New York City Department of Finance

Notice of Adoption of Final Rules

Pursuant to the authority vested in the New York City Department of Finance ("DOF") pursuant to New York City Charter ("Charter") §§ 1043(a) and 1504, Administrative Code ("Administrative Code") § 22-628, and General City Law ("GCL") § 25-gg, DOF hereby adopts rules to comply with amendments made to the Administrative Code and the GCL in relation to the Relocation Assistance Credit Per Employee program. In addition, pursuant to Charter §§ 1043(a) and 1504, Administrative Code § 11-275(f), and Real Property Tax Law § 489-hhhhhh(6), DOF hereby adopts amendments to rules in order to allow DOF to determine the point at which applicable construction is complete under the Industrial and Commercial Abatement Program.

Statement of Basis and Purpose

The New York City Department of Finance ("DOF") is adopting the following rule change pursuant to the powers set forth in New York City Charter §§ 1043(a) and 1504, Administrative Code ("Administrative Code") §§ 11-275(f) and 22-628, Real Property Tax Law ("RPTL") § 489-hhhhhh(6) and General City Law ("GCL") § 25-gg. A proposed version of these rules was published in the City Record on September 26, 2025. *See* City Record at 5178-81 (Sept. 26, 2025). DOF held a hearing for public comment on October 27, 2025. DOF received written and oral comments. DOF is grateful for the contributions of those who submitted comments.

On August 22, 2025, the Mayor of the City of New York designated the Department of Finance as the agency to implement elements of the Relocation Assistance Credit Per Employee ("RACE") program pursuant to GCL § 25-ff(j) and Administrative Code § 22-627(j) in accordance with Charter § 11-a.

In addition to amendments in accordance with changes to the Administrative Code and GCL enacted by the Legislature in 2025 regarding RACE, DOF is adopting a rule amendment that allows DOF to determine the point at which construction is completed under the Industrial and Commercial Abatement Program ("ICAP") authorized under RPTL Article 4, Title 2-F and Administrative Code Title 11, Chapter 2, Subchapter 2, Part 5.

ICAP Amendments

Section one of this rule amends § 36-01(f) of Title 19 of the Rules of the City of New York ("RCNY") to revise the definition of the term "completion date" to provide that, for purposes of ICAP, the completion date is determined based on the earlier of the date on which the New York City Department of Buildings issues a final certificate of occupancy, or when DOF has otherwise determined that construction is complete. DOF has the authority pursuant to RPTL § 489-aaaaaa(5) and Administrative Code § 11-268(e) to determine when a building is complete for purposes of ICAP. Relevant rules previously provided that DOF considered a building complete upon certification by an architect or engineer. An architect or engineer could have had an incentive to submit such a certification even while a building is still under construction to achieve additional ICAP tax benefits. To prevent such a situation, DOF believes that it is appropriate for the DOF to retain control over the final determination. As such, this rule amendment provides that a certification by an architect or engineer is only one factor that DOF considers in determining whether a project is complete. Other considerations include other documentation submitted by an applicant, DOF findings based on an assessor's on-site visit, or a combination of the foregoing, based on DOF's discretion.

Written and oral comments expressed confusion concerning the point at which DOF would conduct a site inspection to confirm whether a building is complete. These comments expressed concern that DOF would make premature determinations of completion based on results of a site inspection before an applicant submitted any documentation. In consideration of these comments, DOF amended this rule to clarify that DOF will consider the results of a site inspection only once an applicant submits documentation in accordance with 19 RCNY § 36-01(f).

In addition, DOF received written and oral comments indicating a need for an appeal mechanism to challenge a completion determination made pursuant to 19 RCNY § 36-01(f). In this final rule, DOF added a new paragraph (6) to 19 RCNY § 36-03(e), which outlines an appeal process for completion determinations made pursuant to 19 RCNY § 36-01(f). Appeals filed under 19 RCNY § 36-03(e)(6) must be filed with 15 days of DOF's issuance of notice of such completion determination.

RACE Pilot Program

Section two of this rule amends Title 19 of the RCNY to add a new Chapter 61. This chapter provides rules necessary to implement the RACE program, as authorized by amendments to the GCL and the Administrative Code.

RACE is a citywide pilot program that helps to attract companies that are new to New York State and encourage the leasing of underperforming office space by providing tax credits for employees relocated via this program. The program incentivizes the use of office space that is not likely to be suitable for residential conversion, and where a meaningful anchor lease could improve occupancy in the entire building.

These rules establish the process that a business must follow to apply for the RACE program, in which a business seeking credits:

- submits a preliminary eligibility application,
- submits a lease or a contract to purchase an eligible premises, and
- receives an initial certification of eligibility, if such business is eligible for the program.

After this initial process, the business must receive annual certifications of eligibility to continue to receive benefits under this program.

Section 61-01 sets forth definitions applicable to this new chapter.

Written comments expressed uncertainty as to whether a building in the borough of Manhattan that was built before January 1, 2000 would meet the definition of "eligible premises" in 19 RCNY § 61-01 if such building had undergone extensive renovations after January 1, 2000, requiring issuance of an amended certificate of occupancy. *See* Administrative Code § 22-627. In light of these comments, in this final rule, DOF has clarified that, in the context of Chapter 61 of Title 19 of the RCNY, a property may qualify as an "eligible premise" if a final certificate of occupancy was issued by the Department of Buildings prior to January 1, 2000, regardless of whether such certificate of occupancy was subsequently amended. The purpose of Chapter 171 of 2025 was explicitly to support underperforming commercial spaces initially built before January 1, 2000. This clarification further aligns the rule to the goals of Chapter 171.

Section 61-02 establishes the basic framework of eligibility pursuant to Chapter 6-E of Title 22 of the Administrative Code and Article 2-K of the GCL.

Section 61-03 establishes procedures related to the preliminary eligibility application. Initial certifications of eligibility will be granted on a first come, first served basis. This rule provision uses the timing of submission of preliminary eligibility applications to determine the order in which applicants receive RACE credits, allowing the City to assign maximum approved employment shares predictably and in accordance with the goals of the Administrative Code and the GCL.

The initial certification of eligibility specifies an eligible business's maximum approved employment shares. The maximum approved employment shares establish the maximum number of full-time equivalent employment shares for which such business may claim RACE tax credits in any single taxable year. The maximum amount of approved employment shares included in all initial certifications of eligibility ("program total") is capped at 3,000 shares, pursuant to Administrative Code § 22-628(c) and GCL § 25-gg(c).

Section 61-04 requires each business seeking RACE tax credits to enter into and submit a valid lease or contract to purchase an eligible premises within three months of submitting their preliminary eligibility application. Requiring submission of a valid lease or contract to purchase an eligible premises, which is a requirement set forth in Administrative Code § 22-628(b) and GCL § 25-gg(b), allows the City to reliably identify which businesses have taken material steps toward eligibility for RACE credits. Ultimately, this approach assists DOF in identifying the businesses to which DOF may grant initial certifications of eligibility.

Section 61-05 provides that, once a business submits a preliminary eligibility application and a valid lease or contract to purchase an eligible office space and ultimately relocates within the required timeframe, such business is eligible to apply for an initial certification of eligibility, pursuant to Administrative Code § 22-628(b) and GCL § 25-gg(b).

Maximum approved employment shares are determined upon approval of an application for initial certification of eligibility, provided that sufficient shares remain available based on the business's rank order and the program total of 3,000 shares.

For the duration of the benefit period, such maximum approved employment shares function as a cap on the number of eligible aggregate employment shares that a business is allowed each year. A business's eligible aggregate employment shares are determined based on the formula set forth in the definition of "eligible aggregate employment shares" in section 61-01. Another cap embedded in the definition of "eligible aggregate employment shares" limits the benefit based on the product of a "linear scalar" and the aggregate employment shares in a taxable year. The linear scalar is equal to the quotient of dividing the total square footage of an eligible premises by the product of multiplying such business's aggregate employment shares by 175. For example, if an eligible business will bring 100 aggregate employment shares and leases 11,550 square feet of space, the linear scalar would be a value equal to .66. This cap would be equal to the product of .66 and 100, or 66 employment shares. This capping formula, included in Chapter 6-E of Title 22 of the Administrative Code and Article 2-K of the GCL, ensures that an adequate amount of square footage is leased or purchased for each employment share to promote the goals of the program.

Section 61-06 establishes a process for eligible businesses to apply for and DOF to issue annual certifications.

Sections 61-01 to 61-06 also grant DOF administrators flexibility to create the forms businesses may use to apply for preliminary eligibility, initial certification of eligibility, and annual certifications and to submit any applicable leases and contracts to purchase eligible premises. To promote administrative efficiency, pursuant to Administrative Code § 22-628(e) and GCL § 25-gg(e), section 61-06 annual certification applications must be submitted to DOF in an electronic format.

Section 61-07 establishes a process for businesses to file administrative appeals challenging DOF decisions pursuant to this chapter. Such decisions include the denial of recording of a preliminary eligibility application or the submission of a lease or contract to purchase an eligible premises, the denial of an initial certification of eligibility, the number of maximum approved employment shares as determined as of issuance of an initial certification of eligibility, and the denial of an application for annual certification or amount of eligible aggregate employment shares approved in an annual certification. A business is required to submit such appeal within ten days of notice of DOF's decision.

New material is underlined.
[Deleted material is in brackets.]
"Shall" and "must" denote mandatory requirements and may be used interchangeably in the rules of this department unless otherwise specified or unless the context clearly indicates otherwise.

Rule Amendment

Section 1. Subdivision f of section 36-01 of Title 19 of the Rules of the City of New York is amended to read as follows:

f. "Completion of construction," or "completion" means:

(1) when relating to the construction of a new building or structure, the earlier of the date on which:

(i) the department of buildings issues a final certificate of occupancy; or

(ii) the department of finance has determined that construction is complete based on a review of documentation provided by the applicant, including, as applicable, an [architect] architect's or [engineer certifies] engineer's certification to the department of finance indicating that construction is complete. After the submission of documentation by the applicant, the department of finance may also consider the results of a site inspection conducted by a department of finance assessor in making such a determination.

(2) when relating to the modernization, rehabilitation, expansion or improvement of an existing building or structure [work], [the earlier of] the date on which the department has determined that construction is complete based on a review of documentation provided by the applicant, including, as applicable, an [architect] architect's or [engineer certifies] engineer's certification to the department of finance indicating that construction is complete. After the submission of documentation by the applicant, the department of finance may also consider the results of a site inspection conducted by a department of finance assessor in making such a determination.

Construction of buildings or structures for which benefits have been approved must be completed no later than five years after the date the first building permit is issued, or if no permit was required, after the completion of construction. Failure to complete construction within such time period will result in the loss of the inflation protection benefits described in 19 RCNY § 36-10(l).

§ 2. Subdivision e of section 36-03 of Title 19 of the Rules of the City of New York is amended by adding a new paragraph (6) to read as follows:

(6) An applicant may contest the department's determination of a project's completion of construction date by filing an appeal with the department no later than 15 calendar days after the issuance of notice of the department's determination. Such appeal must be in writing and must briefly state all the facts or other bases upon which such applicant contests such completion of construction date. The commissioner or a designee of the commissioner will respond to such appeal in writing no later than 60 calendar days from the date of receipt of the appeal. Any such designee will not be the same individual who made the determination that served as the basis of the appeal. The denial of an appeal is a final agency determination reviewable pursuant to Article 78 of the New York Civil Practice Law and Rules.

§ 3. Title 19 of the Rules of the City of New York is amended by adding a new chapter 61 to read as follows:

CHAPTER 61
RELOCATION ASSISTANCE CREDIT PER EMPLOYEE

§ 61-01 Definitions.

When used in this chapter, the following terms have the following meanings:

Aggregate employment shares. The term "aggregate employment shares" means the sum of all employment shares maintained by an eligible business in a taxable year.

Commissioner. The term "commissioner" means the commissioner of finance, or such commissioner's designee.

Eligible aggregate employment shares. The term "eligible aggregate employment shares" means, in the case of an eligible business, the amount, if any, of aggregate employment shares maintained by an eligible business in eligible premises in the taxable year in which such eligible business claims a credit pursuant to § 22-628 of the Administrative Code of the City of New York; provided, however, that:

(1) such amount shall not exceed the lesser of:

(i) the number of aggregate employment shares maintained by such eligible business in eligible premises in the taxable year during which such eligible business relocates;

(ii) the maximum approved employment shares for such eligible business; or

(iii) an amount equal to the product of multiplying the aggregate employment shares and the linear scalar for such eligible business in such tax year; and

(2) a full-time work week or part-time work week at eligible premises prior to the date of relocation shall not be taken into account in determining eligible aggregate employment shares.

Eligible business. The term "eligible business" means any person subject to a tax imposed under chapter 5, subchapter 2, 3 or 3-A of chapter 6 of title 11 of the Administrative Code of the City of New York, that:

(1) has been conducting substantial business operations at one or more business locations outside of New York state for the 24 consecutive months immediately preceding the taxable year during which such eligible business relocates but has not maintained employment shares at premises in New York state at any time during the period beginning January 1, 2025 and ending on the date such business enters into a lease or a contract to purchase the premises that will qualify as eligible premises pursuant to chapter 6-E of title 22 the Administrative Code of the City of New York; and

(2) on or after July 1, 2025 relocates all or part of such business operations.

Eligible premises. The term "eligible premises" means one or more non-residential premises that consist of at least 10,000 square feet that:

(1) are wholly contained in real property located in the city of New York; and

(2) if contained in real property wholly contained in the borough of Manhattan, are premises for which final certificates of occupancy were issued prior to January 1, 2000, regardless of whether such certificates of occupancy were amended after such date.

Employment share. The term "employment share" means, for each employee, partner or sole proprietor of an eligible business, the sum of: (1) the number of full-time work weeks worked by such employee, partner or sole proprietor during the eligible business's taxable year divided by the number of weeks in the taxable year; and

(2) the number of part-time work weeks worked by such employee, partner or sole proprietor during the eligible business's taxable year divided by an amount equal to twice the number of weeks in the taxable year.

Employment share shall not include full-time or part-time work weeks attributable to employees, partners or sole proprietors acquired by an eligible business as a result of a merger with or acquisition of another person, or a transaction having a comparable effect, that occurs after June 30, 2025, and before the end of the taxable year in which a credit is claimed by such eligible business pursuant to this section, or to successors, if any, to those employees, partners or sole proprietors.

Full-time work week. The term "full-time work week" means a week during which at least 35 hours of gainful work has been performed by an employee, partner or sole proprietor.

Linear scalar. The term "linear scalar" means, for an eligible business in a taxable year, the quotient of dividing the total square footage of an eligible premises by the product of multiplying such business's aggregate employment shares by 175.

Lease or contract submission date. The term "lease or contract submission date" means the date and time at which a business that was issued a notice pursuant to 19 RCNY 61-03(c) submitted to the commissioner a valid lease or contract to purchase an eligible premises.

Maximum approved employment shares. The term "maximum approved employment shares" means a limitation on the aggregate employment shares that an eligible business may receive in any taxable year determined by the commissioner pursuant to § 22-628 of the Administrative Code of the City of New York based on documentation submitted by such business demonstrating such business's intention to relocate, existing workforce and employment plans following relocation.

Part-time work week. The term "part-time work week" means a week during which at least 15 but less than 35 hours of gainful work has been performed by an employee, partner or sole proprietor.

Person. The term "person" includes any individual, partnership, association, joint-stock company, corporation, estate or trust, limited liability company, and any combination of the foregoing.

Preliminary eligibility recording date. The term "preliminary eligibility recording date" means the date and time at which a business submitted a completed preliminary eligibility application.

Program total. The term "program total" means the sum of maximum approved aggregate employment shares included in all initial certifications of eligibility issued by the commissioner.

Relocate. The term "relocate" means, with respect to an eligible business, to transfer a preexisting business operation to an eligible premises, or to establish a new business operation at such premises, provided that an eligible business shall not be deemed to have relocated unless at least one employee, partner or sole proprietor of the eligible business is transferred to such premises from a preexisting business operation conducted outside the state of New York. The date of relocation shall be the first day on which the individual so transferred commences work at such eligible premises. The taxable year of relocation shall be the taxable year in which the date of relocation occurs. For purposes of this chapter, an eligible business may relocate only once but may add or substitute other eligible premises throughout such period.

§ 61-02 Authorization to provide relocation assistance credit per employee.

(a) An eligible business that relocates shall be allowed to receive a credit against a tax imposed by chapter 5 or subchapter 2, 3 or 3-A of chapter 6 of title 11 of the Administrative Code of the City of New York, as described in subdivision (r) of § 11-503, subdivision 24 of § 11-604, § 11-643.10, or subdivision 24 of § 11-654 of the Administrative Code of the City of New York.

(b) No eligible business shall be authorized to receive a credit against tax pursuant to subdivision (a) of this section, unless the premises with respect to which it is claiming the credit are eligible premises and until it has obtained an initial certification of eligibility from the commissioner and an annual certification from the commissioner as to the number of eligible aggregate employment shares maintained by such eligible business that may qualify for obtaining a tax credit for the eligible business's taxable year.

§ 61-03 Preliminary eligibility application.

(a) A business may submit a completed preliminary eligibility application to the commissioner. Such application must be on a form prescribed by the commissioner. Such application must include, but not be limited to, information sufficient to determine such business's potential program eligibility and intent to relocate to an eligible premises.

(b) Upon receipt by the commissioner of a preliminary eligibility application, the commissioner shall review such application and, if the commissioner determines such application is complete, the commissioner shall record such application and assign such application a preliminary eligibility recording date.

(c) The commissioner shall not record a preliminary eligibility application with a preliminary eligibility recording date on or after July 1, 2028.

(d) Upon recording of a preliminary eligibility application, the commissioner shall transmit notice of such preliminary eligibility recording date to the applicant business.

§ 61-04 Lease for or contract to purchase an eligible premises.

(a) A business that is issued a notice pursuant to 19 RCNY § 61-03(c) may submit to the commissioner a valid lease for or contract to purchase an eligible premises. A business must both enter into and submit to the commissioner such lease or contract during a three month period following the preliminary eligibility application recording date. Such lease or contract must be submitted along with a form prescribed by the commissioner.

(b) Upon receipt by the commissioner of such lease or contract, the commissioner shall record such lease or contract and assign such submission a lease or contract submission date. The commissioner shall not record submission of a valid lease or contract to purchase an eligible premises with a submission date that is on or after July 1, 2028.

(c) The commissioner shall transmit notice of such lease or contract submission date to the applicant business.

§ 61-05 Initial certification of eligibility.

(a) A business that receives notice pursuant to 19 RCNY § 61-04(c) may apply for initial certification of eligibility. Such application must be on a form prescribed by the commissioner. Such application must include, but not be limited to, information necessary to determine:

(1) eligibility to receive a credit against tax pursuant to 19 RCNY § 61-02(a), and

(2) the appropriate maximum approved employment shares to include on the initial certification of eligibility.

(b) No initial certification of eligibility shall be issued by the commissioner to an eligible business on or after July 1, 2028 unless such business relocates to such premises not later than 36 months from such preliminary eligibility application recording date.

(c) Each initial certification of eligibility must include the maximum approved employment shares. The maximum approved employment shares for an eligible business shall not exceed 500 employment shares for such eligible business.

(d) The commissioner shall not issue an initial certification of eligibility that would cause the program total to exceed 3,000 maximum approved employment shares. For the purpose of determining whether such maximum program total has been reached, initial certifications of eligibility must be approved by the commissioner in an order based on the preliminary eligibility recording date.

(e) If an eligible business submits an application for an initial certification of eligibility and there are other eligible businesses with earlier preliminary eligibility recording dates that could submit applications for initial certification of eligibility that, if approved, would cause the program total to be exceeded, the commissioner may notify the applicant business that its application is being held pending review of such other eligible businesses' applications.

§ 61-06 Annual certification.

(a) After each year for the duration of the benefit period, an eligible business seeking to receive a credit pursuant to 19 RCNY § 61-02(a) must file an application for an annual certification. Such application must be on a form prescribed by the commissioner. Such application must include, but not be limited to, information necessary to determine continued eligibility to receive a credit against tax pursuant to 19 RCNY § 61-02(a).

(b) Such application must be filed electronically.

§ 61-07 Administrative appeals.

(a) A business may appeal:

(1) the denial of recording of a preliminary eligibility application or the submission of a lease or contract to purchase an eligible premises,

(2) the denial of an initial certification of eligibility,

(3) the maximum approved employment shares included in an initial certification of eligibility,

(4) the denial of an application for annual certification, or

(5) the amount of eligible aggregate employment shares approved in an annual certification.

(b) A business must submit such appeal in writing to the commissioner within 10 days of notice of any such denial or determination. Such appeal shall be considered by the commissioner, and the commissioner shall notify such applicant in writing concerning the appeals determination rendered by the commissioner.