

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1994**

No. 22

By Council Members Berman, Abel, Fossella , Fusco and Stabile (by the request of the Mayor); also Council Members Lasher and Ognibene. Passed under a Message of Necessity by the Mayor.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to exempting certain tenants from the commercial rent or occupancy tax imposed by chapter 7 of title 11 of such code, allowing a deduction in calculating base rent subject to such tax with respect to rents received or due from subtenants in certain cases, allowing a credit against such tax in certain cases and waiving the requirement for filing a return with respect to certain premises.

Be it enacted by the Council as follows:

Section 1. Paragraph (i) of subdivision 7 of section 11-701 of the administrative code of the city of New York, as amended by local law number 57 for the year 1993, is amended to read as follows:

(i) as rent for premises which constitute taxable premises of such tenant except where such tenant is exempt from tax thereon pursuant to subdivision b or paragraph six of subdivision c of section 11-704 of this chapter; provided, however, that for tax periods beginning on and after June first, nineteen hundred eighty-five, rent received or due from a tenant exempt from tax thereon pursuant to paragraph two of subdivision b of section 11-704 of this chapter, as such paragraph two was in effect immediately prior to its amendment by [a] local law *number fifty-seven* for the year nineteen hundred ninety-three, may be deducted if such tenant occupies or uses the premises pursuant to a written agreement made prior to June first, nineteen hundred eighty-four, the terms and conditions of which have not been changed or amended; and provided, further, that for tax periods beginning on and after June first, nineteen hundred eighty-five, with respect to a tenant exempt from tax pursuant to paragraph two of subdivision b of section 11-704 of this chapter, as such paragraph two was in effect immediately prior to its amendment by [a] local law *number fifty-seven* for the year nineteen hundred ninety-three, because of the reduction in base rent provided for in subdivision h of section 11-704 of this chapter, rent received or due from such tenant may be deducted if such tenant occupies or uses the premises pursuant to a written agreement made prior to June first, nineteen hundred eighty-five, the terms and conditions of which have not been changed or amended; and provided, further, that for tax periods beginning on and after June first, nineteen hundred

ninety-four, with respect to a tenant exempt from tax pursuant to paragraph two of subdivision b of section 11-704 of this chapter as a result of the amendment of such paragraph two by [a] local law *number fifty-seven* for the year nineteen hundred ninety-three, whether or not such exemption is due to the reduction in base rent provided for in subdivision h of section 11-704 of this chapter, rent received or due from such tenant may be deducted if such tenant occupies or uses the premises pursuant to a written agreement made prior to July first, nineteen hundred ninety-three, the terms and conditions of which have not been changed or amended; and provided, further, that for tax periods beginning on and after July twenty-ninth, nineteen hundred eighty-seven, with respect to a tenant exempt from tax pursuant to paragraph two of subdivision b of section 11-704 of this chapter because of the reduction in base rent provided for in subdivision f of section 11-704 of this chapter, rent received or due from such tenant may be deducted; *and provided, further, that, notwithstanding anything in this paragraph to the contrary, for tax periods beginning on and after June first, nineteen hundred ninety-five, with respect to a tenant exempt from tax pursuant to paragraph two of subdivision b of section 11-704 of this chapter, rents received or due from such tenant may be deducted;*

§2. 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 57 for the year 1993, 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, [and] (iv) for *the tax [years] year* beginning [on or after] 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 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, 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 respect to such rent for the period beginning December first, nineteen hundred eighty-four and ending May thirty-first, nineteen hundred eighty-five.

§3. Subdivision h of section 11-704 of the administrative code of the city of New York, as relettered by local law number 50 for the year 1987, is amended to read as follows:

h. In the case of any taxable premises located in the borough of Manhattan north of [96th] *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 [periods] *the period* beginning June first, nineteen hundred eighty-nine and [thereafter] *ending May thirty-first, nineteen hundred ninety-six*, such reduction to be made after all other exemptions and deductions authorized by this chapter have been taken. *For periods beginning June first, nineteen hundred ninety-six 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.*

§4. Chapter 7 of title 11 of the administrative code of the city of New York is amended by adding a new section 11-704.3 to read as follows:

§11-704.3 Tax credit (1) 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.

(2) 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 62 for the year 1987, 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 beginning on or after June first, nineteen hundred ninety-six, no return shall be required pursuant to this subdivision with respect to any taxable premises located in that part of the city specified in 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 22, 1994, and approved by the Mayor on July 21, 1994.

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 22 of 1994, Council Int. No. 363-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on June 22, 1994: 50 for, 1 against.

Was approved by the Mayor on July 21, 1994.

Was returned to the City Clerk on July 21, 1994.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel