

Practice Update

Extension of Incentive Programs in New York State's 2021 Budget More Valuable Than Ever Due to COVID-19

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The New York State Enacted Fiscal Year 2021 budget included the renewal and extension of nine programs that abate real estate taxes, city corporate taxes, sales taxes, and provide energy discounts to qualified applicants. These programs will be needed more than ever to induce development as New York City begins to rebuild post-COVID-19 pandemic.

There were also a few changes to some of the programs including restricting eligible uses and adding reporting requirements. The elimination of tax abatement benefits for self-storage facilities is most noteworthy. Developers and businesses with new applications will now be able to continue to benefit from these incentive programs. Eligibility depends on various factors which include among other things: location in the City, signing a new or renewal lease, and making qualified expenditures.

The changes to the impacted economic development programs are summarized below:

- **The Industrial Commercial Abatement Program (ICAP)** is extended to July 1, 2025. This program provides abatements for property taxes for periods of up to 25 years. To be eligible, industrial and commercial buildings must be built, modernized, expanded, or otherwise physically

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improved. Most of the program remains the same, the following are the three major changes:

- No benefits shall be granted for construction work on real property where any portion of such property is to be used as a self-storage facility. This restriction on self-storage properties has no impact on properties currently receiving benefits or on recently completed projects. There is a grace period extending eligibility for self-storage properties in which a first permit is issued before July 1, 2020.
- For the duration of the benefit period, biennially, a recipient shall file a report with the Department of Finance, on or before the appropriate taxable status date, regarding certain business operation data relating to the recipient's economic impact and outcomes. Such report shall contain information including tenancy data, information regarding employment creation and job retention and any other information deemed relevant by the department.
- The benefit can be revoked for business or labor violations.
- **The Relocation and Employment Assistance Program (REAP)/Lower Manhattan Relocation and Employment Assistance Program (LM-REAP)** is extended to July 1, 2025. REAP provides a 12-year business income tax credit of up to \$3,000 per eligible employee for industrial and commercial (non-retail) companies that relocate all or part of their operations from outside of New York City or south of 96th Street in Manhattan to designated locations north of 96th Street in Manhattan or in one of the other four boroughs. LM-REAP provides a similar tax credit for relocating businesses to Lower Manhattan from outside of the five boroughs. REAP was changed to provide for the following annual filing:

- For the duration of the benefit period, the recipient of benefits shall file annually the average wage and benefits offered to the applicable relocated employees used in determining eligible aggregate employment shares.
- **The Commercial Revitalization Program (CRP)/Commercial Rent Tax (CRT) Special Reduction** is extended to July 1, 2023. CRP provides a \$2.50 per square foot real estate tax abatement for 3 or 5 years in the owner's tax bill with the benefit being passed on to the tenant for qualified new, renewal, and expansion leases in nonresidential or mixed use buildings built before 1975 in the designated abatement areas. Applicants are required to make certain minimum capital improvements to the property to qualify. The CRT benefit is a reduction taken off the amount of rent subject to the commercial rent tax, a tax paid by retailers and commercial businesses with an annual rent of over \$200,000 per year in Manhattan, south of 96th Street.
- **The Commercial Expansion Program (CEP)** is extended to July 1, 2023. CEP provides property tax benefits for qualified new, renewal, and expansion leases in commercial offices and industrial/manufacturing spaces built before January 1, 1999 located in a designated abatement zone. CEP provides a \$2.50 per square foot real estate tax abatement for 3 or 5 years for commercial offices and up to 10 years for manufacturing. These designated zones include: Manhattan (north of 96th Street zoned C4, C5, C6, M1, M2, or M3) and all areas in the Bronx, Brooklyn, Queens and Staten Island. Furthermore, CEP Manufacturing is also available within defined areas of the Special Garment Center District. Applicants are also required to make certain minimum physical improvements to the eligible premises or the common areas.
- **The Energy Cost Savings Program (ECSP)** is extended to July 1, 2023. ECSP provides a 12-year

reduction in electricity costs for industrial and commercial (non-retail) companies that relocate to new or improved space. Credits are only applied against the regulated transmission and delivery portion of electric and/or natural gas bill. ECSP is available in the outer boroughs and Manhattan above 96th Street.

- The **Lower Manhattan Energy Program (LMEP)** extended is to July 1, 2023. LMEP provides benefits similar to ECSP.
- The **Lower Manhattan State and Local Sales Tax Exemption** is extended to leases with a term commencing no later than September 1, 2023 for properties South of Murray Street (Area A) and to September 1, 2025 for the World Trade Center, Battery Park City and Brookfield Place (Area B) areas. The sales tax exemption period was extended to December 1, 2024 and to December 1, 2026, respectively. This program provides an exemption from sales tax on goods purchased for permanent capital improvements in Area A and permanent capital improvements and tangible personal property in Area B.

All of these programs are key incentives to industrial and commercial businesses who want to improve or build facilities, or relocate their operations to certain targeted areas within New York City. They will be instrumental in helping rebuild New York City after the pandemic.

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