

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1995**

No. 57

Introduced by Council Member Berman (by the request of the Mayor) -- read and referred to the Committee on Finance. (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 accelerating the effective date of certain exemptions and a credit allowed under the commercial rent or occupancy tax imposed by chapter 7 of title 11 of such code, and allowing an exemption from such tax and a reduction in calculating base rent subject to such tax in certain cases.

Be it enacted by the Council as follows:

Section 1. Paragraph 2 of subdivision b of section 11-704 of the administrative code of the city of New York, as amended by local law number 22 for the year 1994, is amended to read as follows:

(2) A tenant whose base rent, (i) for tax years beginning on or after June first, nineteen hundred eighty-one and ending on or before May thirty-first, nineteen hundred eighty-four, is not in excess of four thousand nine hundred ninety-nine dollars per year, (ii) for the tax year beginning June first, nineteen hundred eighty-four and ending May thirty-first, nineteen hundred eighty-five, is not in excess of seven thousand nine hundred ninety-nine dollars per year, (iii) for the tax years beginning on or after June first, nineteen hundred eighty-five and ending on or before May thirty-first, nineteen hundred ninety-four, is not in excess of ten thousand nine hundred ninety-nine dollars per year, (iv) for the tax year beginning June first, nineteen hundred ninety-four and ending May thirty-first, nineteen hundred ninety-five, is not in excess of twenty thousand nine hundred ninety-nine dollars per year, (v) for the tax year beginning June first, nineteen hundred ninety-five and ending May thirty-first, nineteen hundred ninety-six, is not in excess of thirty thousand nine hundred ninety-nine dollars per year and (vi) for tax years beginning on or after June first, nineteen hundred ninety-six, is not in excess of thirty-nine thousand nine hundred ninety-nine dollars per year, shall be exempt from the payment of the tax imposed by this chapter [in] *with* respect to such rent, provided, however, that where the base rent of such tenant is for a period of less than one year, such base rent shall, for purposes of this paragraph, be determined as if it had been on an equivalent basis for the entire year. Notwithstanding the preceding sentence, (vii) a tenant whose base rent for the tax year beginning June first, nineteen hundred eighty-four and ending May thirty-first,

nineteen hundred eighty-five, is at least eight thousand dollars per year, but not in excess of ten thousand nine hundred ninety-nine dollars per year, shall be exempt from the payment of the tax imposed by this chapter [in] *with respect to such rent for the period beginning December first, nineteen hundred eighty-four and ending May thirty-first, nineteen hundred eighty-five, and (viii) a tenant whose base rent for the tax year beginning June first, nineteen hundred ninety-five and ending May thirty-first, nineteen hundred ninety-six, is at least thirty-one thousand dollars per year, but not in excess of thirty-nine thousand nine hundred ninety-nine dollars per year, shall be exempt from the payment of the tax imposed by this chapter with respect to such rent for the period beginning September first, nineteen hundred ninety-five and ending May thirty-first, nineteen hundred ninety-six.*

§2. Subdivision e of section 11-704 of the administrative code of the city of New York is amended to read as follows:

e. (1) 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 such performance commences that the performance is intended to continue for less than four weeks *shall be exempt from the tax imposed by this chapter with respect to the rent paid for such taxable premises.*

(2) (i) *Notwithstanding any other provision of law to the contrary, a tenant who uses taxable premises for the production and performance of a theatrical work shall be exempt from the tax imposed by this chapter with respect to the rent paid for such taxable premises for a period not exceeding fifty-two weeks beginning on the date that the production of such theatrical work commences, provided, however, that this subparagraph shall not apply to any theatrical work the production of which commenced prior to June first nineteen hundred ninety-five.*

(ii) *For purposes of this paragraph, the term "theatrical work" shall mean a performance or repetition thereof in a theater of a live dramatic performance (whether or not musical in part) that contains sustained plots or recognizable thematic material, including so-called legitimate theater plays or musicals, dramas, melodramas, comedies, compilations, farces or reviews, provided that such performance is intended to be open to the public for at least two weeks. The term "theatrical work" shall not include performances of any kind in a roof garden, cabaret or similar place, circuses, ice skating shows, aqua shows, variety shows, magic shows, animal acts, concerts, industrial shows or similar performances, or radio or television performances, whether or not such performances are pre-recorded for later broadcast.*

§ 3. Subdivision h of section 11-704 of the administrative code of the city of New York, as amended by local law number 22 for the year 1994, is amended to read as follows:

h. (1) In the case of any taxable premises located in the borough of Manhattan north of the center line of ninety-sixth street or in the boroughs of the Bronx, Brooklyn, Queens and Staten Island, the base rent for such premises shall be reduced by ten percent for the period beginning on January first, nineteen hundred eighty-six and ending May thirty-first, nineteen hundred eighty-seven, by twenty percent for the period beginning June first, nineteen hundred eighty-seven and ending May thirty-first, nineteen hundred eighty-nine, and by thirty percent for the period beginning June first, nineteen hundred eighty-nine and ending [May] August thirty-first, nineteen hundred [ninety-six] *ninety-five*, such reduction to be made after all other exemptions and deductions authorized by

this chapter have been taken. For periods beginning [June] *September* first, nineteen hundred [ninety-six] *ninety-five* and thereafter, a tenant of taxable premises located in that part of the city specified in the preceding sentence shall be exempt from the payment of the tax imposed by this chapter with respect to the rent for such taxable premises.

(2) *In the case of any taxable premises located in the borough of Manhattan south of the center line of ninety-sixth street, the base rent for such premises shall be reduced by fifteen percent for the period beginning March first, nineteen hundred ninety-six and ending May thirty-first, nineteen hundred ninety-six and by twenty-five percent for periods beginning June first, nineteen hundred ninety-six and thereafter, such reduction to be made after all other exemptions and deductions authorized by this chapter have been taken.*

§ 4. Section 11-704.3 of the administrative code of the city of New York, as added by local law number 22 for the year 1994, is amended to read as follows:

§11-704.3 Tax credit (1) *For the period beginning September first, nineteen hundred ninety-five and ending May thirty-first nineteen-hundred ninety-six, a credit shall be allowed against the tax imposed by this chapter, such credit to be determined in accordance with the following table:*

If the tenant's annualized base rent for such period is:

The credit shall be an amount equal to the following percentage of the tax imposed on such annualized base rent for such period:

<i>At least:</i>	<i>But not over:</i>	
<i>\$40,000</i>	<i>\$44,999</i>	<i>80%</i>
<i>\$45,000</i>	<i>\$49,999</i>	<i>60%</i>
<i>\$50,000</i>	<i>\$54,999</i>	<i>40%</i>
<i>\$55,000</i>	<i>\$59,999</i>	<i>20%</i>

If the tenant's annualized base rent for such period is over fifty-nine thousand nine hundred ninety-nine dollars, no credit shall be allowed under this subdivision.

(2) For each tax year beginning on or after June first, nineteen hundred ninety-six, a credit shall be allowed against the tax imposed by this chapter, such credit to be determined in accordance with the following table:

If the tenant's base rent is:

The credit shall be an amount equal to the following percentage of the tax imposed on such base rent for the tax year:

<i>At Least:</i>	<i>But not over:</i>	
<i>\$40,000</i>	<i>\$44,999</i>	<i>80%</i>
<i>\$45,000</i>	<i>\$49,999</i>	<i>60%</i>
<i>\$50,000</i>	<i>\$54,999</i>	<i>40%</i>
<i>\$55,000</i>	<i>\$59,999</i>	<i>20%</i>

If the tenant's base rent is over fifty-nine thousand nine hundred ninety-nine dollars, no credit shall be allowed under this [section] *subdivision*.

[(2)] (3). Where the base rent of a tenant is for a period of less than one year, such base rent shall, for purposes of this section, be determined as if it had been on an equivalent basis for the entire year. The credit allowed under this section shall be deducted prior to the deduction of any credit allowable under section 11-704.1 of this chapter.

§ 5. Subdivision a of section 11-705 of the administrative code of the city of New York, as amended by local law number 22 for the year 1994, is amended to read as follows:

a. Every tenant subject to tax under this chapter shall file with the commissioner of finance a return with respect to the taxes payable for the three month periods ending on the last days of August, November and February of each year and a final return with respect to the taxes payable for the tax year ending on the last day of May of each year. Such returns shall be filed within twenty days from the expiration of the period covered thereby. A tenant who is exempt from the tax by reason of paragraph two of subdivision b of section 11-704 of this chapter shall nevertheless be required to file a final return, provided, however, that for tax years beginning on or after June first, nineteen hundred ninety-five, no such final return shall be required from such exempt tenant with respect to taxable premises if (1) the tenant's rent for such premises, determined without regard to any deduction from or reduction in rent or base rent allowed by this chapter, does not exceed fifteen thousand dollars for the tax year and (2) in the case of a tenant who has more than one taxable premises, the aggregate rents for all such premises, determined without regard to any deduction from or reduction in rent or base rent allowed by this chapter, do not exceed fifteen thousand dollars for the tax year. Notwithstanding anything in this subdivision to the contrary, for tax [years] *periods* beginning on or after [June] *September* first, nineteen hundred [ninety-six] *ninety-five*, no return shall be required pursuant to this subdivision with respect to any taxable premises located in that part of the city specified in *paragraph one* of subdivision h of section 11-704 of this chapter, and no such taxable premises shall be taken into account for purposes of clause two of the preceding sentence. The commissioner of finance may permit or require returns (including final returns) to be made for other periods and upon such dates as the commissioner may specify and if he or she deems it necessary, in order to insure the payment of the tax imposed by this chapter, the commissioner may require such returns to be made for shorter periods than those prescribed by the foregoing provisions of this section, and upon such dates as he or she may specify.

§ 6. If any credit, exemption from tax or reduction in base rent provided by this local law is held to be invalid or unconstitutional, or would render any portion of chapter 7 of title 11 of the administrative code of the city of New York, as amended by this local law, invalid or unconstitutional for any reason whatsoever, there shall be no such credit, exemption from tax or reduction in base rent, and such chapter 7 shall continue in effect without such credit, exemption or reduction in base rent held to be invalid.

§ 7. This local law shall take effect immediately.

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 June 14, 1995, and approved by the Mayor on June 27, 1995.

CARLOS CUEVAS, City Clerk, Clerk of the 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 57 of 1995, Council Int. No. 576) contains the correct text and:

Received the following vote at the meeting of the New York City Council on June 14, 1995: 47 for, 2 against.

Was approved by the Mayor on June 27, 1995.

Was returned to the City Clerk on June 28, 1995.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel