

Regulatory Agenda for Fiscal Year 2005

In compliance with section 1042 of the New York City Charter, the following is the regulatory agenda for rules that the Department of Finance anticipates that it may promulgate during the fiscal year beginning July 1, 2004 and ending June 30, 2005.

An approximate schedule for adopting the proposed rules and the name and telephone number of a Department of Finance official knowledgeable about each subject area involved are listed below each section.

1. AMENDMENTS TO GENERAL CORPORATION TAX RULES

Pursuant to chapter 6, subchapter 2 of title 11 of the Administrative Code, the General Corporation Tax is imposed on every domestic or foreign corporation for the privilege of doing business, employing capital, owning or leasing property, or maintaining an office in the City of New York. Corporations subject to the tax will be subject to these rules.

The Department intends to amend these rules to reflect legislative changes, court decisions and existing departmental policies not presently addressed by the rules and to eliminate obsolete provisions. The Department anticipates that due to the scope of this project, the rules will be amended in stages, several of which were completed in prior fiscal years but the remainder of which may not be completed during the coming fiscal year. In particular, the Department anticipates amending those rules to address the UBT paid credit for corporate partners and other issues relating to the treatment by a corporate partner of its distributive share of items of income, gain, loss, deduction, and capital from partnerships.

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2. AMENDMENTS TO UNINCORPORATED BUSINESS TAX RULES

Pursuant to chapter 5 of title 11 of the Administrative Code, the Unincorporated Business Tax is imposed on unincorporated businesses carried on in the City of New York. Individuals and unincorporated entities are subject to these rules.

The Department intends to amend these rules to reflect legislative changes and existing departmental policies not presently addressed by the rules and to eliminate obsolete

provisions. The Department anticipates that due to the scope of this project, the rules will be amended in stages, several of which were completed in prior fiscal years but the remainder of which may not be completed during the coming fiscal year.

The Department also intends to amend those sections of the rules relating to the treatment of employees' wages for purposes of the payroll percentage component of the formula allocation method, and those sections of the rules relating to the definition of a partner. In addition, the Department anticipates proposing rules relating to the treatment by corporate and unincorporated partners of their distributive share of items of income, gain, loss, deduction, and capital from partnerships.

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3. AMENDMENTS TO REAL PROPERTY TRANSFER TAX RULES

Pursuant to chapter 21 of title 11 of the Administrative Code, the Real Property Transfer Tax is imposed on transfers of real property or economic interests therein located in New York City.

The rules contain provisions governing the application of the tax to transfers in connection with mortgage foreclosures and transfers in lieu of foreclosure. The New York State Department of Taxation and Finance made substantial changes to its regulations governing the New York Real Estate Transfer Tax governing those transactions in 1994. The Department intends to amend the provisions of the RPTT governing mortgage foreclosures and deeds in lieu of foreclosures and related transactions to more closely conform to the treatment of those transactions under the New York State Real Estate Transfer Tax.

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Sections 302 through 307 of chapter 170 of the Laws of 1994 amended the State enabling law authorizing the imposition of the Real Property Transfer Tax and chapter 21 of the Administrative Code to provide for temporary tax rate relief for qualifying real estate investment trust transfers. Chapter 309 of the Laws of 1996 further amended the State enabling law and the Administrative Code to make tax rate relief for qualifying real estate investment trust transfers permanent and to provide temporary expanded tax rate relief for certain other transfers to real estate investment trusts. Chapter 85 of the Laws of 2002 further extended the temporary relief for certain other transfers and made technical corrections to those provisions. The Department intends to amend all those sections of the Rules Relating to the Real Property Transfer Tax that are affected by the enactment of the real estate investment trust transfer provisions.

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4. AMENDMENTS TO REAP RULES

Pursuant to chapter 6-B of Title 22 of the Administrative Code, the Relocation and Employment Assistance Program provides for credits against the GCT, UBT, Bank Tax and Utility Tax for eligible businesses that relocate to eligible premises in New York City in areas other than Manhattan south of 96th Street. The Department intends to amend these rules to reflect legislative changes and to address certain issues pertaining to multiple relocations pursuant to the Commissioner's statutory discretion, if necessary.

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5. AMENDMENTS TO HOTEL ROOM OCCUPANCY TAX RULES

Chapter 25 of Title 11 of the Administrative Code imposes on operators of hotels a tax on the room rent and a flat amount per room rented to occupants of rooms in a hotel. In fiscal year 2004, the Department amended these rules to address the taxation of bed and breakfast operations, the renting of rooms in a personal residence to guests and the taxation of the renting of an individual residential unit, such as an apartment, to guests on a transient basis. The Department may amend those rules further to address additional issues in this area.

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6. AMENDMENTS TO COMMERCIAL RENT TAX RULES

Chapter 7 of Title 11 of the Administrative Code imposes a tax on the amount of base rent paid by tenants of commercial premises located in New York County south of the center line of 96th Street. Local Law 57 of 1995 amended section 11-704 of the Administrative Code to provide a one-year exemption from the Commercial Rent Tax for the first year of a theatrical production. The Department intends to amend the rules relating to the tax to clarify how this exemption applies under various circumstances.

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7. PROMULGATE RULES RELATING TO BIDDERS IN TAX FORECLOSURE SALES

Section 11-354 authorizes the City to maintain an action in the State Supreme Court to foreclose unpaid tax liens on real property in the City of New York. This law was amended in 1996 to authorize the Commissioner of Finance, in consultation with the Commissioner of Housing Preservation and Development, to promulgate rules to establish guidelines for who may be deemed a responsible bidder for purposes of purchasing a property from the

City following foreclosure under this law. The Department may promulgate such rules in fiscal year 2005.

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8. **AMENDMENTS TO RULES RELATING TO REFUNDS OF REAL PROPERTY TAXES**

The Department plans to amend these rules to conform with changes in policy and the availability of requesting refunds via the Department's website. The changes are intended to simplify the procedure for obtaining refunds, and the amendments will apply to any party seeking to obtain a refund of overpayments of real property taxes or property-related charges.

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9. **PROMULGATE RULES RELATING TO DISTRIBUTION OF VOTER REGISTRATION FORMS**

For the purpose of providing wider distribution of voter registration forms, Local Law 29 of 2000 added a new section 1058 to the New York City Charter to require that certain City agencies distribute voter registration forms to agency clients when they first apply for services or when they rectify or change their address. Completion of voter registration forms is voluntary. The law authorizes City agencies to adopt rules as may be necessary to implement the law.

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10. **AMENDMENTS TO RULES RELATING TO PARKING VIOLATIONS**

The Department plans to update the list of agencies that are authorized to issue parking summonses to ensure that the names of such agencies are accurate in light of renaming and reorganizations that have occurred in recent years. In addition, the rules will be amended to add Special Patrolmen of the Department of Citywide Administrative Services as authorized issuing agents.

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11. AMENDMENTS TO RULES RELATING TO THE FILING OF INCOME AND EXPENSE STATEMENTS

The Department intends to amend these rules, which pertain to the requirement of Administrative Code §11-208.1 that owners of income producing property annually file income and expense statements. These amendments will concern electronic filing of income and expense statements, contesting penalties for failure to file, and departmental policy changes.

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12. PROMULGATE RULES RELATING TO THE VALUATION OF REAL PROPERTY

The Department plans to promulgate new rules concerning the methodology used in the valuation of real property for real property taxation. The rules may include provisions for consistency in methodology used in determining building size, the manner in which capitalization rates are set and the manner in which income and expense information is used in valuation of real property.

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13. AMENDMENTS TO RULES RELATING TO THE PAYMENT OF REAL PROPERTY TAXES BY ELECTRONIC FUNDS TRANSFER

If legislation relating to payment of real property taxes by electronic funds transfer is enacted, the Department of Finance plans to amend these rules to implement the law. Such legislation may authorize the Commissioner of Finance to provide guidelines for those properties for which real property taxes must be paid by electronic funds transfer, and may also include a provision for voluntary participation in an electronic funds payment program. The current Rules Relating to Payment of Real Property Taxes by Electronic Funds Transfer relate to the Department's present voluntary program. Rule amendments promulgated pursuant to this law will include guidelines for properties for which payment in this method will be required, and guidelines for the manner in which such payments are to be made.

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14. UPDATE OF OUTDATED REFERENCES IN AGENCY RULES

The Department plans to review all its rules to revise outdated references, which include changes to agency unit names and addresses.

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15. AMENDMENT TO RULES RELATING TO THE SALE OF TAX LIENS

Pursuant to chapter 3 of title 11 of the Administrative Code, the Department of Finance is authorized to sell liens for real property taxes and other charges imposed on real property in the City. Presently, in the event that a property classified as class 1 or a class 2 residential cooperative or condominium is included in a 60-day notice of intention to sell tax liens, the owner of such a property may execute an agreement to pay the unpaid balance in installments if the Department publishes a notice to that effect with the 60-day notice of intention to sell tax liens, and the owner has not defaulted on a previous installment agreement. The Department intends to amend the rules to allow the owner of any property that was is included in a 60-day notice of intention to sell tax liens to execute an installment in these circumstances.

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16. REPEAL RULES RELATING TO THE REAL PROPERTY TAX SURCHARGE ON CERTAIN CLASS ONE PROPERTIES

In fiscal year 2004, the Department promulgated Rules Relating to the Real Property Tax Surcharge on Certain Class One Properties. These rules were intended to implement the law that placed a tax surcharge on properties which were not used as the residence of the owner or the owner's parents or children, and which generated rental revenue. As the effective date of the law has been postponed until fiscal year 2007, the Department intends to repeal the rules.

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17. AMENDMENT TO RULES RELATING TO FEES CHARGED BY THE DEPARTMENT OF FINANCE

The Department intends to amend these rules as needed to reflect fees charged by the agency, including conforming the rules with legislation that authorized an increase in the fee imposed for a dishonored check that was tendered to pay a City tax or charge. General Municipal Law §85 was amended to authorize cities to charge a fee of up to \$20.00 for a dishonored check. The law had previously authorized a fee of up to \$15.00. These rules will be amended to conform with the increase which was enacted by Executive Order.

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18. AMENDMENTS TO RULES RELATING TO THE INDUSTRIAL AND COMMERCIAL INCENTIVE PROGRAM

The Industrial and Commercial Incentive Program (“ICIP”), enacted by Local Law 71 of 1984, provides for partial exemption or deferral of taxation on eligible industrial or commercial buildings that are constructed, modernized, rehabilitated, expanded or otherwise physically improved.

The Department plans to amend its rules to conform with recent legislative changes and changes in Department policy. This includes changes pursuant to commercial revitalization legislation and, if enacted legislatively, changes to streamline the application process.

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19. PROMULGATE RULES RELATING TO THE COMMERCIAL REVITALIZATION PROGRAM

The Department plans to promulgate rules to implement real property tax abatement and exemption programs enacted by legislation that created a comprehensive package of programs designed to revitalize the economy of lower Manhattan, as well as the area of Manhattan north of 96th Street and the outer boroughs.

These rules will enable owners of aging office buildings suffering from high vacancy rates to apply for tax abatement and exemption benefits granted for substantial renovation or conversion of economically obsolete building stock to residential or mixed-use space. Moreover, the rules will ensure that the benefitted owners pass on the abatement benefits to new and renewal commercial tenants in the form of rent reductions.

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Martha E. Stark
Commissioner of Finance