

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 1987**

No. 49

*Int 874*

By the Vice-Chairman (Council Member Vallone) and Council Member DeMarco; (by request of the Mayor); also Council Members Dryfoos, Eisland, Gerges, Leffler, Messinger, O'Donovan and Pinkett. (Passed under a Message of Necessity from the Mayor.)

**A LOCAL LAW**

**To amend the administrative code of the city of New York, in relation to requiring and permitting rebates of amounts equal to sales tax imposed pursuant to section eleven hundred seven of the tax law on the sales of energy and delivery services in certain instances and providing a deduction in computing the gross income of certain utilities and gross operating income of certain vendors of utility services for purposes of the tax imposed pursuant to chapter eleven of title eleven of such code received in connection with certain sales of energy and delivery services.**

*Be it enacted by the Council as follows:*

Section 1. Subdivision (a) of section 11-502 of the administrative code of the city of New York is amended to read as follows:

(a) General. An unincorporated business means any trade, business, profession or occupation conducted, engaged in or being liquidated by an individual or unincorporated entity, including a partnership or fiduciary or corporation in liquidation, but not including any entity subject to tax under any local law adopted pursuant to section one of chapter seven hundred seventy-two of the laws of nineteen hundred sixty-six and not including any entity doing an insurance business as a member of the New York insurance exchange described in paragraph one of subsection (a) of section six thousand two hundred one of the insurance law. Unincorporated businesses subject to tax under a local law of the city imposing a tax on utilities shall not be subject to tax under this chapter; provided, however, that unincorporated businesses, other than utility businesses subject to the supervision of the state department of public service, which are subject to tax under a local law of the city imposing a tax on vendors of utility services shall be subject to tax under this chapter on that percentage of their entire net income allocable to the city under section 11-508 of this chapter which their receipts other than those taxable under such local law taxing vendors of utility services is of their total receipts. For the purpose of determining such percentage, the amount of receipts determined to be receipts other than those taxable under such local law shall not be increased by reason of any deduction allowed pursuant to section 11-1102.1 of this title. If an individual or an unincorporated entity carries on two or more unincorporated businesses, all such businesses shall be treated as one unincorporated business for the purposes of this chapter.

§2. Paragraph one of subdivision (g) of section 11-503 of such code is amended to read as follows:

(1)(A) In addition to any other credit allowed by this section, a taxpayer shall be allowed a credit against the tax imposed by this chapter to be credited or refunded in the manner hereinafter provided in this subdivision. The amount of such credit shall be equal to the amount of sales and

compensating use taxes imposed by section eleven hundred seven of the tax law during the taxpayer's taxable year which became legally due on or after and was paid on or after July first, nineteen hundred eighty-four, less any credit or refund of such taxes, with respect to the purchase or use by the taxpayer of electricity or electric service of whatever nature for use or consumption directly and exclusively in the production of tangible personal property for sale by manufacturing, processing or assembling. Provided, however, the amount of the credit allowed by this paragraph shall be reduced by the amount of any rebate or rebates received during the taxpayer's taxable year pursuant to chapter six-A of title twenty-two of the code.

(B) In addition to any other credit allowed by this section, a taxpayer shall be allowed a credit against the tax imposed by this chapter to be credited or refunded in the manner hereinafter provided in this subdivision. The amount of such credit shall be equal to the percentage specified below of the amount of sales and compensating use taxes imposed by section eleven hundred seven of the tax law during the taxpayer's taxable year which became legally due on or after and was paid on or after July first, nineteen hundred eighty-eight, less any credit or refund of such taxes, with respect to the purchase or use by a non-residential energy user, as such term is defined in section 22-611 of the code, of electricity or electric service purchased at retail from the power authority of the state of New York or the port authority of the state of New York and New Jersey, provided, however, that no credit shall be allowed with respect to purchases from such port authority unless it shall be an "eligible vendor of energy services", as defined in paragraph one of subdivision (c) of such section 22-611, and shall have obtained a certification of eligibility in accordance with subdivision (b) of such section 22-611 during the period commencing July first, nineteen hundred eighty-eight and ending June thirtieth, nineteen hundred eighty-nine the credit shall be in an amount equal to twenty-five percentum of such sales and compensating use taxes imposed; during the period commencing July first, nineteen hundred eighty-nine and ending June thirtieth, nineteen hundred ninety the credit shall be in an amount equal to fifty percentum of such taxes imposed; during the period commencing July first, nineteen hundred ninety and ending June thirtieth, nineteen hundred ninety-one the credit shall be in an amount equal to seventy-five percentum of such taxes imposed; and during the period commencing July first, nineteen hundred ninety-one and thereafter the credit shall be in an amount equal to one hundred percentum of such taxes imposed.

(C) In addition to any other credit allowed by this section, a taxpayer shall be allowed a credit against the tax imposed by this chapter to be credited or refunded in the manner hereinafter provided in this subdivision. The amount of such credit shall be equal to the percentage specified below of the amount of sales and compensating use taxes imposed by section eleven hundred seven of the tax law during the taxpayer's taxable year which became legally due on or after and was paid on or after July first, nineteen hundred eighty-eight, less any credit or refund of such taxes, with respect to the purchase or use by a non-residential fuel user of fuel or fuel service except fuel used to operate motor vehicles: during the period commencing July first, nineteen hundred eighty-eight and ending June thirtieth, nineteen hundred eighty-nine the credit shall be in an amount equal to twenty-five percentum of such sales and compensating use taxes imposed; during the period commencing July first, nineteen hundred eighty-nine and ending June thirtieth, nineteen hundred ninety the credit shall be in an amount equal to fifty percentum of such taxes imposed; during the period commencing July first, nineteen hundred ninety and ending June thirtieth, nineteen hundred ninety-one the credit shall be in an amount equal to seventy-five percentum of such taxes imposed; and during the period commencing July first, nineteen hundred ninety-one and thereafter the credit shall be in an amount equal to one hundred percentum of

such taxes imposed. For purposes of this subparagraph, the term "non-residential fuel user" shall mean any non-residential user of fuel, except a government agency or instrumentality thereof, public benefit corporation, or any entity that is exempt from the sales tax imposed pursuant to section eleven hundred seven of the tax law, provided that the term "non-residential fuel user" shall not include an owner or operator of residential income producing property, except a hotel.

§3. Paragraph (a) of subdivision four of section 11-603 of such code, as amended by local law number twenty-seven for the year nineteen hundred eighty-seven, is amended to read as follows:

(a) Corporations subject to tax under subchapter three or four of this chapter or under chapter eleven of this title, any trust company organized under a law of this state all of the stock of which is owned by not less than twenty savings banks organized under a law of this state, bank holding companies filing a combined return in accordance with subdivision (f) of section 11-646 of this chapter, housing companies organized and operating pursuant to the provisions of article two of the private housing finance law and housing development fund companies organized pursuant to the provisions of article eleven of the private housing finance law, shall not be subject to tax under this subchapter; provided, however, that any corporation, other than a utility corporation subject to the supervision of the state department of public service, which is subject to tax under chapter eleven of this title as a vendor of utility services shall be subject to tax under this subchapter, but in computing the tax imposed by this section pursuant to the provisions of clause one of paragraph (a) of subdivision one of section 11-604, business income allocated to the city pursuant to paragraph (a) of subdivision three of such section shall be reduced by the percentage which such corporation's gross operating income subject to tax under chapter eleven of this title is of its gross operating income. For the purpose of determining such percentage, the amount of such corporation's gross operating income subject to tax under such chapter shall not be reduced by reason of any deduction allowed pursuant to section 11-1102.1 of this title.

§4. Paragraph (a) of subdivision fifteen of section 11-604 of such code is amended to read as follows:

(a)(1) In addition to any other credit allowed by this section, a taxpayer shall be allowed a credit against the tax imposed by this subchapter to be credited or refunded in the manner hereinafter provided in this subdivision. The amount of such credit shall be equal to the amount of sales and compensating use taxes imposed by section eleven hundred seven of the tax law during the taxpayer's taxable year which became legally due on or after and was paid on or after July first, nineteen hundred eighty-four, less any credits or refunds of such taxes, with respect to the purchase or use by the taxpayer of electricity or electric service of whatever nature for use or consumption directly and exclusively in the production of tangible personal property for sale by manufacturing, processing or assembling. Provided, however, the amount of the credit allowed by this paragraph shall be reduced by the amount of any rebate or rebates received during the taxpayer's taxable year pursuant to chapter six-A of title twenty-two of the code.

(2) In addition to any other credit allowed by this section, a taxpayer shall be allowed a credit against the tax imposed by this subchapter to be credited or refunded in the manner hereinafter provided in this subdivision. The amount of such credit shall be equal to the percentage specified below of the amount of sales and compensating use taxes imposed by section eleven hundred seven of the tax law during the taxpayer's taxable year which became legally due on or after and was paid on or after July first, nineteen hundred eighty-eight, less any credit or refund of such taxes, with respect to the purchase or use by a non-residential energy user, as such term is defined in section 22-611 of the code, of electricity or electric service purchased at retail from the power authority of the state of New York or the port authority of the state of New York and New Jersey,

provided, however, that no credit shall be allowed with respect to purchases from such port authority unless it shall be an "eligible vendor of energy services", as defined in paragraph one of subdivision (c) of such section 22-611, and shall have obtained a certification of eligibility in accordance with subdivision (b) of such section 22-611: during the period commencing July first, nineteen hundred eighty-eight and ending June thirtieth, nineteen hundred eighty-nine the credit shall be in an amount equal to twenty-five percentum of such sales and compensating use taxes imposed; during the period commencing July first, nineteen hundred eighty-nine and ending June thirtieth, nineteen hundred ninety the credit shall be in an amount equal to fifty percentum of such taxes imposed; during the period commencing July first, nineteen hundred ninety and ending June thirtieth, nineteen hundred ninety-one the credit shall be in an amount equal to seventy-five percentum of such taxes imposed; and during the period commencing July first, nineteen hundred ninety-one and thereafter the credit shall be in an amount equal to one hundred percentum of such taxes imposed.

(3) In addition to any other credit allowed by this section, a taxpayer shall be allowed a credit against the tax imposed by this subchapter to be credited or refunded in the manner hereinafter provided in this subdivision. The amount of such credit shall be equal to the percentage specified below of the amount of sales and compensating use taxes imposed by section eleven hundred seven of the tax law during the taxpayer's taxable year which became legally due on or after and was paid on or after July first, nineteen hundred eighty-eight, less any credit or refund of such taxes, with respect to the purchase or use by a non-residential fuel user of fuel or fuel service except fuel used to operate motor vehicles: during the period commencing July first, nineteen hundred eighty-eight and ending June thirtieth, nineteen hundred eighty-nine the credit shall be in an amount equal to twenty-five percentum of such sales and compensating use taxes imposed; during the period commencing July first, nineteen hundred eighty-nine and ending June thirtieth, nineteen hundred ninety the credit shall be in an amount equal to fifty percentum of such taxes imposed; during the period commencing July first, nineteen hundred ninety and ending June thirtieth, nineteen hundred ninety-one the credit shall be in an amount equal to seventy-five percentum of such taxes imposed; and during the period commencing July first, nineteen hundred ninety-one and thereafter the credit shall be in an amount equal to one hundred percentum of such taxes imposed. For purposes of this subparagraph, the term "non-residential fuel user" shall mean any non-residential user of fuel, except a government agency or instrumentality thereof, public benefit corporation, or any entity that is exempt from the sales tax imposed pursuant to section eleven hundred seven of the tax law, provided that the term "non-residential fuel user" shall not include an owner or operator of residential income producing property, except a hotel.

§5. Subdivision (b) of section 11-641 of such code is amended by adding a new paragraph ten to read as follows:

(10) the amount allowed as an exclusion or deduction for sales and use taxes imposed by section eleven hundred seven of the tax law in determining the entire taxable income which the taxpayer is required to report to the United States treasury department, but only such portion of such exclusion or deduction which is not in excess of the amount of the credit allowed pursuant to section 11-643.6 of this part.

§6. Such code is amended by adding a new section 11-643.6 to read as follows:

§11-643.6. Credit relating to local sales tax paid on electricity purchases. (a)(1) In addition to any other credit allowed by this part, a taxpayer shall be allowed a credit against the tax imposed by this part to be credited or refunded in the manner hereinafter provided in this section. The amount of such credit shall be equal to the percentage specified below of the amount of sales and

compensating use taxes imposed by section eleven hundred seven of the tax law during the taxpayer's taxable year which became legally due on or after and was paid on or after July first, nineteen hundred eighty-eight, less any credit or refund of such taxes, with respect to the purchase or use by a non-residential energy user, as such term is defined in section 22-611 of the code, of electricity or electric service purchased at retail from the power authority of the state of New York or the port authority of the state of New York and New Jersey, provided, however, that no credit shall be allowed with respect to purchases from such port authority unless it shall be an "eligible vendor of energy services", as defined in paragraph one of subdivision (c) of such section 22-611, and shall have obtained a certificate of eligibility in accordance with subdivision (b) of such section 22-611: during the period commencing July first, nineteen hundred eighty-eight and ending June thirtieth, nineteen hundred eighty-nine the credit shall be in an amount equal to twenty-five percentum of such sales and compensating use taxes imposed; during the period commencing July first, nineteen hundred eighty-nine and ending June thirtieth, nineteen hundred ninety the credit shall be in an amount equal to fifty percentum of such taxes imposed; during the period commencing July first, nineteen hundred ninety and ending June thirtieth, nineteen hundred ninety-one the credit shall be in an amount equal to seventy-five percentum of such taxes imposed; and during the period commencing July first, nineteen hundred ninety-one and thereafter the credit shall be in an amount equal to one hundred percentum of such taxes imposed.

(2) In addition to any other credit allowed by this part, a taxpayer shall be allowed a credit against the tax imposed by this part to be credited or refunded in the manner hereinafter provided in this section. The amount of such credit shall be equal to the percentage specified below of the amount of sales and compensating use taxes imposed by section eleven hundred seven of the tax law during the taxpayer's taxable year which became legally due on or after and was paid on or after July first, nineteen hundred eighty-eight, less any credit or refund of such taxes, with respect to the purchase or use by a non-residential fuel user of fuel or fuel service except fuel used to operate motor vehicles: during the period commencing July first, nineteen hundred eighty-eight and ending June thirtieth, nineteen hundred eighty-nine the credit shall be in an amount equal to twenty-five percentum of such sales and compensating use taxes imposed; during the period commencing July first, nineteen hundred eighty-nine and ending June thirtieth, nineteen hundred ninety the credit shall be in an amount equal to fifty percentum of such taxes imposed; during the period commencing July first, nineteen hundred ninety and ending June thirtieth, nineteen hundred ninety-one the credit shall be in an amount equal to seventy-five percentum of such taxes imposed; and during the period commencing July first, nineteen hundred ninety-one and thereafter the credit shall be in an amount equal to one hundred percentum of such taxes imposed. For purposes of this paragraph, the term "non-residential fuel user" shall mean any non-residential user of fuel, except a government agency or instrumentality thereof, public benefit corporation, or any entity that is exempt from the sales tax imposed pursuant to section eleven hundred seven of the tax law, provided that the term "non-residential fuel user" shall not include an owner or operator of residential income producing property, except a hotel.

(b) The credit allowed under this section for any taxable year shall be deemed to be an overpayment of tax by the taxpayer to be credited or refunded, without interest, in accordance with the provisions of section 11-677 of this chapter.

(c) Where the taxpayer receives a refund or credit of any tax imposed under section eleven hundred seven of the tax law for which the taxpayer had claimed a credit under the provisions of this section in a prior taxable year, the amount of such tax refund or credit shall be added to the

tax imposed by subdivision (a) of section 11-639 of this part, and such amount shall be subtracted in computing entire net income for the taxable year.

§7. Section 11-645 of such code is amended by adding a new subdivision (a-1) to read as follows:

(a-1) The amount equal to twenty-five per centum of the preceding year's tax, to be paid pursuant to subdivision (a) of this section, shall be computed without regard to the credit provided for in section 11-643.6 of this part.

§8. Section 11-1101 of such code is amended by adding new subdivisions twelve and thirteen to read as follows:

12. "Electricity redistributor." Any landlord, tenant or agent thereof, who purchases electricity from any other person and on a metered or unmetered basis resells or otherwise redistributes for any consideration such electricity to a non-residential energy user.

13. "Non-residential energy user." Any non-residential user of electricity, gas or steam, except a government agency or instrumentality thereof, public benefit corporation, or any entity that is exempt from the sales tax imposed pursuant to section eleven hundred seven of the tax law, provided that the term "non-residential energy user" shall not include an owner or operator of residential income-producing property, except a hotel.

§9. Such code is amended by adding a new section 11-1102.1 to read as follows:

§11-1102.1. Deduction relating to certain sales to non-residential energy users.—a. (1) In determining the amount of its gross income subject to the tax imposed by section 11-1102 of this chapter, a utility shall, except as otherwise provided in paragraph (2) of this subdivision, be allowed a deduction for any receipts otherwise subject to such tax which are received in or by reason of:

(i) any sale of electricity, gas or steam to a non-residential energy user;

(ii) any sale of delivery services furnished in connection with any sale described in subparagraph (i) of this paragraph; or

(iii) any sale of delivery services to the New York city public utility service or the power authority of the state of New York in connection with the sale of electricity by such public utility service or power authority to a non-residential energy user.

(2) In the case of any sale of electricity to a non-residential energy user which is an electricity redistributor, or in the case of any sale of delivery services furnished in connection with the sale of electricity (whether such sale of electricity is made by a utility or the New York city public utility service or the power authority of the state of New York) to a non-residential energy user which is an electricity redistributor, no deduction shall be allowed under paragraph (1) of this subdivision unless such electricity redistributor has been certified as eligible to receive discounts as such term is defined in section 26-611 of the code pursuant to section 22-612 of the code. In the case of an electricity redistributor which has been so certified, no deduction shall be allowed with respect to the receipts from any sale of electricity to such electricity redistributor or of delivery services furnished in connection therewith, if such sale was made prior to the date of such certification.

b. (1) In determining the amount of its gross operating income subject to the tax imposed by section 11-1102 of this chapter, a vendor of utility services shall, except as otherwise provided in paragraph (2) of this subdivision, be allowed a deduction for any receipts otherwise subject to such tax which are received in or by reason of any sale of electricity, gas or steam to a non-residential energy user.

(2) In the case of any sale of electricity by a vendor of utility services which is an electricity redistributor, no deduction shall be allowed under paragraph (1) of this subdivision unless such

vendor of utility services has been certified as eligible to receive discounts pursuant to section 22-612 of the code. In the case of a vendor of utility services which has been so certified, no deduction shall be allowed with respect to the receipts from any sale of electricity made prior to the date of such certification.

§10. Such code is amended by adding a new section 11-1105.2 to read as follows:

§11-1105.2 Credit for amount of local sales tax paid on sales of energy.

A taxpayer shall be allowed a credit against the amount of taxes imposed by this chapter, after allowance of the credit permitted under section 11-1105.1 of this chapter, in the amount of rebates and discounts made pursuant to paragraph one or two of subdivision (a) of section 22-612 of the code and otherwise in accordance with article six-A of title twenty-two of the code. Such credit shall be applied against the amount of tax otherwise required to be paid as provided in subdivision (a) of section 11-1105 of this chapter and shall be claimed for the month immediately succeeding the month in which such rebates or discounts are made. If such credit exceeds the amount of tax payable under this chapter for the month in question, such excess amount shall be refunded. For purposes of the preceding sentence, the credit allowed under this section shall be deemed an erroneous payment of tax by the taxpayer, to be credited or refunded in accordance with the provisions of section 11-1108 of this chapter.

§11. Title twenty-two of such code is amended by adding a new chapter six-A to read as follows:

#### CHAPTER 6-A

##### REBATE OF AMOUNT OF LOCAL SALES TAX PAID ON SALES OF ENERGY

§22-611 Definitions. When used in this chapter the following terms shall have the following meanings:

(a) "Vendor of energy services." Any person, corporation or other entity which is not a utility, except the New York city public utility service and the power authority of the state of New York, and which furnishes or sells electricity, gas or steam, whether or not such vendor produces such energy and regardless of whether such furnishing or selling constitutes the main activity of such person, corporation or other entity or is merely incidental thereto.

(b) "Electricity redistributor." Any landlord, tenant or agent thereof, who purchases electricity from a utility or any other person, corporation or other entity and on a metered or unmetered basis resells or otherwise redistributes for any consideration such electricity to a non-residential energy user.

(c) "Eligible vendor of energy services."

(1) Any electricity redistributor that sells or otherwise redistributes for any consideration electricity at a rate which: (i) on a metered or unmetered basis, does not exceed the amount charged by the utility or any other person, corporation or other entity to such electricity redistributor for electricity used or consumed by the non-residential energy user, except that a reasonable charge may be permitted for administrative and operating costs and (ii) provided, however, that no electricity redistributor shall come within this definition where such administrative and operating costs exceed a reasonable percentage mark-up of the amount charged by such utility or such other person, corporation or other entity for such electricity; or

(2) Any vendor of energy services which is not an electricity redistributor.

(d) "Rebate." The amount of a reduction in a non-residential energy user's energy bill, as specified in section 22-612 of this chapter, for the sales tax imposed pursuant to section eleven hundred seven of the tax law on the sale of electricity, gas or steam.

(c) "Discount." The amount of a reduction in an eligible vendor of energy services' energy bill, as specified in section 22-612 of this chapter, equal to the rebate made by such vendor to a non-residential energy user in accordance with this chapter.

(f) "Non-residential energy user." Any non-residential user of electricity, gas or steam, except a government agency or instrumentality thereof, public benefit corporation, or any entity that is exempt from the sales tax imposed pursuant to section eleven hundred seven of the tax law, provided that the term "non-residential energy user" shall not include an owner or operator of residential income producing property, except a hotel.

(g) "Utility." Any electric corporation, gas corporation or steam corporation subject to the jurisdiction and general supervision of the public service commission.

§22-612. Requirement and authorization of rebates for sales tax paid. (a)(1) Utilities selling or otherwise delivering electricity, including electricity sold by the New York city public utility service, gas or steam within the city shall be required to: (i) make rebates to non-residential energy users as follows: for such sales made during the period commencing with the first billing cycle which begins on or after July first, nineteen hundred eighty-eight and ending with the last billing cycle which begins on or prior to June thirtieth, nineteen hundred eighty-nine in an amount equal to twenty-five percentum of the sales and compensating use taxes imposed pursuant to section eleven hundred seven of the tax law; for such sales made during the period commencing with the first billing cycle which begins on or after July first, nineteen hundred eighty-nine and ending with the last billing cycle which begins on or prior to June thirtieth, nineteen hundred ninety in an amount equal to fifty percentum of the taxes imposed pursuant to such section; for such sales made during the period commencing with the first billing cycle which begins on or after July first, nineteen hundred ninety and ending with the last billing cycle which begins on or prior to June thirtieth nineteen hundred ninety-one in an amount equal to seventy-five percentum of the taxes imposed pursuant to such section; and for such sales made during the period commencing with the first billing cycle which begins on or after July first, nineteen hundred ninety-one and thereafter in an amount equal to one hundred percentum of the taxes imposed pursuant to such section; and/or (ii) make discounts to eligible vendors of energy services in amounts equal to the rebates to be made by such eligible vendors to non-residential energy users, such amounts to be certified to such utilities by such eligible vendors, provided, however, that the mayor or any agency designated by the mayor may by regulation require any or all classes of eligible vendors to certify that such rebates have been made as a condition of such utility being obligated to make discounts in accordance with this paragraph. For purposes of this paragraph, sales shall be deemed to include sales of delivery services consisting of transport and billing provided by a utility to the New York city public utility service. Any utility providing a discount to an eligible vendor making a rebate in accordance with paragraph three of this subdivision where such eligible vendor is certified in accordance with subdivision (b) of this section may rely upon the amount of rebates certified by such eligible vendor in accordance with this paragraph, unless such utility has knowledge that the amount so certified is incorrect;

(2) Eligible vendors of energy services, in instances where such eligible vendors sell electricity, gas or steam produced by such eligible vendors, may elect to: (i) make rebates to non-residential energy users as follows: for such sales made during the period commencing with the first billing cycle which begins on or after July first, nineteen hundred eighty-eight and ending with the last billing cycle which begins on or prior to June thirtieth, nineteen hundred eighty-nine in an amount equal to twenty-five percentum of the sales and compensating use taxes imposed pursuant to section eleven hundred seven of the tax law; for such sales made during the period commencing with



the first billing cycle which begins on or after July first, nineteen hundred eighty-nine and ending with the last billing cycle which begins on or prior to June thirtieth, nineteen hundred ninety in an amount equal to fifty percentum of the taxes imposed pursuant to such section; for such sales made during the period commencing with the first billing cycle which begins on or after July first, nineteen hundred ninety and ending with the last billing cycle which begins on or prior to June thirtieth, nineteen hundred ninety-one in an amount equal to seventy-five percentum of the taxes imposed pursuant to such section; and for such sales made during the period commencing with the first billing cycle which begins on or after July first, nineteen hundred ninety-one and thereafter in an amount equal to one hundred percentum of the taxes imposed pursuant to such section; and/or (ii) make discounts to other eligible vendors in amounts equal to the rebates to be made by such other eligible vendor to non-residential energy users, such amounts to be certified to such eligible vendors making discounts by such other eligible vendors, provided, however, that the mayor or any agency designated by the mayor may by regulation require any or all classes of such other eligible vendors to certify that such rebates have been made as a condition of eligibility for receiving discounts in accordance with this paragraph. Any eligible vendor providing a discount to another eligible vendor making a rebate in accordance with paragraph three of this subdivision where such other eligible vendor is certified in accordance with subdivision (b) of this section may rely upon the amount of rebates certified by such other eligible vendor in accordance with this paragraph, unless such eligible vendor providing a discount has knowledge that the amount so certified is incorrect;

(3) Eligible vendors of energy services, in instances where such eligible vendors sell electricity, gas or steam not produced by such eligible vendors, may elect to make rebates to non-residential energy users as follows: for such sales made during the period commencing with the first billing cycle which begins on or after July first, nineteen hundred eighty-eight and ending with the last billing cycle which begins on or prior to June thirtieth, nineteen hundred eighty-nine in an amount equal to twenty-five percentum of the sales and compensating use taxes imposed pursuant to section eleven hundred seven of the tax law; for such sales made during the period commencing with the first billing cycle which begins on or after July first, nineteen hundred eighty-nine and ending with the last billing cycle which begins on or prior to June thirtieth, nineteen hundred ninety in an amount equal to fifty percentum of the taxes imposed pursuant to such section; for such sales made during the period commencing with the first billing cycle which begins on or after July first, nineteen hundred ninety and ending with the last billing cycle which begins on or prior to June thirtieth, nineteen hundred ninety-one in an amount equal to seventy-five percentum of the taxes imposed pursuant to such section; and for such sales made during the period commencing with the first billing cycle which begins on or after July first, nineteen hundred ninety-one and thereafter in an amount equal to one hundred percentum of the taxes imposed pursuant to such section.

(b) No electricity redistributor shall be authorized to provide a rebate pursuant to this chapter until it has obtained a certification of eligibility from the mayor or any agency designated by the mayor. Applicants for such certification shall be required to pay an application fee as determined by the mayor or such agency so designated.

(c) (1) Utilities subject to the provisions of subdivision (a) of this section shall reduce each utility bill for each non-residential energy user by the full amount of the rebate that shall have accrued as described in paragraph one of subdivision (a) of this section for the period covered by each such utility bill. Such amount shall be separately stated and shown on such bills. Each such utility shall provide a discount in accordance with such paragraph on energy bills for each eligible vendor of energy services which has certified that it shall provide or has provided a rebate to a

non-residential energy user's energy bill in accordance with paragraph three of such subdivision in the aggregate amount of all applicable rebates.

(2) Each eligible vendor of energy services which has elected to provide a rebate to non-residential energy users shall reduce each energy bill for each non-residential energy user by the full amount of the rebate that shall have accrued as described in paragraph two or three of subdivision (a) of this section for the period covered by each such energy bill. Such amount shall be separately stated and shown on such bills. Each eligible vendor of energy services as described in paragraph two of such subdivision which has elected to provide a discount in accordance with such paragraph on energy bills for each eligible vendor of energy services which has certified that it shall provide or has provided a rebate to a non-residential energy user's energy bill in accordance with paragraph three of such subdivision shall reduce such energy bills by the aggregate amount of all applicable rebates.

(d) The mayor of any agency designated by the mayor shall be authorized to promulgate:

(1) Rules and regulations setting forth criteria by which a determination may be made as to whether administrative and operating costs exceed a reasonable percentage mark-up as set forth in paragraph one of subdivision (c) of this section;

(2) Rules and regulations to determine the eligibility for benefits conferred pursuant to this chapter in instances where energy is consumed in part by other than a non-residential energy user;

(3) Rules and regulations to limit or withhold, notwithstanding any inconsistent provisions of paragraphs one and two of subdivision (a) of this section, the eligibility for rebates by a utility or eligible vendor of energy services as described in paragraph two of subdivision (a) of this section made in accordance with this chapter in instances where energy is consumed in part by an electricity redistributor in premises where such electricity redistributor is also a non-residential energy user and with respect to the electricity redistributed the mark-up for administrative and operating costs exceeds that permitted under regulations promulgated pursuant to paragraph one of this subdivision;

(4) Any other rules and regulations necessary to administer and assure compliance with the provisions of this chapter.

(e) A duplicate of any certification provided to a utility or to an eligible vendor of energy services as described in paragraph two of subdivision (a) of this section of the amount of a rebate made or to be made to a non-residential energy user shall be provided to the mayor or any agency designated by the mayor. Such duplicate certification shall be deemed a written instrument for purposes of section 175.00 of the penal law.

(f) The corporation counsel may maintain an action in any court of competent jurisdiction to recover an amount equal to any benefits provided under the provisions of this chapter which are improperly obtained.

§22-613. Construction. Nothing contained in this chapter shall be construed as reducing the amount of a receipt for sales tax purposes under any of the sales taxes imposed or authorized by article twenty-eight or twenty-nine of the tax law, or as reducing the gross receipts, the gross income or the gross operating income subject to tax pursuant to section one hundred eighty-six or one hundred eighty-six-a of the tax law, or chapter eleven of this code. The burden of establishing eligibility to receive the benefits of this chapter shall rest with the party claiming such benefits.

§12. This local law shall take effect immediately but in no event sooner than the effective date of a chapter of the laws of nineteen hundred eighty-seven entitled "An Act to amend the general city law, the public service law, the tax law and chapter seven hundred seventy-two of the laws of nineteen hundred sixty-six, relating to enabling any city having a population of one million or

more to raise tax revenues, relating to reduction of energy costs and relocation and employment assistance in cities with a population of one million or more", and that section 11-1102.1 of the administrative code of the city of New York as added by section nine of this local law shall apply to sales of electricity, gas or steam, or delivery service made on or after such effective date, provided, however, that subparagraph (c) of paragraph one of subdivision (g) of section 11-503 of the administrative code of the city of New York as added by section two of this local law, subparagraph three of paragraph (a) of subdivision fifteen of section 11-604 of such code as added by section four of this local law and paragraph two of subdivision (a) of section 11-643.6 of such code as added by section six of this local law shall take effect no sooner than the effective date of a chapter of the laws of nineteen hundred eighty-seven entitled "AN ACT to amend chapter seven hundred seventy-two of the laws of nineteen hundred sixty-six, relating to enabling any city having a population of one million or more to raise tax revenues, relating to reduction of business energy costs and relocation and employment assistance in cities with a population of one million or more and to repeal paragraph (k) of subdivision eight of section two contained in section one and paragraph eleven of subdivision (b) of section one hundred five contained in section two relating thereto."

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on July 14, 1987, and approved by the Mayor on July 29 1987.

CARLOS CUEVAS, City Clerk, Clerk of Council.

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW § 27

Pursuant to the provisions of Municipal Home Rule Law § 27, I hereby certify that the enclosed local law (Local Law 49 of 1987, Council Int. No. 878) contains the correct text and:

Received the following vote at the meeting of the New York City Council on July 14, 1987: 34 for, 0 against.

Was approved by the Mayor on July 29, 1987.

Was returned to the City Clerk on July 30, 1987.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel.