs vary benefits on the basis of geographic criteria. The exemption benefits granted to residential properties are frequently extended to commercial space within the same building. The single largest residential incentive program is the Limited Profit Housing Companies, otherwise known as Mitchell-Lama housing.

Commercial - Economic development incentives are valued at \$380 million in fiscal 1990, or 30 percent of total property tax expenditures. Over 3,800 parcels are currently receiving benefits. Although the number of parcels participating in each program may vary, the value of most tax expenditure programs is of similar magnitude. The kinds of properties assisted by the commercial programs vary from hotels, retail space, and office buildings to properties involved in manufacturing and distribution activities, such as factories and warehouses. The programs will frequently provide more extensive benefits to industrial construction and renovation.

Individual Assistance - The smallest real property tax expenditure category, programs for individual assistance total \$66 million in fiscal 1990. Over 100,000 veterans and senior citizens have been granted tax relief through lower property assessments. Additionally, more than 49,000 senior citizens tenants are provided rent increase relief, funded through tax credits to property owners. Senior citizens programs are based on the income of the qualifying individual who owns or occupies the property.

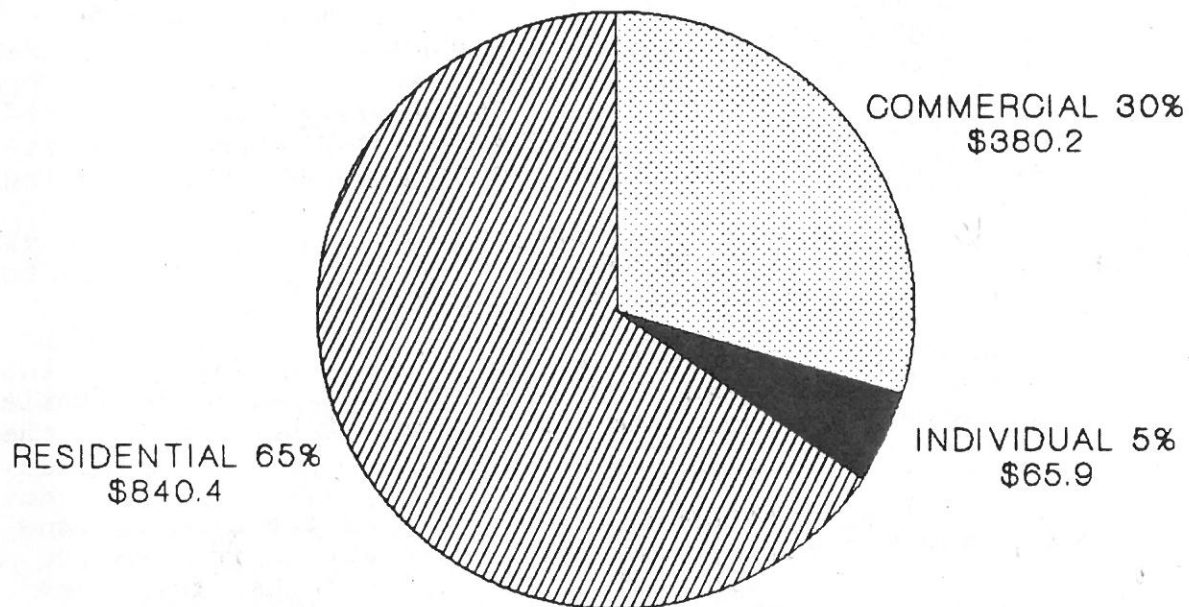
CHART 1

REAL PROPERTY TAX EXPENDITURES

By Purpose, FY 1990

Total Expenditures \$1,286.5 million

(\$'s in millions)



Sources of Tax Expenditures

Real estate tax expenditures are provided through a large number of City programs. Various State oriented or non-City programs have been included in this report since the related exemptions are administered by the City and these programs serve as channels for housing and economic development incentives in the City. The major sources of expenditures include City and State programs and public agencies. (Chart 2)

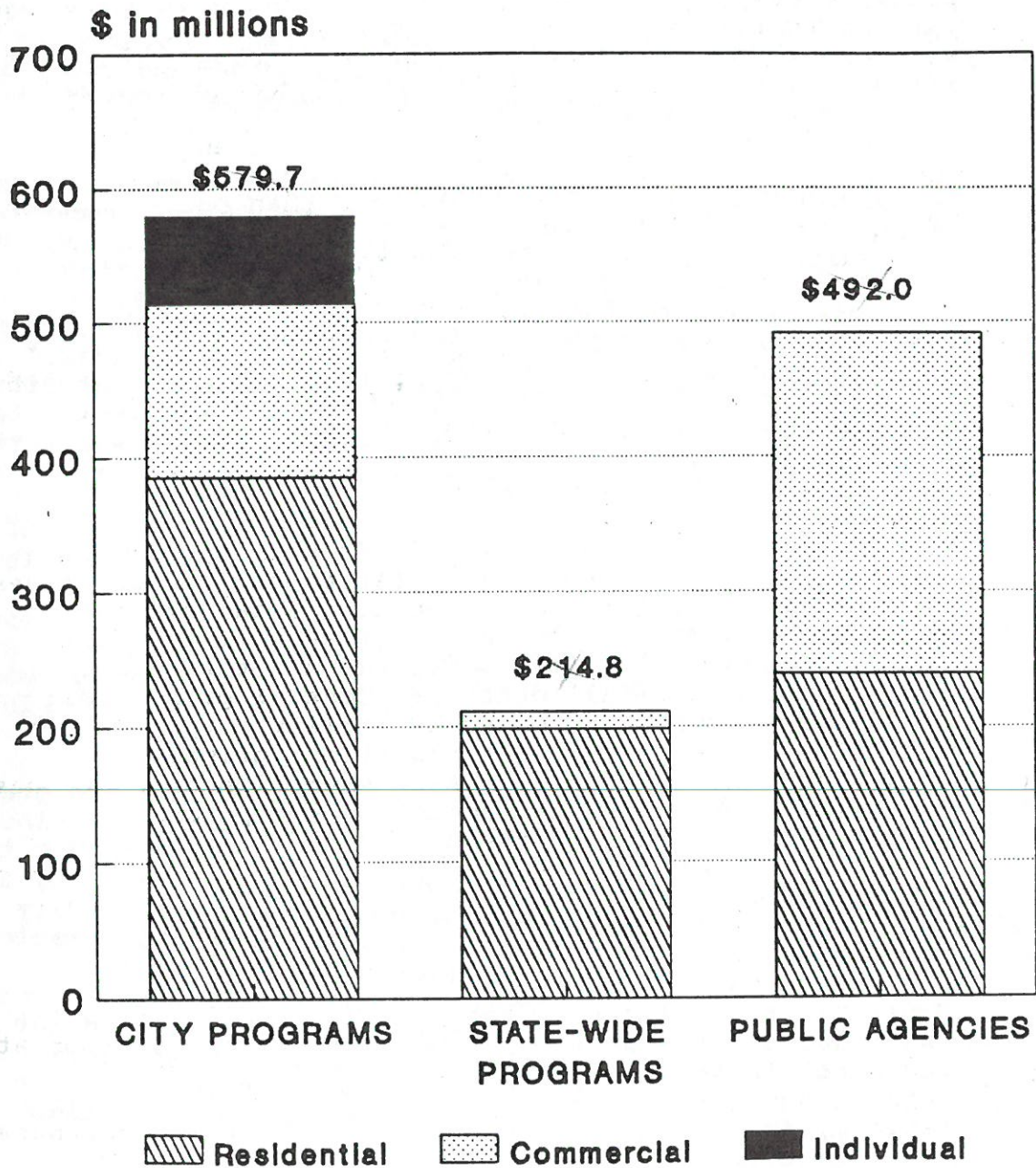
City Programs - This category includes local incentives granted directly by the City for housing, commercial development and individual assistance. Also included are State-wide programs in which participation is at the discretion of the locality. In fiscal 1990, tax expenditures from this source total \$579 million or 45 percent of City-wide property tax expenditures. Residential incentives comprise 66 percent of City program expenditures and are valued at \$385 million. Another 22 percent of City Program tax expenditures are attributable to economic development programs.

State-wide Programs - These programs meet many of the same goals as the City programs but are not exclusive to City taxpayers. The programs are predominantly residential. Of the total \$214.8 million of property tax expenditures in this category, 94 percent are granted to moderate and middle income housing, with the largest proportion going to Limited Profit Housing Companies.

Public Agencies - Although tax exemptions are granted to all public authorities, the exempt properties included in this report benefit certain taxpayers rather than the public at large. The agencies include the City's Industrial Development Agency, the New York City Housing Authority, the State Urban Development Corporation and the regional New York-New Jersey Port Authority. In fiscal 1990, commercial and industrial projects account for just over half of the tax expenditures attributable to public agencies. The New York City Housing Authority accounts for 90 percent of the \$238 million in residential tax expenditures in this category.

CHART 2

REAL PROPERTY TAX EXPENDITURES By Source, FY 1990



Detailed Program Descriptions:

City Programs, State-Wide Programs, and Public Agencies

The following sections provide information on tax expenditures within the real property tax. Table 1 covers City Programs with a distribution by borough in Table 2. Similarly, Table 3 covers State-wide Programs with a borough analysis in Table 4. Public Agencies are reviewed on a Citywide basis in Table 5, with a borough analysis provided in Table 6. Tables 1 and 2 contain data as described below:

Number of Exemptions - This column represents the quantity of exemptions under each program. Certain properties may be eligible for more than one exemption, such as the Veterans' and Senior Citizen exemptions. As a result, the number of exemptions does not coincide with the number of parcels receiving exemptions.

Exempt Assessed Value - Exemptions have the effect of excluding from the tax rolls a portion of the assessed value, whether the result of new construction (for example, the Industrial and Commercial Incentive Program) or tax relief (Senior Citizens Homeowner Exemption).

Tax Expenditures - Tax expenditures were determined by applying the appropriate tax rates to the exempt values in each category. The City's property tax system establishes separate tax rates for each of the four major classes: class one - one, two and three family homes; class two - all other residential properties; class three - property owned by utility corporations; and class four - all other properties, primarily commercial and industrial. Each exemption category was analyzed to determine the amount of exemption attributable to each of the City's four tax classes.

Tables 3, 4, 5, and 6 contain the following additional data as described below:

Gross Tax Expenditures - For Tables 2 and 3, gross tax expenditures were determined by applying the appropriate tax rates to the exempt values, using the same methodology that was applied for Tax Expenditures in Table 1, but not accounting for any offsetting revenues.

Payments-in-Lieu-of-Taxes (PILOTs) - Although exempt from taxation, certain properties may be contractually obligated to make payments to the City. Additionally, certain housing programs are required to pay taxes based on a shelter rent formula, defined as gross rent less utility costs. As the information is not available by exemption, shelter rent payments have been presented as a single sum.

Net Tax Expenditures - These values have been determined by reducing the gross tax expenditures by applicable PILOTs. Tax abatements, which are credits used to reduce tax liability (rather than assessment reductions), are included in this column.

Following each table is a complete description of the tax programs, including the legal citations.

TABLE 1
CITY PROGRAMS
REAL PROPERTY TAX EXPENDITURES
Fiscal Year 1990
(\$ Millions)

	Number of Exemptions	Exempt Assessed Value	Tax Expenditure
<u>Housing Development Programs</u>			
J-51 Exemptions	7,427	\$1,130.4	\$104.4
<i>Residential</i>	7,348	1,122.4	103.6
<i>Commercial</i>	79	8.0	0.8
J-51 Abatements (est.)			93.0
421-a, New Multiple Dwellings			
10 year exemption	25,988	1,674.3	154.9
15 year exemption	4,863	199.8	18.6
25 year exemption	261	37.1	3.4
Total 421-a programs	31,112	1,911.3	176.9
<i>Residential</i>	29,574	1,840.2	170.2
<i>Commercial</i>	1,538	71.0	6.7
421-b, New Private Housing	12,844	196.3	18.6
TOTAL HOUSING DEVELOPMENT PROGRAMS	51,383	\$3,238.0	\$392.9
<u>Individual Assistance Programs</u>			
Senior Citizens Homeowner Exemption	17,364	\$90.0	\$8.5
Senior Citizen Rent Increase Exemption (est.)	(1)		47.0
Veterans' Exemptions	86,759	202.8	10.4
TOTAL ASSISTANCE PROGRAMS	104,123	\$292.8	\$65.9

Totals may not add due to rounding.

(1) An estimated 49,000 tenants will receive SCRIE benefits in FY 1990.

TABLE 1
(continued)
CITY PROGRAMS
REAL PROPERTY TAX EXPENDITURES
Fiscal Year 1990
(\$ Millions)

	<u>Number of Exemptions</u>	<u>Exempt Assessed Value</u>	<u>Tax Expenditure</u>
<u>Economic Development Programs</u>			
Industrial & Commercial Incentive Board			
New Construction	161	\$215.8	\$20.9
Alterations	<u>303</u>	<u>293.8</u>	<u>28.0</u>
Total	464	509.6	48.9
Industrial & Commercial Incentive Program			
Deferral Areas (2)	33	367.8	35.1
Industrial & Special Commercial	314	94.3	9.0
All Other Commercial Projects	<u>361</u>	<u>159.2</u>	<u>15.2</u>
Total	708	621.3	59.3 /
<u>Other Commercial & Industrial Exemptions</u>			
Water-works Corporations	52	51.4	6.6
Major League Sports Facilities	1	64.2	6.1
TOTAL ECONOMIC DEVELOPMENT	1,225	\$1,246.5	\$120.9
Total Residential	49,766	3,158.9	385.4
Total Commercial/Industrial	2,842	1,325.5	128.4
Total Assistance Programs	104,123	292.8	65.9
TOTAL CITY PROGRAMS	<u>156,731</u>	<u>\$4,777.3</u>	<u>\$579.7</u>

Totals may not add due to rounding.

(2) Taxes in these areas are deferred, not wholly forgiven, and must be paid back over a ten year period.
The amount shown reflects the unadjusted value of the current tax exemption.

TABLE 2
CITY PROGRAMS
REAL PROPERTY TAX EXPENDITURES
Borough Distribution
Fiscal Year 1990
(\$ Millions)

	<u>MANHATTAN</u>		<u>THE BRONX</u>	
	<u>Number of Exemptions</u>	<u>Tax Expenditure</u>	<u>Number of Exemptions</u>	<u>Tax Expenditure</u>
<u>Housing Development Programs</u>				
J-51 Exemption	3,767	\$70.6	536	\$9.1
J-51 Abatement (estimated)	---	47.2	---	11.8
421-a, New Multiple Dwellings	14,599	140.8	547	2.0
421-b, New Private Housing	18	0.1	757	0.8
TOTAL HOUSING DEVELOPMENT	18,384	\$258.6	1,840	\$23.6
<u>Individual Assistance Programs</u>				
Senior Citizen Homeowner Exemption	51	0.0	1,909	0.9
* Senior Citizen Rent Increase Exemption (estimated)	---	14.0	---	6.6
Veterans' Exemptions	265	0.0	6,772	0.8
TOTAL INDIVIDUAL ASSISTANCE	316	\$14.0	8,681	\$8.4
<u>Economic Development Programs</u>				
Industrial & Commercial Incentive Board	113	38.1	42	0.4
Industrial & Commercial Incentive Program	39	35.4	62	3.5
<u>Other Commercial and Industrial Exemptions</u>				
Water-works Corporation	0	0.0	0	0.0
Major League Sports Facilities	1	6.1	0	0.0
TOTAL ECONOMIC DEVELOPMENT	153	\$79.6	104	\$3.8
TOTAL CITY PROGRAMS	<u>18,853</u>	<u>\$352.3</u>	<u>10,625</u>	<u>\$35.8</u>

Totals may not add due to rounding.

* The J-51 and SCRIE abatements were determined by applying the actual borough distribution from FY 1989 to the FY 1990 estimate.

TABLE 2
(continued)

<u>BROOKLYN</u>		<u>QUEENS</u>		<u>STATEN ISLAND</u>	
<u>Number of</u> <u>Exemptions</u>	<u>Tax</u> <u>Expenditure</u>	<u>Number of</u> <u>Exemptions</u>	<u>Tax</u> <u>Expenditure</u>	<u>Number of</u> <u>Exemptions</u>	<u>Tax</u> <u>Expenditure</u>
2,107	\$20.0	829	4.0	188	0.7
---	19.6	---	13.8	---	0.7
2,306	8.1	7,060	17.1	6,600	9.0
494	0.7	1,029	1.7	10,546	15.3
4,907	\$48.3	8,918	\$36.6	17,334	\$25.7
5,430	2.6	8,264	4.1	1,710	0.8
---	14.3	---	12.0	---	0.1
22,073	2.6	39,919	4.7	17,730	2.2
27,503	\$19.6	48,183	\$20.8	19,440	\$3.2
93	3.0	177	6.4	39	0.9
135	2.4	333	15.2	139	2.8
0	0.0	52	6.6	0	0.0
0	0.0	0	0.0	0	0.0
228	\$5.5	562	\$28.3	178	\$3.7
<u>32,638</u>	<u>\$73.4</u>	<u>57,663</u>	<u>\$85.6</u>	<u>36,952</u>	<u>\$32.5</u>

CITY PROGRAMS

J-51 Program, Residential Alterations and Rehabilitation

Citation:

NYS Real Property Tax Law; Article 4, Section 489
NYC Administrative Code; Title 11, Section 243

Description:

Originally begun to eliminate safety and health hazards, the J-51 program, as it is commonly known, has been expanded to encourage the rehabilitation of existing residential structures by providing tax exemptions and abatements. The benefits provided vary based on government involvement in the rehabilitation, location of the property and the extent and nature of the improvement.

Properties that undergo renovations which qualify as major capital improvements such as the replacement of heating, plumbing or roofing systems, installation of new windows, or exterior and parapet wall repointing, may receive an exemption for 12 years. Existing taxes may be abated for up to 90 percent of the reasonable cost, at a rate of 8-1/3 percent per year, for as long as 20 years. Buildings in designated areas of Manhattan may only abate the taxes on the building assessment, not the land, up to \$2,500 per unit.

Moderate Rehabilitation projects, where there is a significant improvement to at least one major building-wide system, receive a 32 year tax exemption and an abatement of up to 100 percent of the reasonable cost. One major requirement is that the property remain substantially occupied during the rehabilitation.

Government assisted projects and those in Neighborhood Preservation Areas receive enriched benefits, including: a tax exemption for 32 years; an abatement that can equal the actual claimed cost; and the abatement may be applied at a rate of 12.5 percent annually for up to 20 years. Formerly City owned vacant buildings receiving substantial government assistance through a program for affordable housing may also receive a 32 year exemption

and an abatement up to 150 percent of reasonable cost.

J-51 benefits have recently been expanded to include cooperatives, condominiums and Mitchell-Lama projects with some limitations.

Projects must be completed by December 31, 1993.

Tax Expenditure:

\$197.4 million

Section 421-a, New Multiple Dwellings

Citation:

NYS Real Property Tax Law; Article 4, Section 421-a
NYC Administrative Code; Title 11, Section 245

Description:

The Section 421a Program is used to promote multi-family residential construction by providing a declining exemption on the new value created by the improvement. The program has been amended since its initial enactment in the early 1970's to expand benefits based on location and other qualifying conditions, which include: (a) substantial government assistance; (b) at least 20 percent of the units must be reserved for low and moderate income occupants; or (c) participation in the lower income housing production program. All projects are eligible for exemption during the construction period, not to exceed three years.

- In the Manhattan Exclusion Zone (roughly defined as south of 96th Street, north of Houston Street on the west side, and north of 14th Street on the east side), properties receive a ten year declining exemption only if they meet conditions (a), (b), or (c). The property enjoys a full exemption for two years followed by an eight year period during which taxes are phased in at 20 percent every two years.
- Properties located in Manhattan south of 110th Street but not in the Exclusion Zone receive the ten year exemption. If they meet conditions (a), (b), or (c), they are granted a 15 year exemption, 11 years of full exemption followed by a four year phase in of full taxation.
- Properties in Manhattan north of 110th Street and in the other four boroughs are granted the same 15 year exemption. However, if they meet one of the qualifying conditions or are located in a neighborhood preservation area, they receive full exemption for 21 years followed by a four year declining exemption.

Rental projects are subject to the provisions of the Rent Stabilization Act during their exemption period. Recent legislation extended the deadlines for qualification - construction must commence prior to January 1, 1994 and be completed no later than December 31, 1995.

Tax Expenditure:

\$176.9 million

Section 421-b, New Private Housing

Citation:

NYS Real Property Tax Law; Article 4, Section 421-b

Description:

The 421-b program provides a declining eight year exemption for the construction of one and two family homes. The purpose of the program is to make new housing affordable to a larger segment of the population. There are no geographic restrictions.

As in other programs, the building assessment is exempt during the construction period, not to exceed two years. Thereafter, the property is fully exempt for an additional two years. In the third year, the exemption is reduced to 75 percent and declines by 12-1/2 percent in each subsequent year, until the ninth year when the property becomes fully taxable. The exemption is applicable only to the value of the new construction; the property owner must continue to pay taxes on the pre-construction assessment.

The State Legislature extended the qualification deadlines for Section 421-b benefits. In order for property to qualify, construction must begin prior to July 1, 1994 and be completed no later than July 1, 1996.

Tax Expenditure:

\$18.6 million

Senior Citizen Homeowner Exemption

Citation:

NYS Real Property Tax Law; Article 4, Section 467

Description:

The program provides real estate tax relief to elderly homeowners with limited incomes. To qualify for the maximum exemption of 50 percent, a homeowner must be at least 65 years of age (if married, one spouse must be 65 years old) with a combined household income, including Social Security, of no more than \$12,025. The exemption is reduced by 5 percent for each \$500 increment in income above \$12,025, up to a maximum income of \$15,024 (20 percent exemption). The property must be the legal residence and occupied in whole or in part by the owner or owners of the property. Generally, the owner must have held title to the property for a minimum of 24 consecutive months. The exemption applies only to the portion of the property used for residential purposes.

The Senior Citizen Homeowner Exemption does not include a sunset provision.

Tax Expenditure:

\$8.5 million

Income Distribution:

<u>Income Range</u>	<u>Number of Exemptions</u>	<u>Percent of Total Exemption</u>	<u>Exempt Assessed Value</u>
\$0 - 12,025	14,663	84.4%	\$79.1m
\$12,025 - 12,524	595	3.4%	3.1m
\$12,525 - 13,024	563	3.2%	2.7m
\$13,025 - 13,524	501	2.9%	2.0m
\$13,525 - 14,024	404	2.3%	1.4m
\$14,025 - 14,524	314	1.8%	.9m
\$14,525 - 15,024	317	1.8%	.8m
Data Not Available	7	0.0%	.0m
TOTAL	17,364	100.0%	\$90.0m

Source: New York City Department of Finance

Senior Citizen Rent Increase Exemption (SCRIE)

Citation:

NYS Real Property Tax Law; Article 4, Section 467-b

Description:

The Senior Citizens Rent Increase program (SCRIE) exempts an eligible renter from increases in rent above one-third of total household income. In return, the landlord receives a real estate tax abatement equal to the amount of rent forgiven. If the total rent increase exemption applicable to a property exceeds the taxes due, a real estate tax refund is granted.

Tenants may be eligible for the SCRIE program if they are at least 62 years old and have a total household income that does not exceed \$15,000. Additionally, once tenants qualify for the program, increases in their Social Security income are excluded from the determination of total household income. Furthermore, the tenant must reside in a rent controlled, rent stabilized or rent regulated (such as, Mitchell-Lama housing) unit.

The Senior Citizen Rent Increase Exemption does not include a sunset provision.

Tax Expenditure:

\$47 million (estimated)

Veterans' Exemptions

Citation:

NYS Real Property Tax Law; Article 4, Sections 458 and 458-a

Description:

Two programs provide partial tax exemptions to qualified veterans.

- The original program, under Section 458, granted tax exemptions to veterans who have purchased real property using a bonus, pension, or insurance or compensation received as a prisoner of war. The exemption granted is equal to the amount of eligible funds, not to exceed \$5,000 and is subject to tax for educational purposes.
- Section 458 also provides an additional exemption of up to \$10,000, fully exempt for all purposes, for suitable handicapped designed housing made necessary as the result of the disability.

New veterans' exemptions are granted under Section 458-a, based on service rendered.

- A 15 percent exemption is granted to all veterans who served during a period of conflict, with an additional 10 percent granted to those who served in a combat zone. Both the 15 and 10 percent exemptions are limited to a maximum of ten years.
- A disabled veteran is entitled to an additional exemption of up to 50 percent of the assessed value, based upon the veteran's disability rating.

The property must be used exclusively for residential purposes and be the primary residence of the veteran or unremarried surviving spouse. Non-residential portions of the property are fully taxable. The 458-a exemption does not apply to taxes levied for school purposes.

Tax Expenditure:

\$10.4 million

Industrial and Commercial Incentives Board (ICIB)

Citation:

NYS Real Property Tax Law; Article 4, Section 489
NYC Administrative Code; Title 11, Section 247

Description:

In an effort to retain existing companies and encourage new growth, the City created the Industrial and Commercial Incentive Board (ICIB) in 1977 to provide tax exemptions for construction or rehabilitation of commercial and industrial structures. The Board determined whether a property would receive tax exemptions based on an analysis of need and impact on the City's economy.

Initially, the program offered two types of benefits. New construction of industrial facilities or the rehabilitation of existing commercial or industrial buildings were granted an exemption equal to 95 percent of the incremental assessed value for a period of 19 years, declining by 5 percent annually. New commercial construction was granted a ten year declining exemption equal to 50 percent of the increase in assessed value.

As the City's economy improved, amendments were made to the law that restricted benefits for most commercial projects. The only exceptions were commercial rehabilitation projects in areas designated as "special need" or "as of right" which received the same schedule of benefits as industrial projects. The ten year, 50 percent exemption applied to all other commercial reconstruction and new construction in special need or as of right areas. All other new commercial construction was limited to a 50 percent exemption declining over five years. Pursuant to a 1982 amendment, increases in assessed value that result from construction, including increases that occur within two years of completion, are eligible for exemption. Subsequent increases in assessed value are taxable.

In November 1984, the City Council enacted legislation establishing the Industrial and Commercial Incentives Program (ICIP), the successor to ICIB.

Tax Expenditure:

\$48.9 million

Industrial and Commercial Incentives Program (ICIP)

Citation:

NYS Real Property Tax Law; Article 4, Section 489
NYC Administrative Code; Title 11, Section 256

Description:

The Industrial and Commercial Incentive Program (ICIP) replaced the Industrial and Commercial Incentives Board program in November, 1984, differing from the original program in two important respects. Benefits are granted on an "as-of-right" basis rather than at the discretion of a board, and have been structured to encourage development outside Manhattan's business districts. The new program conveys clear guidelines regarding the qualifying conditions that determine eligibility for tax exemptions. Exemptions are granted on the increased assessment of the improvements only.

- All industrial projects, regardless of location, and commercial projects in designated special need areas receive maximum benefits: full tax exemption for 13 years followed by nine years of declining exemption, reduced by 10 percent annually.
- Manhattan below 96th Street is divided into an Excluded Area (generally Midtown East and Downtown) and a Deferral Area. Projects in deferral areas are fully exempt from taxes during the first three years. This exemption is phased out over years four through seven at 20 percent annually, followed by three years of full tax payments. In years 11 through 20, full taxes are due plus 10 percent of the total deferred payments.
- All other commercial projects receive a 100 percent exemption for eight years and four years of declining exemption.

Increases in assessed value subsequent to the third year following the issuance of the certificate of eligibility are fully taxable.

Geographic designations are reviewed every three years by the Boundary Commission, which adopted new boundaries effective January, 1988. In order to qualify for a tax exemption, an Application for Eligibility must be filed with the Department of Finance by December 31, 1990.

Tax Expenditure:

\$59.3 million

Water-works Corporations, Jamaica Water Supply

Citation:

NYS Real Property Tax Law; Article 4, Section 485-d

Description:

Since fiscal 1986, the City has provided a tax exemption for property owned by the Jamaica Water Supply Company. The exemption was granted to correct an inequity between customers of the City's water system and those served by JWS, since the City's system does not pay taxes.

Current law does not provide for a sunset provision.

Tax Expenditure:

\$6.6 million

Major League Sports Facilities, Madison Square Garden

Citation:

NYS Real Property Tax Law; Article 4, Section 429

Description:

The City has provided a real estate tax exemption for Madison Square Garden to eliminate any lease increases due to changes in either the tax rate or assessments. The exemption is contingent upon the continued use of the Garden by professional major league hockey and basketball teams for their home games. The current leases are scheduled to expire in fiscal 1992.

Tax Expenditure:

\$6.1 million

TABLE 3
STATE-WIDE PROGRAMS
REAL PROPERTY TAX EXPENDITURES
 Fiscal Year 1990
 (\$ Millions)

	<u>Number of Exemptions</u>	<u>Exempt Assessed Value</u>	<u>Gross Tax Expenditure</u>	<u>PILOTs</u> (1)	<u>Net Tax Expenditure</u> (2)
Limited Profit Housing Companies	367	\$2,280.2	\$210.7		
<i>Residential</i>	304	2,188.0	201.9		
<i>Commercial</i>	63	92.2	8.8		
Limited Dividend Companies	16	54.2	5.0		
Redevelopment Companies	142	366.9	33.9		
<i>Residential</i>	129	362.8	33.5		
<i>Commercial</i>	13	4.1	0.4		
Housing Development Fund Companies	68	111.4	10.3		
<i>Residential</i>	62	104.1	9.6		
<i>Commercial</i>	6	7.3	0.7		
Urban Development Action Area Program	1,930	52.9	4.9		
State Assisted Housing	30	96.4	9.0		
<i>Residential</i>	18	64.2	5.9		
<i>Commercial</i>	12	32.2	3.1		
Total Residential	2,459	2,826.2	260.8		
Total Commercial/Industrial	94	135.8	13.0		
TOTAL STATE-WIDE PROGRAMS	<u>2,553</u>	<u>\$2,962.1</u>	<u>\$273.8</u>	<u>\$59.0</u>	<u>\$214.8</u>

Totals may not add due to rounding.

(1) PILOT figures reflect data reported to OMB by other agencies as PILOT revenue.

(2) The estimate of PILOTS and shelter rent payments are not available for attribution to programs within this category. Additional shelter rent payments may be imposed but were not available for this analysis.

TABLE 4
STATE-WIDE PROGRAMS
REAL PROPERTY TAX EXPENDITURES
Borough Distribution
Fiscal Year 1990
(\$ Millions)

	<u>MANHATTAN</u>		<u>THE BRONX</u>	
	<u>Number of</u> <u>Exemptions</u>	<u>Gross Tax</u> <u>Expenditure</u>	<u>Number of</u> <u>Exemptions</u>	<u>Gross Tax</u> <u>Expenditure</u>
Limited Profit Housing Companies	100	\$73.4	112	\$62.0
Limited Dividend Companies	3	2.7	3	0.8
Redevelopment Companies	43	22.1	39	3.8
Housing Development Fund Companies	22	4.3	27	3.4
Urban Development Action Area Program	136	3.2	41	0.0
State Assisted Housing	10	2.5	5	2.4
TOTAL STATE-WIDE PROGRAMS	<u>314</u>	<u>\$108.1</u>	<u>227</u>	<u>\$72.5</u>

Totals may not add due to rounding.

At this time, the calculation of Net Tax Expenditures is not possible due to the lack of data for PILOT and shelter rent payments by program and borough.

TABLE 4
(continued)

<u>BROOKLYN</u>		<u>QUEENS</u>		<u>STATEN ISLAND</u>	
<u>Number of</u> <u>Exemptions</u>	<u>Gross Tax</u> <u>Expenditure</u>	<u>Number of</u> <u>Exemptions</u>	<u>Gross Tax</u> <u>Expenditure</u>	<u>Number of</u> <u>Exemptions</u>	<u>Gross Tax</u> <u>Expenditure</u>
112	\$51.3	38	\$22.2	5	\$1.8
10	1.5	0	0.0	0	0.0
46	5.8	6	1.5	8	0.6
16	1.6	3	1.1	0	0.0
1,676	\$1.6	77	0.1	0	0.0
8	2.2	7	1.8	0	0.0
<u>1,868</u>	<u>\$64.1</u>	<u>131</u>	<u>\$26.7</u>	<u>13</u>	<u>\$2.5</u>

STATE-WIDE PROGRAMS

Limited Profit Housing Companies

Citation:

NYS Private Housing Finance Law, Article 2

Description:

The Limited Profit Housing Companies law was adopted in the 1950's to assist in the construction of moderate and middle income housing. These privately managed rental and co-op projects, commonly known as Mitchell-Lama housing, were constructed with financing assistance from either the City or the State. In return for providing 40 to 50 year mortgages at interest rates of four to eight percent, the respective government maintains supervisory rights to establish tenant income restrictions, set rent levels, impose co-op resale restrictions, and establish waiting list procedures.

Real property taxes for Mitchell-Lama projects are based on the greater of 10 percent of shelter rent (gross rent less utilities) or a specified percentage of the assessed value of the property multiplied by the applicable tax rate. In addition, the City receives payments-in-lieu-of-taxes (PILOTs) from a small number of Mitchell-Lama projects.

The enabling legislation does not include a sunset provision.

Gross Tax Expenditure:

\$210.7 million

An income distribution of tenants and cooperative owners benefiting from this program is provided on the following page.

Limited Profit Housing Companies (continued)

Income Distribution:

The following information is based on 1986 household income, which is the most current data available. The data identify the percentage of tenants and cooperative owners by income range for both City and State supervised projects. The total number of tenants and owners was not available at this time.

<u>1986 Household Income Range</u>	<u>Percentage of Rental Households</u>	<u>Percentage of Co-op Households</u>
\$0 - 9,999	32.57%	18.90%
\$10,000 - 12,499	4.81%	8.91%
\$12,500 - 14,999	7.60%	6.01%
\$15,000 - 19,999	14.54%	12.11%
\$20,000 - 24,999	12.83%	8.18%
\$25,000 - 29,999	8.12%	11.72%
\$30,000 - 34,999	6.38%	9.39%
\$35,000 - 39,999	5.49%	5.73%
\$40,000 - 44,999	1.88%	4.82%
\$45,000 - 49,999	0.49%	4.71%
\$50,000 and over	5.29%	9.51%

Source:

1987 New York City Housing and Vacancy Survey,
Department of Housing Preservation and Development

Limited Dividend Housing Companies

Citation:

NYS Private Housing Finance Law, Article 4

Description:

The Limited Dividend Housing Companies (LDHC) program was one of the earliest attempts to channel private investment into affordable housing for moderate and middle income households. Private developers, financing garden apartment cooperative developments for which they received a limited return on investment, received a 50 year real property tax exemption. They were required to comply with state regulations on eligibility of purchasers, co-op sales prices, and operating surpluses. Although the original exemptions for all LDHC projects have expired, the Board of Estimate approved a 14 year phase in for full taxation, recognizing the hardship an abrupt change in tax liability would have on co-op owners.

The enabling legislation does not include a sunset provision.

Gross Tax Expenditure:

\$5 million

Redevelopment Companies

Citation:

NYS Private Housing Finance Law, Article 5

Description:

A precursor to the Limited Profit Housing (Mitchell-Lama) program, this program attempted to attract private resources for the development of low to moderate income housing. The participants were largely institutional investors, such as insurance companies and pension funds, providing financing for rental and co-op developments. They were granted a 25 year tax exemption for accepting a limited rate of return on their investment and compliance with City regulations regarding tenant eligibility, rent levels and restrictions of co-op sales. The exemption has expired or is due to expire soon on many of these projects. However, the owners have the option of remaining in the program with an additional 25 year exemption, or a nine year phase in of full taxation. At present, only the "Penn South" project has chosen the 25 year extended exemption.

The enabling legislation does not include a sunset provision.

Gross Tax Expenditure:

\$33.9 million

Housing Development Fund Companies (HDFC)

Citation:

NYS Private Housing Finance Law, Article 11

Description:

Housing Development Fund Companies (HDFC) is an umbrella term for a wide range of projects developed by non-profit organizations. Special exemptions are adopted by the Board of Estimate under the authority of Article 11, depending upon the nature of the program in which the project is involved.

Projects that are entitled to full exemptions include housing constructed in the 1960's and early 1970's under Federal Section 236 Program, housing renovated through the Capital Budget Homeless Housing Program (CBHHP) and some properties participating in the SRO Loan Program. In addition, new housing for the elderly and handicapped developed under Federal Section 202 also receives this tax benefit.

Recently, the Board of Estimate extended partial real property tax exemptions to properties sold through the Tenant Interim Leasing Program (TIL).

There is no sunset provision within the enabling legislation.

Gross Tax Expenditure:

\$10.3 million

Urban Development Action Area Projects (UDAAP)

Citation:

NYS General Municipal Law, Article 16

Description:

This exemption is granted to property developed on formerly City-owned land in designated Urban Development Action Area Projects (UDAAP). While UDAAPs encompass a wide range of housing development programs, the largest percentage of UDAAPs approved by the Board of Estimate are owner-occupied one, two and three family homes or small condominium and cooperative structures. The most notable examples of UDAAPs are the Nehemiah and Mutual Housing Association of New York (MHANY) Programs, providing housing in the Brownsville and East New York sections of Brooklyn.

UDAAP sites receive real property tax exemptions only on the assessed value of the improvements, 10 years at 100 percent of assessed value, followed by a 10 year declining exemption. No payments-in-lieu-of-taxes (PILOTs) are imposed by the City.

The enabling legislation does not include a sunset provision.

Tax Expenditure:

\$4.9 million

Miscellaneous State Assisted Housing

Citation:

NYS Real Property Tax Law; Article 4, Section 422

Description:

This program provides tax exemptions for real property owned by not-for-profit corporations used exclusively to provide housing and auxiliary facilities for a target population. This population includes, but is not exclusive to, faculty members, students, and employees (and their immediate families) attending or employed by a college or university; nurses, interns, resident physicians and other related personnel at hospitals and medical research institutions; and handicapped or elderly persons with low incomes. For Section 8 projects providing housing for the elderly, the Board of Estimate is authorized to grant full exemption during construction, followed by a partial exemption.

The laws relating to these programs do not include sunset provisions.

Gross Tax Expenditure:

\$9 million

TABLE 5
PUBLIC AGENCIES
REAL PROPERTY TAX EXPENDITURES
 Fiscal Year 1990
 - (\$ Millions)

	<u>Number of Exemptions</u>	<u>Exempt Assessed Value</u>	<u>Gross Tax Expenditure</u>	<u>PILOTs (1)</u>	<u>Net Tax Expenditure</u>
Industrial Development Agency	603	\$408.1	\$38.9	\$18.0	\$20.9
Public Development Corporation	80	67.8	6.5	0.3	6.2
New York City Housing Authority	1,325	2,575.8	237.8	21.7	216.1
<i>Residential</i>	1,182	2,549.5	235.3	21.7	213.6
<i>Commercial</i>	143	26.3	2.5	0.0	2.5
Urban Development Corporation	52	606.4	57.9	0.0	57.9
<i>Residential</i>	14	39.7	3.8	0.0	3.8
<i>Commercial</i>	38	566.7	54.1	0.0	54.1
Power Authority of the State of NY	6	353.2	45.6	0.0	45.6
Battery Park City Authority (2)	1,673	1,088.4	103.0	17.3	85.7
<i>Residential</i>	1,659	260.3	24.0	2.6	21.4
<i>Commercial</i>	14	828.1	79.0	14.7	64.3
World Trade Center, Port Authority	1	1,070.0	102.1	42.9	59.2
Teleport, Port Authority	2	3.2	0.4	0.0	0.4
Total Residential	2,855	2,849.5	263.1	24.3	238.8
Total Commercial/Industrial	887	3,323.4	329.1	75.9	253.2
TOTAL PUBLIC AGENCIES	3,742	\$6,172.9	\$592.2	\$100.2	\$492.0

Totals may not add due to rounding.

(1) PILOT figures reflect data reported to OMB by other agencies as PILOT revenue.

(2) Amounts shown do not reflect BPCA's non-PILOT payments to the City, which will total \$5.8 million in fiscal 1990. In addition, excess BPCA revenues support City affordable housing programs through the Battery Park City Housing Trust Fund and the Housing New York Corporation (see p. 47).

TABLE 6
PUBLIC AGENCIES
REAL PROPERTY TAX EXPENDITURES
Borough Distribution
Fiscal Year 1990
(\$ Millions)

	<u>MANHATTAN</u>		<u>THE BRONX</u>	
	<u>Number of Exemptions</u>	<u>Gross Tax Expenditure</u>	<u>Number of Exemptions</u>	<u>Gross Tax Expenditure</u>
Industrial Development Agency	124	\$11.5	78	\$3.0
Public Development Corporation	0	0.0	1	0.1
New York City Housing Authority	249	75.1	208	59.1
Urban Development Corporation	35	51.7	8	3.2
Power Authority of the State of NY	2	1.7	2	0.0
Battery Park City Authority	1,673	103.0	0	0.0
World Trade Center, Port Authority	1	102.1	0	0.0
Teleport, Port Authority	0	0.0	0	0.0
TOTAL PUBLIC AGENCIES	<u><u>2,084</u></u>	<u><u>\$345.0</u></u>	<u><u>297</u></u>	<u><u>\$65.4</u></u>

Totals may not add due to rounding.

At this time, the calculation of Net Tax Expenditures is not possible due to the lack of data for PILOT and shelter rent payments by program and borough.

TABLE 6
(continued)

<u>BROOKLYN</u>		<u>QUEENS</u>		<u>STATEN ISLAND</u>	
<u>Number of</u> <u>Exemptions</u>	<u>Gross Tax</u> <u>Expenditure</u>	<u>Number of</u> <u>Exemptions</u>	<u>Gross Tax</u> <u>Expenditure</u>	<u>Number of</u> <u>Exemptions</u>	<u>Gross Tax</u> <u>Expenditure</u>
174	\$6.2	218	\$17.9	9	\$0.4
62	5.7	13	0.4	4	0.3
406	76.4	447	19.8	15	7.5
8	2.9	1	0.0	0	0.0
0	0.0	2	43.9	0	0.0
0	0.0	0	0.0	0	0.0
0	0.0	0	0.0	0	0.0
0	0.0	0	0.0	2	0.4
<u>650</u>	<u>\$91.2</u>	<u>681</u>	<u>\$81.9</u>	<u>30</u>	<u>\$8.6</u>

PUBLIC AGENCIES

Industrial Development Agency (IDA)

Citation:

NYS General Municipal Law; Section 858 and Section 917
NYS Real Property Tax Law; Article 4, Section 412

Description:

The City's Industrial Development Agency (IDA) assists eligible manufacturing, industrial and commercial businesses interested in large-scale expansion or modernization through the purchase of land, buildings, machinery and equipment. The IDA helps businesses gain access to the capital markets through the sale of industrial revenue bonds, the interest from which is exempt from some, or all, taxes. The result is lower cost project financing. The projects must foster job creation and retention in Manhattan north of 96th Street or the other boroughs.

All real property acquired or constructed with the use of IDA financing is exempt from real property taxation. The exemption benefits are passed on to the project owners through leaseback arrangements. Lease payments are equivalent to debt service on bonds plus payments-in-lieu-of-taxes (PILOTs) for land and buildings.

The enabling legislation does not include a sunset provision.

Tax Expenditure:

\$20.9 million

Public Development Corporation (PDC)

Citation:

NYS Real Property Tax Law; Article 4, Section 412

Description:

The Public Development Corporation (PDC) is a non-profit local development corporation, acting as an independent entity under contract to the City to assist and promote real estate development. PDC assists developers in all the stages of a project, from planning and design to negotiations, financing, and construction. A major focus of PDC efforts is development outside Manhattan. PDC also leases City-owned property and then subleases it to private developers for construction of commercial and industrial projects. Ground lease agreements include a rental formula for payments-in-lieu-of-taxes (PILOTs) on both the land and project buildings.

The enabling legislation for PDC does not include a sunset provision.

Tax Expenditure:

\$6.2 million

New York City Housing Authority (NYCHA)

Citation:

NYS Public Housing Law; Article 3, Section 52

Description:

The New York City Housing Authority (NYCHA) provides and maintains housing for persons and families of low income. The Authority operates 319 developments with 178,897 apartments. An additional 41,508 apartments are in its leasing program. These 220,405 units house nearly 600,000 persons.

Except for New York State assisted projects, NYCHA property is exempt from direct taxation. City aided projects are exempt for a period of 50 years. Federally aided projects may be exempt for up to 60 years. However, by law, the City may require payments-in-lieu-of-taxes (PILOTs) from NYCHA projects. The fixed annual PILOT for NYCHA's City funded projects is \$135,000. For the Federally aided projects, NYCHA pays a PILOT based on net routine operating expenses which may vary annually. For fiscal 1990, PILOTs for the Federally aided projects are estimated to be \$22 million. The State assisted projects pay an estimated \$2.2 million annually in real property taxes. As assessed value for the State projects has been held constant for many years, there is a substantial implicit tax expenditure.

Tax Expenditure:

\$216.1 million

An income distribution of households living in NYCHA housing developments is provided on the following page.

New York City Housing Authority (continued)

Income Distribution:

The following information is based on 1986 household income. The percentage distribution is calculated from those units for which data are available.

Total Number of Households		166,405
Households with no data available		37,073
<u>1986 Household Income Range</u>	<u>Number of Households</u>	<u>Percentage</u>
\$0 - 10,000	72,170	55.80%
\$10,000 - 12,499	13,728	10.62%
\$12,500 - 14,999	6,974	5.39%
\$15,000 - 19,999	17,150	13.26%
\$20,000 - 24,999	6,139	4.75%
\$25,000 - 29,999	5,109	3.95%
\$30,000 - 34,999	4,515	3.49%
\$35,000 - 39,999	1,739	1.34%
\$40,000 - 44,999	1,451	1.12%
\$45,000 - 49,999	0	0.00%
\$50,000 and over	357	0.28%
TOTAL	129,332	100.00%

Source:

1987 New York City Housing Vacancy Survey, Department of
Housing Preservation and Development

Urban Development Corporation (UDC)

Citation:

NYS Unconsolidated Laws; Chapter 24
NYS Real Property Tax Law; Article 4, Section 412

Description:

The Urban Development Corporation (UDC) is a New York State agency that finances, constructs and operates residential, commercial, industrial and civic facilities. An important tool in the State's economic development program, the UDC provides financing and technical assistance to businesses and local governments. Examples of UDC-assisted projects include: the Columbia University Telecommunications Center, the Jacob K. Javits Convention Center, and Roosevelt Island housing development.

There are no sunset provisions in the UDC enabling legislation.

Tax Expenditure:

\$57.9 million

Power Authority of the State of New York (PANY)

Citation:

NYS Public Authorities Law; Section 10001
NYS Real Property Tax Law; Article 4, Section 412

Description:

The Power Authority of New York (PANY) finances, constructs, and operates electric generating and transmission facilities. Construction is financed through the sale of tax exempt bonds. Revenues from the sale of power to public agencies, industries, investor-owned utilities and municipalities throughout the State cover the costs of debt service and project operations. In the New York metropolitan area, the Authority directly provides low cost power to government agencies promoting economic development.

The Power Authority's enabling legislation does not include any sunset provisions.

Tax Expenditure:

\$45.6 million

Battery Park City Authority (BPCA)

Citation:

NYS Public Authorities Law; Article 12
NYS Real Property Tax Law; Article 4, Section 412

Description:

The Battery Park City Authority (BPCA) was created to plan, develop, and manage the redevelopment of 92 acres of landfill at the southwest end of Manhattan. In cooperation with the City and the private sector, the Authority was to create a mixed use community, combining residential and commercial properties with adequate public facilities (schools, parks, etc.) and utilities. Under a 1981 agreement with developers, four office towers containing six million square feet of space were completed in 1987. Additionally, approximately 3,912 residential units have been completed to date.

In addition to payments-in-lieu-of-taxes (PILOTs), the Authority has committed to divert excess revenues to support City housing programs. The Battery Park City Housing Trust Fund is expected to receive \$600 million, which will pay for affordable housing in a variety of programs. The Housing New York Corporation will issue bonds sufficient to provide \$400 million in net proceeds, backed by excess revenues of the Authority, to support housing developed by the City's Construction Manager Program. (Through fiscal 1989, the Corporation has issued bonds worth \$210 million. In fiscal 1991 the Authority will begin paying an annual debt service on these bonds of \$21.1 million.)

The enabling legislation does not include a sunset provision.

Tax Expenditure:

\$85.7 million

World Trade Center, Port Authority of NY and NJ

Citation:

NYS Unconsolidated Laws; Section 6601
NYS Real Property Tax Law; Article 4, Section 412

Description:

The World Trade Center (WTC), owned and operated by the Port Authority of New York and New Jersey, is a center for national and international trade. It includes facilities for customs clearance, shipping management, financing, insurance, commodities trading, governmental functions, and the related support services.

Although exempt from taxation, the WTC makes a payment-in-lieu-of-taxes (PILOT) to the City. The PILOT is based on the rental of private space in the WTC multiplied by a fixed price per square foot. The PILOT is adjusted to reflect assessment increases of comparable office building in the financial district and tax rate changes.

The enabling legislation which authorized the Port Authority to proceed with the World Trade Center contains no sunset provisions.

Tax Expenditure:

\$59.2 million

Teleport Center, Port Authority of NY and NJ

Citation:

NYS Real Property Tax Law; Article 4, Section 412

Description:

The Teleport Center, located on land owned by the Port Authority of New York and New Jersey, is a joint venture between the Authority, Merrill Lynch, and Western Union, developing and utilizing the latest technology in world wide telecommunications. The Center provides fiber optic links with the participating companies' Manhattan offices. By reducing the cost of new telecommunications technology and making it available to area businesses, the Teleport is expected to generate more than 3,000 jobs when completed.

The Port Authority's enabling legislation does not contain any sunset provisions.

Tax Expenditure:

\$0.4 million

PART III

BUSINESS INCOME AND EXCISE TAX EXPENDITURES

Overview

The tax expenditures in Part III derive from provisions of New York City tax laws concerning the following business income and excise taxes: General Corporation Tax; Unincorporated Business Tax; Financial Corporation Tax; Utility Tax; Mortgage Recording Tax; Real Property Transfer Tax; and Commercial Rent Tax. A description of each tax, including the tax rate and base, is contained in Part VI. The City Personal Income Tax and Sales Tax, which are administered by New York State, are not included in this section. Tax expenditures concerning these taxes are discussed in Part IV.

New York City's business income and excise tax laws contain over 20 provisions granting tax preferences. Certain tax benefits, such as the major tax credit programs, are explicitly designed to foster economic development, particularly in Manhattan north of 96th Street and in the other boroughs. Other tax expenditures, while created for economic development purposes, are also intended to reflect the unique economic activity in which certain industries are engaged. For example, there are special rules for allocating net income for the printing, advertising, publishing and mutual fund industries. Still other tax expenditures are created for social objectives such as assisting the dramatic arts or promoting certain types of scientific research.

Part III is divided into two sections. The first section includes detailed program descriptions of City tax credits and special exemptions, with fiscal 1990 revenue amounts for each program. The amounts were derived from Department of Finance data, unless otherwise noted. The second section discusses other City business income and excise tax expenditure items, for which no revenue figures are as yet available.

Detailed Program Descriptions:
Tax Credits and Special Exemptions

This section includes detailed descriptions of City programs that allow taxpayers to receive special exemptions or credits against their City business income or excise taxes.

TABLE 7

BUSINESS INCOME AND EXCISE TAX CREDITS AND SPECIAL EXEMPTIONS

Fiscal Year 1990

	(\$ Millions)
	<u>Amount</u>
Commercial Rent Tax Special Reduction.....	\$31.7
Competitive Business Energy Costs Program (1).....	-
Employment Opportunity Relocation Costs Credit.....	*
Energy Costs Savings Program Credit (2).....	10.0
Real Estate Tax Escalation Credit.....	*
Relocation and Employment Assistance Program Credit.....	5.0

(1) Not effective during fiscal 1990.

(2) Based on data from the New York City Financial Services Corporation.

* Less than \$1 million.

Commercial Rent Tax Special Reduction

Citation:

NYC Administrative Code Section 11-704.h

Description:

The Commercial Rent Tax is applied to aggregate base rents for most business tenants. A special partial exemption through a reduction in amount of rent subject to tax is given to taxable premises located north of 96th Street in Manhattan and in the Bronx, Brooklyn, Queens and Staten Island. Base rent for such premises is reduced as follows:

Beginning January 1, 1986,
ending May 31, 1987 by 10%

Beginning June 1, 1987,
ending May 31, 1989 by 20%

Beginning on or after
June 1, 1989 by 30%

Tax Affected:

Commercial Rent Tax

Tax Expenditure

\$31.7 million

Competitive Business Energy Costs Program

Citation:

NYC Administrative Code Sections 11-503(g), 11-604.15, 11-643.6, 11-1102.1, 11-1105.2 and Chapter 6A of Title 22

Description:

As part of this broad-based program to reduce local energy costs for business, the City sales and utility taxes on commercial energy purchases are phased out or eliminated.

Under this program, nonresidential users receive a credit against their business income taxes or a rebate on their energy bills for City sales taxes paid on electricity and fuel purchases. Originally scheduled to begin in July 1988, this benefit was delayed for two years. When it resumes in fiscal 1991, firms will be granted a 75 percent reduction on their energy sales tax bills. In fiscal 1992 a 100 percent reduction will be implemented.

The second part of this program excludes from the gross receipts base of the City's Utility Tax receipts from commercial energy sales. This tax reduction is passed on to commercial customers. First authorized in 1987, this benefit was also suspended for two years as part of the fiscal 1989 adopted City budget.

Tax Affected:

General Corporation Tax, Unincorporated Business Tax, Financial Corporation Tax, Utility Tax

Tax Expenditure

Not effective until fiscal 1991

Employment Opportunity Relocation Costs Credit (EORC)

Citation:

NYC Administrative Code Sections 11-503(f), 11-604.14

Description:

Taxpayers may be allowed a tax credit for certain costs incurred in relocating commercial or industrial "employment opportunities" to New York City from an area outside New York State. Employment opportunity means the creation of a full-time position and the hiring of an employee for the position. In order to be eligible for the credit, a taxpayer must relocate to the City a minimum of 10 employment opportunities.

The allowable credit may not exceed \$300 and \$500 for each commercial and industrial position relocated, respectively.

Tax Affected:

General Corporation Tax, Unincorporated Business Tax

Tax Expenditure

Less than \$1 million

Energy Costs Savings Program Credit (ECSP)

Citation:

NYC Administrative Code Sections 11-503(h), 11-604.16, 11-643.5(c), 11-704.1, 11-1105.1 and Chapter 6 of Title 22

Description:

The ECSP program applies to industrial and commercial companies that relocate to Manhattan north of 96th Street or to the outer boroughs or that occupy new or improved space in these areas. Industrial firms that own or lease space in a building located in Manhattan south of 96th Street that qualifies for a real estate tax exemption under the City's Industrial and Commercial Incentive Program because of improvements totaling at least 20 percent of its assessed value may also qualify for ECSP benefits. The program provides eligible firms with reductions of up to 30 percent of electricity charges and up to 20 percent of natural gas charges for eight years, with a gradual phase-out during the following four years.

An eligible user which purchases electricity or gas from a utility supervised by the Public Service Commission is entitled to receive from the utility a special rebate, which will reduce its monthly utility bills. Utilities deduct the rebates they grant from their utility gross receipts tax payments.

An eligible user which purchases electricity or gas from a vendor of utility services, such as a landlord, who is not subject to PSC supervision, may also receive a special rebate if the vendor elects to participate in the program. If the vendor elects not to provide the special rebates, the eligible energy user can qualify for a tax credit. A taxpayer which is a supplier of fuel services and which has made discounts to vendors of energy services may claim a tax credit for the amount of the discounts made during the taxable year.

Certificates of eligibility must be obtained from the City before July 1, 1995 to participate in this program.

Tax Affected:

General Corporation Tax, Unincorporated Business Tax, Financial Corporation Tax, Commercial Rent Tax, Utility Tax

Tax Expenditure

\$10.0 million

Real Estate Tax Escalation Credit (RETE)

Citation:

NYC Administrative Code Sections 11-503(e), 11-604.13

Description:

Certain taxpayers which have relocated to leased premises in New York City from a location outside New York State and which have created at least 100 full-time industrial or commercial employment opportunities in the City are allowed a tax credit for the amount of any additional lease payments actually paid to the taxpayer's landlord which are based solely and directly upon increased real estate taxes imposed upon the relocation premises.

Before a taxpayer can claim the credit, the taxpayer's eligibility must be approved and certified by the City. The credit can be claimed annually for the length of the lease term, or for a period not to exceed 10 years from the date of relocation, whichever period is shorter.

Tax Affected:

General Corporation Tax, Unincorporated Business Tax

Tax Expenditure

Less than \$1 million

Relocation and Employment Assistance Credit (REAP)

Citation:

NYC Administrative Code Sections 11-503(i), 11-604.17, 11-643.7, 11-704.f, Title 22, Chapter 6-B

Description:

A credit is available for certain taxpayers which relocate all or part of their business operations to eligible premises located above 96th Street in Manhattan or in the outer boroughs. A business income tax credit of \$500 per eligible employment share is available for the year of relocation and for a maximum of eleven succeeding tax years. If the allowable credit exceeds a taxpayer's liability for a tax year, the excess may be carried over and credited to the five immediately succeeding taxable years.

As part of REAP, eligible employers who are tenants also receive a deduction from their base rent for purposes of the commercial rent tax.

Taxpayers must be certified annually by the City in order to participate in this program. Certificates of eligibility must be obtained before July 1, 1992.

Tax Affected:

General Corporation Tax, Unincorporated Business Tax,
Financial Corporation Tax, Commercial Rent Tax

Tax Expenditure

\$5 million

Detailed Program Descriptions:
Other Tax Expenditures

This section includes detailed descriptions of other business income and excise tax expenditures. For these items, as listed below, tax expenditure estimates are not yet available.

Air Pollution Control Facilities Deduction
Credit Line Mortgages
Dramatic or Musical Arts Performance Exemption
Foreign Bank Alternative Tax on Capital Stock
Four-Tenths Mill Cooperative Housing Corporation Tax Rate on Capital
Insurance Corporation Non-Taxation
International Banking Facility Deduction
Manufacturing and Research & Development Property Depreciation
Owner, Lessee or Fiduciary that Holds, Leases or Manages Real Property
Real Estate Investment Trusts
Real Estate Mortgage Investment Conduits
Regulated Investment Companies
School Bus Operation Deduction
Special Allocation Rules:

- Credit Card Interest
- 80/20 Allocation Rule for Security/Commodity Brokers
- Newspaper and Periodical Publishers' Advertising Sales Receipts
- Radio/TV Commercial Receipts and Motion Picture Royalties
- RIC Management Fees

Air Pollution Control Facilities Deduction

Citation:

NYC Administrative Code Sections 11-507(9), 11-602.8(g)

Description:

Eligible taxpayers are entitled to a special deduction for expenditures paid or incurred during the taxable year for the construction, reconstruction, erection, or improvement of Air Pollution Control Facilities. Such facilities must be certified by the New York State Commissioner of Environmental Conservation or the State Commissioner's designated representative in accordance with applicable provisions of the environmental conservation law, the state sanitary code and regulations, permits or orders issued pursuant thereto.

Tax Affected:

General Corporation Tax, Unincorporated Business Tax

Credit Line Mortgages

Citation:

New York Tax Law Section 253-b, NYC Administrative Code
Section 11-2603

Description:

Taxpayers normally pay a tax each time a new indebtedness is created which is secured by a mortgage on City-situated real property. However, if a borrower pays the Mortgage Recording Tax on the maximum principal amount of a credit-line mortgage (that is, a mortgage which secures indebtedness under a financing agreement which allows the borrower to receive a series of advances or readvances up to a stated amount), he or she pays no further tax on advances or readvances by the lender if the maximum principal amount is not increased.

This benefit is only available in the case of real property principally improved or to be improved which is a one to six family, owner-occupied residence.

Tax Affected:

Mortgage Recording Tax

Dramatic or Musical Arts Performance Exemption

Citation:

NYC Administrative Code Sections 11-701.17, 11-704.e

Description:

A tenant who uses taxable premises for a dramatic or musical arts performance for less than four weeks where there is no indication prior to or at the time that the performance commences that it will continue for less than four weeks is exempt from the Commercial Rent Tax. Under this provision, a dramatic or musical arts performance is defined to include theatre plays, musical comedies and operettas. It does not include cabaret or nightclub shows, circuses, aquashows, ice skating, radio or television performances.

Tax Affected:

Commercial Rent Tax

Foreign Bank Alternative Tax on Capital Stock

Citation:

NYC Administrative Code Section 11-643.5(b)

Description:

A banking corporation generally determines its tax liability by making three alternative calculations (net income, alternative net income and taxable assets allocated to the City), comparing the results to a fixed minimum amount and paying the largest of the four amounts. However, corporations organized under the laws of a country other than the United States calculate an alternative tax liability based on issued capital stock rather than taxable assets.

Tax Affected:

Financial Corporation Tax

Four-Tenths Mill Cooperative Housing Corporation Tax Rate on Capital

Citation:

NYC Administrative Code Section 11-604.1.E

Description:

Capital allocated to New York City is normally taxed at the rate of 0.15 percent. However, cooperative housing corporations are taxed at a rate of 0.04 percent on capital allocated to the City.

Tax Affected:

General Corporation Tax

Insurance Corporation Non-Taxation

Citation:

1974 New York Laws, Chapter 649, Section 11

Description:

Corporations with income allocable to New York City are normally subject to City taxation. Out-of-state insurance companies insuring City property against fire loss or damage are subject to City taxation. However, other insurance companies operating in the City are not subject to taxation on income from their insurance services, nor on income from their non-insurance activities, such as real estate or financial services activities.

Prior to 1974, New York City taxed all insurance companies on premiums received on risks located or resident in the City. This tax was discontinued in 1974.

Tax Affected:

No current tax

International Banking Facility Deduction

Citation:

NYC Administrative Code Section 11-641(f)

Description:

Beginning in December 1981, the Federal Reserve Board permitted banking offices in the United States to establish international banking facilities (IBFs). This allowed banking offices to conduct a deposit and loan business with foreign residents without being subject to reserve requirements or interest rate ceilings. In addition, several states, including New York, have encouraged banking institutions to establish IBFs by granting favorable tax treatment under state or local law for IBF operations.

Both New York City and State allow banking corporations to deduct the adjusted eligible net income of an IBF in calculating taxable income under their banking corporation taxes. As a result, banking offices in New York can, through their IBFs, conduct transactions with foreign residents in a regulatory environment broadly similar to that of the Eurocurrency market without having to use an offshore facility.

Tax Affected:

Financial Corporation Tax

Manufacturing and Research & Development Property Depreciation

Citation:

NYC Administrative Code Sections 11-509(b), 11-604.3(d),(e)

Description:

New York City taxpayers are allowed special deductions for depreciation of certain eligible manufacturing and research and development property. For property acquired after December 31, 1967, the taxpayer may elect to deduct from its allocated net income up to double the amount of Federal depreciation on qualified tangible property located in New York City used in the production of goods by manufacturing or processing. If the property is used or to be used for research and development in the experimental or laboratory sense, the taxpayer may deduct the amount of expenditures for the taxable year, provided entire net income is computed without any deduction for the depreciation of the same property or for such expenditures.

Tax Affected:

General Corporation Tax, Unincorporated Business Tax

Owner, Lessee or Fiduciary that Holds, Leases or Manages Real Property

Citation:

NYC Administrative Code Section 11-502(d)

Description:

The City's Unincorporated Business Tax is generally imposed on unincorporated businesses operating in the City. However, an owner of real property, a lessee or a fiduciary is not considered to be engaged in an unincorporated business solely by reason of holding, leasing, or managing real property, regardless of the amount of income such activity generates.

Tax Affected:

Unincorporated Business Tax

Real Estate Investment Trusts (REITs)

Citation:

NYC Administrative Code Section 11-603.7

Description:

New York City generally conforms with federal tax treatment of Real Estate Investment Trusts (REITs). To the extent that the REIT passes through its income to the shareholders, the REIT pays no City corporate tax on that income. The dividend or distributed gain is taxed at the shareholder level.

Any undistributed income the REIT possesses is subject to taxation. To the extent that they are taxable, REITs are not subject to the four alternate tax bases that other General Corporation taxpayers must utilize to calculate liability. The tax liability of a REIT is determined by utilizing only the net income and fixed dollar minimum corporate tax bases.

Tax Affected:

General Corporation Tax

Real Estate Mortgage Investment Conduits (REMICs)

Citation:

NYC Administrative Code Section 11-122

Description:

A Real Estate Mortgage Investment Conduit (REMIC) is an entity that holds a fixed pool of mortgages and issues interests in itself to investors. New York City generally conforms with federal tax treatment of REMICs. REMICs are exempt from the City's General Corporation Tax, Financial Corporation Tax and Unincorporated Business Tax. In addition, the assets of a REMIC which is not a separately incorporated entity must be excluded from the calculation of any tax liability under the General or Financial Corporation Tax. However, the holders of interests in a REMIC are not exempt from City taxation based on their interests or on the income therefrom.

Tax Affected:

General Corporation Tax, Unincorporated Business Tax,
Financial Corporation Tax

Regulated Investment Companies (RICs)

Citation:

NYC Administrative Code Section 11-603.8

Description:

New York City generally conforms with federal tax treatment of Regulated Investment Companies (RICs). To the extent that the RIC passes through its income to the shareholders, the RIC pays no City corporate tax on that income. The dividend or distributed gain is taxed at the shareholder level.

Any undistributed income the RIC possesses is subject to taxation. To the extent that they are taxable, RICs are not subject to the four alternate tax bases that other General Corporation taxpayers must utilize. The tax liability of a RIC is determined by utilizing only the net income and fixed dollar minimum corporate tax bases.

Tax Affected:

General Corporation Tax

School Bus Operation Deduction

Citation:

NYC Administrative Code Section 11-602.8(a)(4)

Description:

Income derived from the operation of school buses, where the customer is a school district or a corporation or association organized and operated exclusively for religious, charitable or educational purposes, is excludable from taxable income.

Tax Affected:

General Corporation Tax

Special Allocation Rule: Credit Card Interest

Citation:

NYC Administrative Code Section 11-642(a)(2)(D)

Description:

In determining the business allocation percentage, taxpayers normally determine the source of receipts from services based upon where the services were performed. Accordingly, service charges and fees from credit cards are deemed earned in New York City if the card is serviced in the City. However, credit card interest is allocated based upon the domicile of the cardholder.

Tax Affected:

Financial Corporation Tax

**Special Allocation Rule: 80/20 Allocation Rule for Security/
Commodity Brokers**

Citation:

20 NYCRR Section 4-4.3(c), NYC Unincorporated Business Tax
Regulation Section 7-8

Description:

In determining the business allocation percentage, taxpayers normally determine the source of receipts from services based upon where the services were performed. However, taxpayers which are security and commodity brokers allocate commissions derived from the execution of purchases or sales orders for the accounts of customers in the following manner:

- (a) If the order originates at a New York City place of business and is transmitted to an office of the taxpayer located in New York City for execution on an exchange located in the City, 100 percent of the commission is allocated to New York City.
- (b) If the order originates out-of-City and is transferred to an office of the taxpayer located in New York City for execution on an exchange located in the City, 20 percent of the commission is allocated to New York City.
- (c) If the order originates at a New York City place of business and is transmitted to an office of the taxpayer outside of the City for execution on an exchange located outside of the City, 80 percent of the commission is allocated to New York City.

Tax Affected:

General Corporation Tax, Unincorporated Business Tax

**Special Allocation Rule: Newspaper and Periodical Publishers'
Advertising Sales Receipts**

Citation:

NYC Administrative Code Section 11-604.3(a)(2)(B)

Description:

In determining the business allocation percentage, taxpayers normally determine the source of receipts from services based upon where the services were performed. However, publishers of newspapers and periodicals allocate income received from their sales of advertising based on the number of newspapers and periodicals delivered to points within the City.

Tax Affected:

General Corporation Tax

Special Allocation Rule: Radio/TV Commercial Receipts and Motion Picture Royalties

Citation:

NYC General Corporation Tax Regulation Section 4-20(c)(2)

Description:

In determining the business allocation percentage, taxpayers normally determine the source of receipts from services based upon where the services were performed. However, the income a business receives from broadcasting radio and television commercials (by FCC license) and the royalties a producer receives from a motion picture are allocated to the City based on the "audience location method," that is, the ratio of the number of the broadcaster's or producer's New York City listeners/viewers to its total listeners/viewers.

Tax Affected:

General Corporation Tax

Special Allocation Rule: RIC Management Fees

Citation:

NYC Administrative Code Section 11-604.3(a)(5)

Description:

In determining the business allocation percentage, taxpayers normally determine the source of receipts from services based upon where the services were performed. However, a mutual fund management company's receipts from management, administration or distribution services rendered to a regulated investment company (RIC) are allocated based on the percentage of the RIC's shareholders domiciled in New York City.

For taxable years beginning on or after January 1, 1989, the allocation of receipts is based upon the RIC's average "monthly percentage." This percentage is determined by the following ratio: the number of shares in the RIC which are owned on the last day of the month by shareholders domiciled in the City, divided by the total number of shares in the RIC outstanding on that date.

Once calculated, the RIC's average monthly percentage for the taxable year is multiplied by the management company's receipts from management, administration or distribution services.

Tax Affected:

General Corporation Tax

PART IV

NEW YORK STATE TAX EXPENDITURES APPLICABLE TO NEW YORK CITY

Introduction

The New York City Personal Income Tax (PIT) and Sales and Compensating Use Tax (Sales Tax) are administered by New York State. City tax expenditures for these taxes conform almost entirely with those for the State PIT and Sales Tax.

For informational purposes, lists of New York State Personal Income Tax and Sales Tax expenditures are provided in this section of the report. These lists were presented in New York State Department of Taxation and Finance discussion papers on tax expenditures of the affected taxes. The State's May 1988 PIT expenditure discussion paper included information on provisions of the State PIT for 1985, the most recent year for which data were available. The State's August 1989 Sales Tax discussion paper listed expenditure items for 1988. It should be noted that the State reports were not meant to offer "official" lists of New York State tax expenditures. Rather, the reports were meant to stimulate further discussion and thus presented information on a number of provisions of the affected taxes which would only be very broadly defined as tax expenditures.

New York State Personal Income Tax Expenditures, 1985

The following list identifies State Personal Income Tax expenditure items, as listed in the New York State Department of Taxation and Finance discussion paper, Tax Expenditure Reporting for the Personal Income Tax: A Discussion Paper (May 1988), pp. iii-v. Provisions of New York State Personal Income Tax law with which New York City Personal Income Tax law did not fully conform in 1985 are footnoted.

Federal Exclusions to Income

- Capital Gains Exclusion
- Dividend Exclusion
- IRA and Keogh Contributions
- Partial Exclusion of Unemployment Insurance Benefits
- Exclusion of Income Earned Abroad
- Special Treatment of Pension and Annuity Payments
- Employment Related Moving Expenses
- Exclusion of Capital Gains on Home Sales for Persons Over Age 55 and Deferral for Reinvesting
- Exclusion of Scholarship Income
- Exclusion of Employee Meals
- Exclusion of Public Assistance Benefits
- Exclusion of Veterans' Benefits
- Exclusion of Employer Contributions for Medical Insurance
- Exclusion of Employer Contributions for Pensions
- Exclusion of Employer-Provided Child Care
- Exclusion for Armed Forces Benefits
- Exclusion of Employer Paid Premiums on Life and Disability Insurance
- Exclusion of Interest on Qualified NYS and Local Bonds
- Expensing Oil and Gas Exploration Costs
- Parental Exemption for Students
- ACRS Depreciation
- Amortization of Business Start-up Costs
- Capital Gains at Death
- Farm Income Stabilization
- Capital Gains Treatment of Timber Income
- Expensing Research and Development Costs
- Amortization of Construction Period Interest and Taxes
- Amortization of Pollution Control Facilities

New York State Modifications

Pension/Annuity Exclusion
Social Security and Tier I Railroad Retirement Benefits

- Taxable Social Security for Federal Purposes
- Non-Taxable Social Security

U.S. Obligation Interest Exclusion
Exclusion of State and Local Pensions
Disability Income Exclusion
Exclusion of Interest or Dividends on Obligations of a U.S. Agency
Tuition Deduction
PASS Fund Deduction and Exclusion
New Business Investment Gain
Exclusion of Interest or Dividends on Obligations Federally Taxable but New York Exempt
Double Depreciation
Research and Development Expenditures
Elective Deduction for Pollution Control Facilities

New York State Deductions and Exemptions

Standard Deduction

- Standard Deduction Returns
- Value of Standard Deductions for Those Returns with Itemized Deductions in Excess of Standard Deduction

Itemized Deductions

- Medical/Dental Deduction
- Interest Deduction
 - Home Mortgage Interest
 - Non-Mortgage Interest
- Charitable Contributions Deduction
- Casualty/Theft Deduction
- Sales/Property Tax Deduction
 - Sales Tax
 - Property Tax
- Miscellaneous Deductions
- Other Modifications to Federal Itemized Deductions

Personal Exemptions

- All Exemptions
- Taxpayer and Spousal Exemptions
- Dependent Exemptions
- Blind and Elderly Exemptions

New York State Special Rate and Tax Schedule Adjustments*

Family Adjustment
Maximum Tax Benefit
Separate Filing

New York State Credits*

Household Credits
Real Property Tax Credit
Research and Development Credit
Investment Credit
Child Care Credit
Mortgage Recording Tax Credit
Credit for Income Taxes - Other States
Solar and Wind Energy Credit
Accumulation Distribution Credit

* In 1985, New York City did not provide any of these tax expenditures, with the exception of Separate Filing.

New York State Sales Tax Expenditures, 1988

The following list identifies State Sales Tax expenditure items, as listed in the New York State Department of Taxation and Finance discussion paper, Tax Expenditure Reporting for the Sales and Compensating Use Taxes: A Discussion Paper (August 1989), pp. iii-vi. Provisions of New York State Sales Tax law with which New York City Sales Tax law did not fully conform in 1988 are footnoted.

Services

Services, Other than Those Specifically Taxed by Law (1)
Interstate or International Telephone and Telegraph Service
Certain Information Services (2)
Services Performed on a Non-Trade Basis
Laundering, Tailoring, Shoe Repair and Similar Services
Capital Improvement Installation Services
Services Related to Railroad Rolling Stock
Certain Janitorial Services
Services to Property Delivered Outside New York

Food

Certain Food Products
Food Sold to Airlines
Food Sold at School Cafeterias
Food Sold Through Certain Vending Machines
Taxable Food Purchased with Food Stamps
Water Delivered Through Mains or Pipes

Medical

Drugs, Medicines and Medical Supplies
Eyeglasses and Hearing Aids
Veterinarian Services

-
- (1) Although most of the services not taxed by New York State in 1988 were also not taxed by New York City, the City did tax certain services, including protective and detective services and barbering, massage, health club and parking services, which the State did not tax.
- (2) The City taxed credit rating and credit reporting services.

Energy

- Sales of Energy Sources for Residential Purposes (3)
- Sales of Energy Sources for Particular Uses (4)

Transportation

- Transportation Charges
- Commercial Vessels
- Commercial Aircraft
- Aviation Fuel Sold to Airlines
- Foreign Aircraft Parts
- Intra-Family Sales of Motor Vehicles
- Rental of Trucks in Certain Cases
- Large Trucks
- Sales of Property by Railroads in Reorganization

Communications

- Newspapers and Periodicals
- Pennysavers
- Telephone Services Used by the Media
- Certain Telephone Charges

Industry

- Sales of Certain Tools and Supplies Used in Production (5)
- Farming Exemption (6)

-
- (3) The City taxed sales of energy sources for residential uses.
 - (4) The City taxed sales of energy sources used in the production process. However, the City granted taxpayers a refundable credit against their business taxes for sales taxes paid on purchases of electricity used in the production process.
 - (5) Retail sales of parts with a useful life of one year or less, and tools and supplies used in conjunction with production machinery or equipment were subject to City taxation.
 - (6) Receipts from installing, repairing, maintaining or servicing tangible personal property used in farm production were subject to City taxation.

Research and Development Property
Machinery and Equipment Used in Production (7)
Wrapping and Packaging Materials
Fishing Vessels

Miscellaneous

Property Sold Through Certain Vending Machines
Trade-In Allowances
Certain Hotel Room Rents (8)
Dues for Fraternal Societies
Certain Store Coupons
Excise Taxes Imposed on the Consumer
Property Sold by Morticians
United States and New York State Flags
Garage Sales, Etc. at Private Residences
Portion of Receipts from Sales of New Mobile Homes
Sales of Used Mobile Homes
Sales of Race Horses Through Claiming Races
Certain Race Horses Purchased Outside the State
Training and Maintaining Race Horses
Property Sold to Contractor for Capital Improvements or
Repairs for Exempt Organizations
Property Donated by a Manufacturer to a Tax Exempt
Organization
Sales and Use Tax Paid to Other States

Exempt Organizations

New York State Agencies and Political Subdivisions
Federal Agencies
United Nations
Diplomats and Foreign Missions
Charitable Organizations
Certain Veteran Posts or Organizations
Certain Indian Nations and Members of Indian Nations
Certain Purchases on U.S. Property
Non-Profit Health Maintenance Organizations
Rural Electric Cooperatives
Certain Trash Removal Services

-
- (7) The City taxed purchases of machinery or equipment used in the production process. However, the City granted taxpayers a refundable credit against their business taxes for sales taxes paid on such purchases.
- (8) The City's definition of permanent residency for a hotel room occupant differed from the State's.

Exempt Admission Charges

Certain Admission Charges
Events Given by Charitable Organizations, Veterans' Posts,
Indian Nations
Certain Orchestras and Opera Companies
National Guard Organizations
Municipal Police and Fire Departments
Certain Athletic Games
Carnival, Rodeo and Circus for Charitable Organizations
Certain Agricultural Fairs
Certain Historical Homes, Sites, Gardens, Museums

Credits

Credit for Tangible Property Which is Incorporated into Real
Property Outside the State
Credit for Bulk Purchases Shipped Outside the State
Credit for Tangible Property Sold by Contractors in Certain
Situations
Credit for Tangible Property Assembled in State, but Shipped
Outside the State
Credit for Certain Veterinary Drugs
Credit for Construction Materials and Supplies Used in
Economic Development Zones (9)
Credit for Omnibus Carriers Providing Local Transit Service

(9) The City did not grant this Sales Tax credit.

PART V

SUMMARY OF AUDITS AND EVALUATIONS OF NEW YORK CITY TAX EXPENDITURES

Introduction

In accordance with the requirements of the new City Charter, this section includes summaries of audits and evaluations of City tax expenditures conducted during the two previous years. For tax expenditure reporting purposes in fiscal 1990, only one evaluation meets this criterion.

New York City Department of Finance, Annual Report to the City Council on the Industrial and Commercial Incentive Program, April 1989

Summary

In 1977, the City of New York began providing real estate tax exemptions for industrial and commercial development as part of an effort to stimulate a dormant construction industry. Exemptions were granted by the Industrial and Commercial Incentive Board (ICIB) whose eight members represented the public and private sectors of the City. Their discretionary decisions were based on an analysis of the need for the benefit provided by the applicant. As the economy of the City improved, the program was amended, limiting commercial benefits in portions of Manhattan below 96th Street and areas in the outer boroughs experiencing rapid growth. To address the City's changing economic and financial objectives, that of directing development away from the City's core area, the Industrial and Commercial Incentive Program was created in November, 1984 to replace the ICIB program. This new program conveyed to the real estate development community clear guidelines of where the City would and would not grant real property tax exemptions.

The new program replaced the discretionary approach with an "as-of-right" concept. It enhanced benefits available to all industrial projects and to commercial projects in economically distressed areas of the City. It substantially restricted benefits available to commercial projects in Manhattan below 96th Street.

Since the program's inception in 1984, the Department of Finance has received 1421 preliminary applications through March 1, 1989, less than 7 percent of them from Manhattan. Four hundred and four applications have been filed for industrial projects, almost 75 percent of them in Brooklyn and Queens. Queens has the largest number of commercial projects.

The Department has approved 543 final applications for ICIP benefits of which 131 are for industrial projects and 412 for commercial projects. According to their final applications, these projects are estimated to provide more than 71,000 jobs for City residents.

PART VI

DESCRIPTIONS OF MAJOR NEW YORK CITY TAXES

This section defines the main features of New York City's major taxes.

COMMERCIAL RENT TAX:

This tax is imposed at the rate of 6 percent on tenants of premises used to conduct any business, professional or commercial activity where the base rent is \$11,000 or greater. If the annual base rent is less than \$11,000 there is no tax due.

FINANCIAL CORPORATION TAX:

This tax is imposed on banking corporations, including banks, savings and loan associations, trust companies, and certain subsidiaries of banks, which do business in New York City in a corporate or organized capacity.

A banking corporation determines its tax liability by making three alternative calculations and comparing the results to a fixed minimum tax. The tax due is the largest of the following four amounts:

- (1) 9 percent of the entire net income allocated to the City;
- (2) 3 percent of alternative entire net income allocated to the City;
- (3) one-tenth of a mill on each dollar of taxable assets allocated to New York City (except that alien banking corporations calculate a tax at the rate of 2.6 mills per dollar of issued capital stock allocated to the City);
- (4) \$125 minimum tax.

GENERAL CORPORATION TAX:

This tax is imposed on those corporations, both domestic and foreign, which do business, employ capital, own or lease property or maintain an office in New York City.

A corporation determines its tax liability by making three alternative calculations and comparing the results to a fixed minimum tax. The primary tax liability is the largest of the four following amounts:

- (1) 8.85 percent of the corporation's entire net income allocated to the City;
- (2) 0.15 percent of the firm's business and investment capital allocated to the City;
- (3) 8.85 percent of 30 percent of the sum of entire net income plus the compensation paid to corporate officers and certain shareholders, allocated to the City;
- (4) \$300 minimum tax.

In addition to the primary tax liability, a tax on subsidiary capital is also payable. The subsidiary tax is at the rate of 0.075 percent of subsidiary capital allocated to the City.

MORTGAGE RECORDING TAX:

This tax is imposed on the recording of real estate mortgages in New York City.

For those mortgages that are less than \$500,000:

- the rate is 0.50 percent.

For those mortgages that are \$500,000 or more the rate varies:

- For 1, 2, or 3 family homes or an individual condominium unit the rate is 0.625 percent.
- For all other mortgages that are \$500,000 or more the rate is 1.25 percent.

PERSONAL INCOME TAX AND NON-RESIDENT EARNINGS TAX:

These taxes are imposed on the taxable income of every resident of New York City and on the wages and net earnings from self-employment of every non-resident of New York City. The City's definitions of taxable income and itemized deductions follow, with certain modifications, Federal and State law.

The personal income tax rates imposed on every resident of New York City for 1990 range from 2.4 percent to 3.4 percent.

The non-resident earnings tax is imposed at the rate of 0.45 percent on wages earned and 0.65 percent on net earning from self-employment.

REAL PROPERTY TAX:

Under Article 18 of the Real Property Tax Law the Real Property Tax is imposed on 4 different classes of real property:

- (1) Class 1 consists of 1, 2, and 3 family residential property and small condominiums;
- (2) Class 2 consists of all other residential property including cooperatives and condominiums;
- (3) Class 3 consists of utility real property; and
- (4) Class 4 consists of all other real property, such as office buildings, factories, stores and lofts.

New York City assesses properties at a uniform percentage of market value within each class of real property, applying class specific tax rates to determine tax liability. For fiscal 1990 the real property tax rates are as follows:

- (1) For Class 1, the tax rate is 9.452 per \$100 of assessed value.
- (2) For Class 2, the tax rate is 9.229 per \$100 of assessed value.
- (3) For Class 3, the tax rate is 12.903 per \$100 of assessed value.
- (4) For Class 4, the tax rate is 9.539 per \$100 of assessed value.

REAL PROPERTY TRANSFER TAX:

This tax is imposed on the transfer of real property located wholly or partly in New York City and on the transfers of controlling economic interests in real property located in New York City.

The rates of the real property transfer tax for residential properties (1, 2 or 3 family homes, an individual residential condominium unit, or an individual cooperative apartment), are the following:

- For residential properties transferred for a consideration of \$500,000 or less the rate is 1 percent of the consideration.

- For residential properties transferred for a consideration of more than \$500,000 the rate is 1.425 percent of the consideration.

For properties other than the residential properties referred to above:

- the tax rate is 1.425 percent if the consideration is not more than \$500,000; and
- 2.625 percent if the consideration is more than \$500,000.

SALES TAX:

This tax is imposed on the sale and use of tangible personal property and certain services; sales of gas, electricity, steam, refrigeration, and intrastate telephone and telegraph services; food and beverages sold by restaurants and caterers; hotel and motel occupancies; admission charges to certain places of amusement; and club dues. The tax rate is 4 percent.

In addition, a New York City sales and use tax is imposed on charges for the parking or garaging of motor vehicles. The basic tax rate imposed on the parking charge is 6 percent; an additional 8 percent tax is imposed on parking in Manhattan by non-Manhattan residents.

UNINCORPORATED BUSINESS TAX:

This tax is imposed on every individual or unincorporated entity carrying on a trade, business or profession wholly or partly within New York City.

The unincorporated business tax rate is 4 percent.

UTILITY TAX:

This tax is imposed on every utility and vendor of utility services which does business in New York City. Utilities are those companies that are subject to the supervision of the New York State Department of Public Service. They include gas and electric companies and telephone companies. Vendors of utility services include those who sell gas, electricity, steam, water, refrigeration, or telephone or telegraph services, or who operate omnibuses.

The basic utility tax rate is 2.35 percent of gross income or gross operating income. Different rates apply to bus companies and railroads.

APPENDICES

INTRODUCTION

This section includes the text of Section 240 of the new City Charter, which requires the Mayor to submit to the City Council an annual tax expenditure report, and the City's timetable for fully meeting the mandates of Section 240.

APPENDIX I

NEW YORK CITY CHARTER SECTION 240

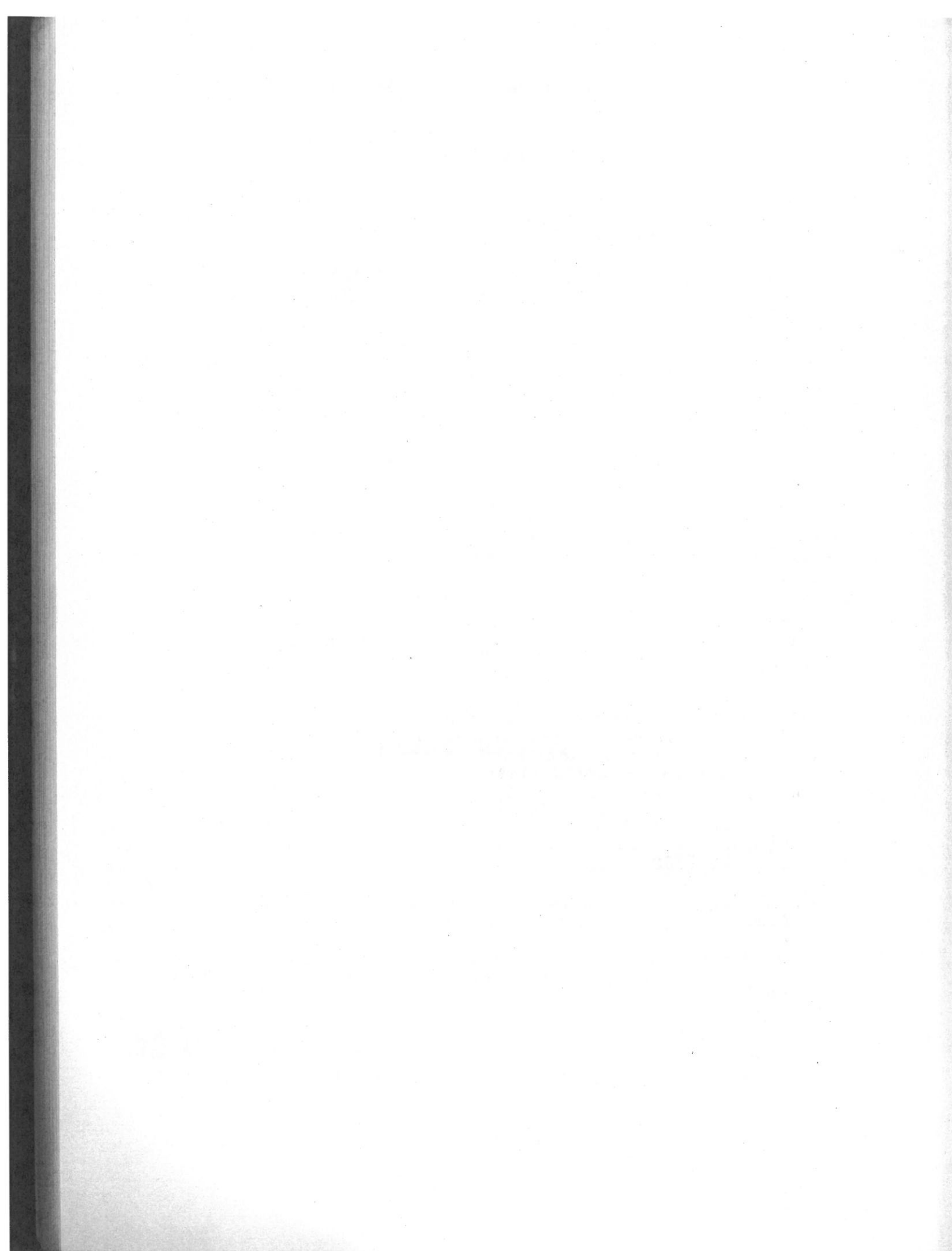
Tax Benefit Report. Not later than the fifteenth day of February the mayor shall submit to the council a tax benefit report which shall include:

- a. a listing of all exclusions, exemptions, abatements, credits or other benefits allowed against city tax liability, against the base or the rate of, or the amount due pursuant to, each city tax, provided however that such listing need not include any benefits which are applicable without any city action to such city tax because they are available in regard to a federal or state tax on which such city tax is based; and
- b. a description of each tax benefit included in such listing, providing the following information:
 1. the legal authority for such tax benefit;
 2. the objectives of, and eligibility requirements for, such tax benefit;
 3. such data and supporting documentation as are available and meaningful regarding the number and kind of taxpayers using benefits pursuant to such tax benefit and the total amount of benefits used pursuant to such tax benefit, by taxable and/or fiscal year;
 4. for each tax benefit pursuant to which a taxpayer is allowed to claim benefits in one year and carry them over for use in one or more later years, the number and kind of taxpayers carrying forward benefits pursuant to such tax benefit and the total amount of benefits carried forward, by taxable and/or fiscal year;
 5. for nineteen hundred ninety and each year thereafter for which the information required by paragraphs three and four are not available, the reasons therefor, the steps being taken to provide such information as soon as possible, and the first year for which such information will be available;
 6. such data and supporting documentation as are available and meaningful regarding the economic and social impact and other consequences of such tax benefit; and
 7. a listing and summary of all evaluations and audits of such tax benefit issued during the previous years.

APPENDIX II

NYC TAX EXPENDITURE REPORTING TIMETABLE

City Charter Requirements	Mandates Met by FY 90 Report	Proposed Additions for FY 91 Report
Listing of City-specific tax expenditures	MANDATE MET	
Citation of legal authority for each tax expenditure	MANDATE MET	
Objectives and eligibility requirements for each tax expenditure	MANDATE MET	
Data, as available, on number and kind of taxpayers using tax exp. and total value of tax exp.	MANDATE PARTIALLY MET	MEET MANDATE
Number and kind of taxpayers carrying forward tax benefits to future years and total value of carryforwards		MEET MANDATE
For tax exp. data not available, steps being taken to provide such data and date when data will be provided	MANDATE MET	
Data, as available, on economic and social impact of tax exp.	Discussion of steps being taken to pro- vide such analysis	MEET MANDATE
Listing and summary of all evaluations and audits of tax exp.'s issued during the previous two years	MANDATE MET	



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States Producing Tax Expenditure Reports:

Arizona	Mississippi
California	Missouri
Delaware	Nebraska
Hawaii	North Carolina
Louisiana	Ohio
Maine	South Carolina
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Massachusetts	Virginia
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INDEX TO TAX EXPENDITURE DESCRIPTIONS

This index provides page references for the tax expenditure descriptions presented in this report. The list is organized alphabetically. In parentheses are included the taxes for which each tax expenditure applies. City taxes are abbreviated as follows:

- CRT - Commercial Rent Tax
- FCT - Financial Corporation Tax
- GCT - General Corporation Tax
- MRT - Mortgage Recording Tax
- RPT - Real Property Tax
- UBT - Unincorporated Business Tax
- UTX - Utility Tax

Tax Expenditure Item	Page
Air Pollution Control Facilities Deduction (GCT, UBT).....	61
Battery Park City Authority (RPT).....	48
Commerical Rent Tax Special Reduction (CRT).....	54
Competitive Business Energy Costs Program (GCT, UBT, FCT, UTX).....	55
Credit Card Interest (FCT).....	74
Credit Line Mortgages (MRT).....	62
Dramatic or Musical Arts Performance Exemption (CRT).....	63
Employment Opportunity Relocation Costs Credit (GCT, UBT).....	56
Energy Costs Savings Program Credit (GCT, UBT, FCT, CRT, UTX).....	57
80/20 Allocation Rule for Security/Commodity Brokers (GCT, UBT).....	75
Foreign Bank Alternative Tax on Capital Stock (FCT).....	64
421-a, New Multiple Dwellings (RPT).....	20
421-b, New Private Housing (RPT).....	21
Four-Tenths Mill Cooperative Housing Corporation Tax Rate on Capital (GCT).....	65
Housing Development Fund Companies (RPT).....	36
Industrial and Commercial Incentives Board (RPT).....	25
Industrial and Commercial Incentives Program (RPT).....	26
Industrial Development Agency (RPT).....	42
Insurance Corporation Non-Taxation (GCT).....	66
International Banking Facility Deduction (FCT).....	67

Tax Expenditure Item	Page
J-51, Residential Alterations and Rehabilitation (RPT)...	18
Limited Profit Housing Companies (RPT).....	32
Limited Dividend Housing Companies (RPT).....	34
Major League Sports Facilities, Madison Square Garden (RPT).....	28
Manufacturing and Research & Development Property Depreciation (GCT,UBT).....	68
Miscellaneous State Assisted Housing (RPT).....	38
New York City Housing Authority (RPT).....	44
Newspaper and Periodical Publishers' Advertising Sales Receipts (GCT).....	76
Owner, Lessee or Fiduciary that Holds, Leases or Manages Real Property (UBT).....	69
Power Authority of the State of New York (RPT).....	47
Public Development Corporation (RPT).....	43
Radio/TV Commercial Receipts and Motion Picture Royalties (GCT).....	77
Real Estate Tax Escalation Credit (GCT, UBT).....	58
Real Estate Investment Trusts (GCT).....	70
Real Estate Mortgage Investment Conduits (GCT,UBT,FCT).....	71
Redevelopment Companies (RPT).....	35
Regulated Investment Companies (GCT).....	72
Relocation and Employment Assistance Program Credit (GCT, UBT, FCT, CRT).....	59
RIC Management Fees (GCT).....	78
School Bus Operation Deduction (GCT).....	73

Tax Expenditure Item	Page
Senior Citizen Homeowner Exemption (RPT).....	22
Senior Citizen Rent Increase Exemption (RPT).....	23
Teleport Center, Port Authority of NY and NJ (RPT).....	50
Urban Development Action Area Projects (RPT).....	37
Urban Development Corporation (RPT).....	46
Veterans' Exemption (RPT).....	24
Water-Works Corporations, Jamaica Water Supply (RPT).....	27
World Trade Center, Port Authority of NY and NJ (RPT).....	49

