

Title 11: Taxation and Finance

Chapter 1: Department of Finance

§ 11-101 Power of department of finance to adopt a seal.

The department of finance is authorized to adopt a seal.

§ 11-102 Finance department; records; copies when in evidence.

A copy of any paper, record, book, document or map, filed in the department of finance, or the minutes, records or proceedings, or any portion thereof, of any board or commission of which the commissioner of finance, is or may become a member, when certified by the commissioner of finance, or a deputy commissioner of finance, to be a correct copy of the original, shall be admissible in evidence in any trial, investigation, hearing or proceeding in any court, or before any commissioner, board or tribunal, with the same force and effect as the original. Whenever a subpoena is served upon the commissioner of finance, or any member of a board or commission of which the commissioner of finance is a member, or upon any officer or employee of the department of finance, or upon any officer or employee of such boards or commissions, requiring the production upon any trial or hearing of an original paper, document, book, map, record, minutes or proceedings, the commissioner of finance, in his or her discretion, may furnish a copy certified as herein provided, unless the subpoena be accompanied by an order of the court or other tribunal before which trial or hearing is had requiring the production of such original.

§ 11-102.1 Authorization to require identifying numbers.

- a. The commissioner of finance in the proper discharge of his duties in the administration and collection of taxes, assessments, arrears or other charges payable to the city may require any person to furnish such identifying number as the commissioner may prescribe for securing proper identification of such person, including but not limited to a social security account number or federal employer identification number.
- b. Any person who fails to supply such identifying number within thirty days after written demand therefor shall be liable for a civil penalty of not more than one thousand dollars. Upon application in writing and for good cause shown, the commissioner of finance may extend the time for compliance with such written demand.
- c. The civil penalty prescribed by this section shall be recovered by the corporation counsel in an action or proceeding in any court of competent jurisdiction. In addition, the corporation counsel may institute any other action or proceeding in any court of competent jurisdiction that may be appropriate or necessary for the enforcement of the provisions of this section.

Editor's note: For related unconsolidated provisions, see Appendix A at L.L. 1986/065.

§ 11-103 Bond of commissioner and deputy commissioners of finance.

The commissioner and any deputy commissioner of finance, within ten days after receiving notice of his or her appointment and before the commissioner enters upon his or her office, shall give a bond to the city and to the people of the state of New York in the sum of three hundred thousand dollars, with not less than four sufficient sureties to be approved by the comptroller, conditioned that he or she will faithfully discharge the duties of the commissioner's office and all trusts imposed on him or her by law in virtue of the commissioner's office, including all duties in connection with the tax on mortgages as prescribed by article eleven of the tax law. Such bond shall be deemed to extend to the faithful execution of the duties of the office until a new appointment shall be made and confirmed, and the person so appointed enters upon the performance of the commissioner's duties. In case of any official misconduct or default on the part of such commissioner or any deputy commissioner of finance, or their subordinates, an action upon such bond may be begun and prosecuted to judgment by the city, which, after first paying therefrom the expenses of the litigation, shall cause the proceeds of such judgment to be distributed as shall be lawful and equitable among the persons and objects injured or defrauded by such official misconduct or default of the commissioner or any deputy commissioner of finance or any of their subordinates.

§ 11-104 Commissioner of finance to keep accounts.

- a. The commissioner of finance shall keep books showing the receipts of moneys from all sources, and designating the sources of same, and also showing the amounts paid from time to time on account of the several appropriations, the forms of which shall be prescribed by the comptroller.

b. The city collector or the deputy collector in each borough office of the city collector, in receiving monies payable to the city, from whatever source derived, shall not issue a receipt to the payor for a payment made by personal, business or corporate check unless specifically requested.

§ 11-105 Agreements with financing agencies or card issuers; payment of fines, civil penalties, taxes, fees, rates, rent, charges or other amounts by credit card.

1. As used in this section, the following terms shall have the following meanings:

a. "Card issuer" shall mean an issuer of a credit card, charge card or other value transfer device.

b. "Credit card" means any credit card, credit plate, charge card, charge plate, courtesy card, debit card or other identification card or device issued by a person to another person which may be used to obtain a cash advance or a loan or credit, or to purchase or lease property or services on the credit of the person issuing the credit card or a person who has agreed with the issuer to pay obligations arising from the use of a credit card issued another person.

c. "Financing agency" means a person engaged, in whole or in part, in the business of purchasing retail installment contracts, obligations or credit agreements or indebtedness of buyers under credit agreements from one or more retail sellers or entering into credit agreements with retail buyers but shall not include a retail seller. The term includes but is not limited to a bank, trust company, private banker, industrial bank or investment company, if so engaged, but shall not include a retail seller.

d. "Person" means an individual, partnership, corporation or any other legal or commercial entity.

2. The city may enter into agreements with one or more financing agencies or card issuers to provide for the acceptance by the city of credit cards as an alternate means of payment of fines, civil penalties, taxes, fees, rent, rates, charges or other amounts owed by a person to the city. Any such agreement shall govern the terms and conditions upon which a credit card proffered as a means of payment of a fine, civil penalty, tax, fee, rent, rate, charge or other amount shall be accepted or declined and the manner in and conditions upon which the financing agency or card issuer shall pay to the city the amount of fines, civil penalties, taxes, fees, rent, rates, charges or other amounts paid by means of credit cards pursuant to such agreement. Any such agreement may provide for the payment by the city to such financing agency or card issuer of fees for the services rendered by such financing agency or card issuer pursuant to such agreement, which fees may consist of a discount deducted from or payable in respect of the amount of each such fine, civil penalty, tax, fee, rent, rate, charge or other amount or otherwise as the agreement may provide.

3. Notwithstanding any other provision of law to the contrary, any agency or department of the city which, pursuant to an agreement entered into under this section, accepts credit cards as a means of payment of fines, civil penalties, taxes, fees, rent, rates, charges or other amounts owed by a person to the city shall be authorized to charge and collect from any person offering a credit card as a means of payment of a fine a reasonable and uniform fee as a condition of accepting such credit card in payment of a fine, civil penalty, tax, fee, rent, rate, charge or other amount. Such fee shall not exceed the cost incurred by the agency or department in connection with such credit card transaction, which cost shall include any fee payable by the city to the financing agency.

§ 11-106 Weekly reports by commissioner of finance to mayor and comptroller.

The commissioner of finance shall once in each week report in writing to the mayor and to the comptroller all moneys received by the commissioner, the amount of all warrants paid by him or her since the commissioner's last report, and the amount remaining to the credit of the city.

§ 11-107 Report to comptroller.

The commissioner of finance, when required by the comptroller, shall furnish to him or her such information as the comptroller may demand in relation to the finances of the city, within such reasonable time as the commissioner may direct.

§ 11-108 Rules in signing warrants.

No warrant shall be signed by the comptroller or countersigned by the commissioner of finance, except upon vouchers for the expenditures of the amount named therein, duly prepared and audited according to the methods prescribed by the comptroller, and filed with the comptroller, except in the case of judgments, in which case a transcript thereof shall be filed.

§ 11-109 Commissioner of finance to exhibit bank book.

The commissioner of finance shall exhibit his or her bank book to the comptroller on the first Tuesday of every month and oftener when required.

§ 11-110 When commissioner of finance to close accounts.

The accounts of the commissioner of finance shall be annually closed on the last day of June.

§ 11-111 Withdrawal of moneys by heads of agencies.

Notwithstanding any provision of the charter, any city treasury or sinking fund moneys which have been duly withdrawn from any bank or trust company upon proper warrant and check to the order of the head or heads of any agency or agencies may be redeposited by such head or heads of such agency or agencies in a properly designated deposit bank and thereafter such redeposited moneys may be withdrawn upon check signed by him or her or them without additional warrant.

§ 11-112 Authorization of subordinates to sign checks and warrants.

Notwithstanding any provision of the charter, the comptroller or commissioner of finance may designate and authorize any deputies, assistant deputies, or employees to sign, each in his or her own name and in place of and for the comptroller or commissioner of finance, respectively, any or all checks or warrants, including those issued against sinking fund and trust fund bank accounts. A warrant or check so signed shall be of the same force and effect as if signed by the comptroller or commissioner of finance, respectively. The designation or designations of deputies shall be made in writing in the manner set forth in section ninety-four of the charter. The designation or designations of assistant deputies or employees shall be in writing, signed in duplicate by the comptroller or the commissioner of finance, respectively, and shall be duly filed and remain of record in the office of the comptroller and the department of finance. The period for which each such designation of deputies, assistant deputies and employees shall continue in force shall be specified therein and may be terminated by the comptroller or commissioner of finance, respectively, at any time by filing in the same office or offices in which the designation has been filed a written notice of such termination signed by the comptroller or commissioner of finance, respectively.

§ 11-113 Acceptance of facsimile signatures by banks or trust companies.

Notwithstanding any provision of the charter, checks drawn upon any bank or trust company for payment of payrolls or disbursements for relief, required to be signed by the head of an agency or his or her authorized designee, may be signed by the facsimile signature or signatures of the person or persons authorized to sign such checks, if the head of such agency so authorizes by an instrument in writing signed by the head of such agency and filed with the comptroller; and, in such event, any bank or trust company shall, acting in good faith and without notice of any defect or invalidity, be authorized to pay and be protected in paying any checks bearing or purporting to bear the facsimile signature or signatures of the person or persons duly authorized to sign such checks, regardless of the person by whom or the means by which the actual or purported facsimile signature or signatures thereon may have been affixed thereto, if such facsimile signature or signatures closely resemble the facsimile specimens from time to time filed with such banks or trust companies by the head of the agency in question; provided, however, that nothing herein contained shall release such bank or trust company from any liability arising from any cause or fact other than the fact that such facsimile signature is not a genuine facsimile signature affixed with appropriate authority.

§ 11-114 City collector; where to keep offices.

The main office of the bureau of city collections shall be maintained in one borough and a branch office in each other borough.

§ 11-115 City collector; appointment; bond.

The commissioner of finance shall appoint the city collector. The city collector, before entering upon the duties of his or her office, shall enter into a bond to the city of New York to be approved by the commissioner of finance and comptroller in the penal sum of twenty-five thousand dollars, which bond shall be conditioned for the faithful performance of the duties of the office by the officer giving such bond. Such bond shall be a lien on all the real estate held by the collector executing the same, or any surety thereto, within any of the counties in the city at the time of the filing thereof, unless there be named and described in or on any such bond, real estate in one or more of such counties equal in value to the amount of such bond and owned by a surety, in which case the bond shall be a lien on such real estate so described and upon all the real estate of such city collector, and no other, and shall continue to be such lien until the condition, together with all costs and charges which may accrue by the prosecution thereof, shall be fully satisfied, or until such lien be released, not to exceed, however, the period of ten years after the time when the officer who has given such bond shall have ceased to hold his or her office, unless an action thereon has been commenced and shall then be pending.

§ 11-116 Deputies to give bond; duties.

The city collector shall take from each deputy a bond, in such penal sum and with such sureties as may be approved by the city collector and by the comptroller and commissioner of finance, which bond shall run to the city collector, the city and to whom it may concern, and shall be conditioned for the faithful performance of the duties of such deputy. Each bond taken in pursuance of the provisions of this section shall be filed with the comptroller. Each deputy collector shall have all the powers and be subject to all the duties of the city collector in respect to the collection and receipt of taxes, assessments, water rents and arrears.

§ 11-117 Renewal of bond.

If at any time during the continuance in office of the city collector or deputy collectors the comptroller or commissioner of finance shall deem any surety of them to be insufficient, he or she may require the city collector or deputy collectors to enter into a new bond to be approved in like manner as prescribed in section 11-115 of this chapter, within such time as the comptroller may direct, not being less than ten days after requiring such new bond to be given. In case of the neglect or refusal of any such officer to furnish such bond within the time so directed, the comptroller or commissioner of finance may declare his or her office vacant.

§ 11-118 Bureau of city collections; duties.

The duties of the bureau of city collections shall also include the collection of water rents, charges, fines and penalties in connection with the water supply, including arrears, sewer rents, sewer surcharges, charges, fines and penalties in connection with the sewer system as defined in sections 24-514 and 24-523 of the code, including arrears, interest on bonds and mortgages and revenue arising from the sale of property belonging to or managed by the city.

§ 11-119 City collector; absence; suspension of.

a. In case of inability of the city collector to perform the duties of his or her office by reason of sickness or absence from the city, the commissioner of finance shall designate some suitable person to perform the duties of the city collector's office during such inability or absence, and shall, if the comptroller so requires, take from such person a bond, with sufficient sureties, in the manner hereinafter prescribed.

b. If the city collector or any deputy collector shall on any day omit or neglect to furnish to the commissioner of finance or to the comptroller, respectively, the statements and vouchers required in section 11-121 of this chapter, or to make the prescribed daily payments, it shall be the duty of the commissioner of finance forthwith to suspend him or her from office. In case of such suspension, the commissioner of finance shall appoint a suitable person to perform the duties of the officer so suspended, who shall continue to act as such officer until the person suspended shall be restored or another person shall have been appointed. On making such temporary appointment, the commissioner of finance shall be required to take from the person so appointed a bond, with two sufficient sureties, to be approved by the comptroller and filed with the comptroller, in such penal sum as the comptroller may deem just, conditioned for the faithful performance of the duties of the office during the continuance of the person appointed therein; and all the provisions of law prescribing the duties of the city collector and deputy collectors shall apply to the person or persons so appointed.

§ 11-120 Bond of city collector to be filed.

The bond given by the city collector shall be filed and remain in the office of the comptroller, and true copies thereof, certified by the comptroller, shall be filed in the office of the clerk of each of the counties embraced within the city, and shall be public records. In case a certificate of the adjustment of the accounts of the city collector be made, a true copy thereof, certified by the comptroller, shall be filed in each of the offices in which a copy of the bond of the city collector shall have been filed.

§ 11-121 City collector; daily statements and accounts.

a. The city collector or the deputy collector in each borough office of the city collector shall enter upon accounts, to be maintained in each such office for each parcel of property, the payment of taxes, assessments, sewer rents or water rents thereon, the amount therefor, and the date when paid. The city collector shall daily enter into suitable books to be kept for the purpose of such accounts, such payments and the respective parcels on account of which the same were paid.

b. At close of office hours each day, the city collector shall render to the commissioner of finance or the deputy commissioner of finance in such borough, a statement of the sums so received, and at the same time pay over to such commissioner of finance or deputy commissioner of finance, the amount received on such day. The city collector shall thereupon receive from such commissioner of finance or deputy commissioner of finance a voucher for the payment of such sums which he or she shall exhibit to the comptroller not later than the next succeeding business day.

c. At the close of office hours each day, the city collector shall also furnish a statement to the comptroller who shall file the same in his or her office. Such statement shall indicate in detail such sums so received and the respective parcels on account of which the same were paid. The comptroller shall, on each day, immediately after receiving such statement, compare it with a voucher furnished to him or her by the commissioner of finance indicating the sums which have been paid on such day to the commissioner of finance and if the aggregate amounts thereof shall correspond, shall credit the city collector in his or her books with such amount.

§ 11-122 Exemption from taxes granted to REMICs.

An entity that is treated for federal income tax purposes as a real estate mortgage investment conduit, hereinafter referred to as a REMIC, as such term is defined in section 860D of the internal revenue code, shall be exempt from all taxation under chapters five and six of this title. A REMIC shall not be treated as a corporation, partnership or trust for purposes of chapter six of this title. The assets of a REMIC shall not be included in the calculation of any tax liability under chapter six. This provision does not exempt the holders of regular or residual interests, as defined in section 860G of the internal revenue code, in a REMIC from tax on or measured by such regular or residual interests, or on income from such interests.

§ 11-123 Interest compounded daily.

In computing the amount of any interest required to be paid under section 11-224 (except subdivision j thereof), 11-224.1, 11-264, 11-306, 11-307, 11-312, 11-313, 17-151, 19-152, 24-317, 24-512, 24-605, 26-128, 26-517.1, 27-2144 or 27-4029.1 of the code, such interest shall be compounded daily.

§ 11-124 Conciliation conferences.

a. The commissioner of finance may establish a procedure for providing conciliation conferences for purposes of settling contested determinations of taxes or charges or denials of refunds or credits with respect to taxes or charges imposed under chapter five, six, seven, eight, nine, eleven, twelve, thirteen, fourteen, fifteen, twenty-one, twenty-two, twenty-four, twenty-five or twenty-seven of this title, or for the purpose of settling disputes arising from the notification of the refusal to grant, the suspension or the revocation of a license issued pursuant to chapter thirteen of this title. If such a procedure is established, a conciliation conference shall be provided at the option of any taxpayer or any other person subject to the provisions of any of such chapters. For purposes of this subdivision, if the commissioner of finance fails to act with respect to a refund application before the expiration of the time period after which the taxpayer may file a petition for refund with the tax appeals tribunal established by section one hundred sixty-eight of the charter pursuant to subdivision (c) of section 11-529 or subdivision three of section 11-680 of the code, such failure shall be deemed to be the denial of a refund.

b. A request for a conciliation conference shall be made in the manner set forth in rules promulgated by the commissioner of finance and, notwithstanding any provision of law to the contrary, shall suspend the running of the period of limitations for the filing of a petition with the tax appeals tribunal under chapter five, six, seven, eight, nine, eleven, twelve, thirteen, fourteen, fifteen, twenty-one, twenty-two, twenty-four, twenty-five or twenty-seven of this title until such time as a conciliation decision is rendered by the commissioner of finance, or until the person who requested the conciliation conference makes a written request to discontinue or withdraw from the conciliation proceeding.

c. Nothing contained herein shall prevent any taxpayer or any other person who has received a notice of determination, notice of deficiency or notice of denial of a claim for refund from filing a petition with the tax appeals tribunal if the time for filing such a petition has not elapsed.

d. The commissioner of finance is authorized and empowered to make, adopt and amend rules appropriate to the carrying out of this section and the purposes thereof.

§ 11-125 Temporary amnesty program; commercial rent or occupancy tax, utility tax, real property transfer tax and hotel room occupancy tax.

a. Notwithstanding any other provision of law to the contrary, the commissioner of finance shall establish a three-month amnesty program, to be effective during the fiscal year of the city beginning July first, nineteen hundred ninety-four, for all taxpayers owing any commercial rent or occupancy tax imposed by chapter seven of this title, utility tax imposed by chapter eleven of this title, real property transfer tax imposed by chapter twenty-one of this title or hotel room occupancy tax imposed by chapter twenty-five of this title. Such amnesty program shall apply, (1) in the case of the commercial rent or occupancy tax, to tax liabilities for tax periods ending on or before May thirty-first, nineteen hundred ninety-three, (2) in the case of the utility tax, to tax liabilities for tax periods ending on or before March thirty-first, nineteen hundred ninety-four, (3) in the case of the real property transfer tax, to tax liabilities arising out of taxable events occurring before April first, nineteen hundred ninety-four and (4) in the case of the hotel room occupancy tax, to tax liabilities for tax periods ending on or before February twenty-eighth, nineteen hundred ninety-four. Amnesty tax return forms shall be in a form prescribed by the commissioner of finance and shall provide for specifications by the taxpayer of the tax and the taxable period or taxable event for which amnesty is being sought. The taxpayer must also provide such additional information as is required by the commissioner of finance. Amnesty shall be granted only for the tax and taxable periods or taxable events specified by the taxpayer on such forms (hereinafter referred to as "designated taxes").

b. Such amnesty program shall provide that upon written application by any taxpayer, and upon evidence of payment to the city of New York by such taxpayer of all designated taxes plus interest, the commissioner of finance shall waive any penalties which may be applicable, and no civil, administrative or criminal action or proceeding shall be brought against the taxpayer relating to the designated taxes plus interest. Failure to pay all designated taxes plus interest shall invalidate any amnesty granted pursuant to this section.

c. Amnesty shall not be granted to any taxpayer who is the subject of any criminal investigation being conducted by any agency of the city of New York or of the state of New York or any political subdivision thereof or to any taxpayer who is a party to any civil or criminal litigation which is pending on the date of the taxpayer's application in any court of this state or the United States for nonpayment, delinquency or fraud in relation to any of the designated taxes plus interest. A civil litigation shall not be deemed to be pending if the taxpayer withdraws from such litigation prior to the granting of amnesty.

d. No refund or credit shall be granted of any penalty paid prior to the time the taxpayer makes a request for amnesty pursuant to subdivision b of this section.

- e. Unless the commissioner of finance on his or her own motion redetermines the amount of designated taxes plus interest, no refund or credit shall be granted of any designated taxes plus interest paid under this amnesty program.
- f. The commissioner of finance shall formulate such rules as are necessary, issue forms and instructions, and take any and all other actions necessary to implement the provisions of this section. The commissioner of finance shall publicize the amnesty program provided for herein so as to maximize public awareness of and participation in such program.
- g. For purposes of this section, the term "taxpayer" shall include any person liable for payment of any tax specified in subdivision a of this section.
- h. For purposes of this section, the amnesty tax return forms and other documents filed by taxpayers for purposes of chapter seven, eleven, twenty-one or twenty-five of this title shall be deemed to be reports or returns referred to in section 11-716, 11-1116, 11-2115 or 11-2516, respectively, of this title.

§ 11-126 Definitions.

When used in this title, the term "partnership" shall mean an entity classified as a partnership for federal income tax purposes, including a subchapter K limited liability company, and the term "partner" or the term "member" when used in relation to a partnership shall include a member of a subchapter K limited liability company, unless the context requires otherwise. The term "subchapter K limited liability company" shall mean a limited liability company classified as a partnership for federal income tax purposes. The term "limited liability company" means a domestic limited liability company or a foreign limited liability company, as defined in section one hundred two of the state limited liability company law, a limited liability investment company formed pursuant to section five hundred seven of the banking law, or a limited liability trust company formed pursuant to section one hundred two-a of the banking law. Notwithstanding anything herein to the contrary, this section shall not apply for purposes of chapter seventeen or nineteen of this title.

§ 11-127 Temporary amnesty program; chapters five, six, seven, eight, nine, eleven, twelve, thirteen, fourteen, fifteen, twenty-one, twenty-four, twenty-five and twenty-seven of this title.

- a. Notwithstanding any other provision of law to the contrary, the commissioner of finance shall establish a three-month amnesty program, to be effective during the fiscal year of the city beginning July first, two thousand three for taxpayers owing taxes or charges imposed, or formerly imposed by the above enumerated chapters of this title. Such amnesty program shall apply to tax liabilities for taxable periods ending, or transactions occurring, on or before December thirty-first, two thousand one. Amnesty applications and tax return forms shall be in a form prescribed by the commissioner of finance and shall provide for specifications by the taxpayer of the tax and taxable period or taxable event for which amnesty is being sought. The taxpayer must also provide such additional information as is required by the commissioner of finance. Amnesty shall be granted only for liabilities for taxes and charges imposed or formerly imposed under the above chapters for the taxable periods or taxable events specified by the taxpayer on such forms (hereinafter referred to as "designated taxes").
- b. Such amnesty program shall provide that upon written application by the taxpayer, and upon evidence of payment to the city of New York by such taxpayer of all designated taxes plus interest as provided in subdivision c of this section, the commissioner of finance shall waive any penalties that may be applicable. Such commissioner shall also waive any amount of interest that would be applicable in the absence of this amnesty program in excess of the amount required to be paid pursuant to subdivision c of this section. No civil, administrative or criminal action or proceeding shall be brought against the taxpayer relating to the designated taxes plus interest required by this amnesty program. Failure to pay all designated taxes plus interest required by this amnesty program shall invalidate any amnesty granted pursuant to this program.
- c. The interest that is required to be paid under this amnesty program shall be, for each designated tax, the excess of:
 - (1) interest calculated as provided by this code to the date of payment over
 - (2) interest, if any, calculated as provided by this code to the date three years prior to the first day of the amnesty program established by the commissioner of finance under this section.
- d. If a taxpayer received any benefit either under the amnesty program established by section 11-125 of this chapter, or the amnesty program established by section eighty-four of chapter seven hundred sixty-five of the laws of nineteen hundred eighty-five, with respect to a liability for any tax or charge, such taxpayer shall not be eligible for amnesty under the program established by this section for any liability for that same tax or charge for the same or any other tax period.
- e. Amnesty shall not be granted to a taxpayer who is the subject of any criminal investigation being conducted by an agency of the city of New York or the state of New York or any political subdivision thereof; or to any taxpayer who is a party to any criminal litigation that is pending on the date of the taxpayer's amnesty application in any court of this state or the United States, for nonpayment, delinquency or fraud in relation to any of the designated taxes. Amnesty shall also not be granted to any taxpayer that has been convicted of a crime relating to a designated tax. Amnesty shall not be granted to any taxpayer with respect to liabilities for taxes or charges to the extent that the taxpayer's liability for such taxes or

charges was the subject of an audit pending with the city of New York department of finance on March tenth, two thousand three. Amnesty shall not be available to a taxpayer for any liability for a designated tax, penalty or interest that is the subject of an existing installment payment agreement on the day this amnesty program begins. Amnesty shall be available to any taxpayer who is a party to an administrative proceeding or civil litigation commenced in the city of New York department of finance conciliation bureau, the tax appeals tribunal or any court of this state and pending on the date of the taxpayer's amnesty application with respect to a matter that is the subject of such proceeding or litigation, provided the taxpayer withdraws from such proceeding or litigation prior to the granting of amnesty and the proceeding or litigation does not involve a matter that was the subject of an audit pending with the city of New York department of finance on March tenth, two thousand three.

f. No refund or credit shall be granted under this program with respect to any penalty or interest paid prior to the time the taxpayer makes a request for amnesty pursuant to subdivision b of this section.

g. Unless the commissioner of finance on his or her own motion redetermines the amount of any designated taxes plus required interest, no refund or credit shall be granted of any designated taxes or required interest paid under this amnesty program.

h. Any return or report filed under this amnesty program is subject to audit verification and assessment as provided by statute. If the applicant files a false or fraudulent tax return or report, or attempts in any manner to defeat or evade a tax under the amnesty program, amnesty shall be denied or rescinded. The waiver of penalties and interest and the prohibition of civil and criminal proceedings provided for in subdivision b of this section, apply only with regard to those designated taxes, interest and penalties for which amnesty was granted. Nothing in this section shall prevent the commissioner of finance from determining a higher amount of tax due than that for which amnesty was granted, provided, however, that such determination shall not invalidate the amnesty that was granted for any designated taxes and interest, paid pursuant to this provision. Penalties may be imposed, interest will not be waived and proceedings will not be barred with respect to any amounts of tax later determined to be due in excess of the designated taxes for which amnesty was granted.

i. The commissioner of finance shall formulate such rules as are necessary, issue forms and instructions and take any and all other actions necessary to implement the provisions of this section. The commissioner of finance shall publicize the amnesty program provided in this section so as to maximize public awareness of and participation in such program.

j. For purposes of this section, the term "eligible taxpayer" shall include any person liable for payment or collection of any tax or charge specified in subdivision a of this section.

k. The amnesty forms and other documents filed by taxpayers pursuant to this section for purposes of the chapters of this title referred to in subdivision a of this section shall be deemed to be reports and returns subject to the secrecy provisions of such chapters in the same manner and to the same extent as if such forms and documents were reports or returns referred to therein.

l. (1) Notwithstanding any other provision of this section to the contrary, the commissioner of finance may establish a three-month amnesty program to be effective during the fiscal year of the city beginning July first, two thousand three, which may coincide with the amnesty program established under subdivision a of this section, for all operators of hotels having fewer than ten rooms, including but not limited to bed and breakfast establishments and hotels operated in private residences. Such amnesty program shall apply with respect to liabilities for hotel room occupancy tax on hotel room occupancies occurring prior to the day the amnesty program established under this subdivision begins. Except as provided in this subdivision, all of the provisions of this section shall apply to the amnesty program established under this subdivision.

(2) In addition to the other requirements of this section, an operator seeking amnesty pursuant to this subdivision must register as a hotel operator if such person has not already done so. An amnesty program established under this subdivision shall provide that upon submission of such written application and upon evidence of payment to the city of hotel room occupancy taxes and interest as provided in paragraph three of this subdivision: (1) the commissioner of finance shall waive any applicable penalties, and no civil administrative or criminal action or proceeding shall be brought against such operator with respect to the taxes so paid, and (2) the commissioner of finance shall waive any liability of such operator for taxes required to be collected by such operator, and interest thereon, for hotel room occupancies in hotels having fewer than ten rooms, including but not limited to bed and breakfast establishments and hotels operated in a private residence, occurring prior to the first day of the twelfth month preceding the first day of the amnesty program established under this sub- division.

(3) To be eligible for amnesty under this subdivision, an operator shall be required to pay hotel room occupancy taxes, and interest thereon, that such operator was required to collect for all hotel room occupancies in hotels having fewer than ten rooms, including but not limited to bed and breakfast establishments and hotels operated in a private residence, occurring during the period commencing on the first day of the twelfth month preceding the first day of the amnesty program established under this subdivision.

(4) Failure to pay all taxes as provided in this subdivision shall invalidate any amnesty granted pursuant to this subdivision.

(5) Notwithstanding any provision of subdivision e of this section to the contrary, amnesty under this subdivision may be granted to any taxpayer who has an audit pending with the city of New York department of finance on the date of the taxpayer's amnesty application and to any taxpayer who is a party to an administrative proceeding or civil litigation commenced in the city of New York department of finance conciliation bureau, the tax appeals tribunal or any court of this state and pending on the date of the taxpayer's amnesty application, provided the taxpayer withdraws from such proceeding or litigation prior to the granting of amnesty.

§ 11-128 Payment of real property taxes by electronic funds transfer.

a. *Definition.* "Electronic funds transfer" shall mean any transfer of funds, other than a transaction originated by check, draft or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument or computer or magnetic tape so as to order, instruct or authorize a financial institution to debit or credit an account.

b. *Authority.* Notwithstanding any provision of law to the contrary, the department of finance may accept and, as authorized by this section, require payment of real property taxes by electronic funds transfer, and may authorize a designee to accept such payments. The department of finance, or its designee, may take all actions necessary to complete and administer such transactions, including but not limited to requesting and collecting necessary information and the debiting of specified accounts as provided for by this section.

c. *Participation.* Notwithstanding any provision of law to the contrary, the commissioner may require the payment of real property taxes by electronic funds transfer for properties with annual real property tax liability equal to or greater than three hundred thousand dollars. The owner of any such real property, or the person or entity authorized by such owner to pay real property taxes on such real property, shall be required to enroll in an electronic payment program to make such payments, including any arrears in real property taxes on such real property, by electronic funds transfer, either by payment initiated by the taxpayer as described in paragraph one of subdivision d of this section or by authorizing the department of finance to debit the relevant account as described in paragraph two of subdivision d of this section.

1. Notwithstanding any other provision of this section, where a taxpayer pays real property taxes for more than one property by a single payment, and the total annual real property tax liability for such properties is equal to or greater than three hundred thousand dollars, the total annual real property tax liability for such properties shall be used to determine whether the taxes for a property must be paid by electronic funds transfer.

2. (i) Where real property taxes are paid for more than one taxpayer by a single bill or paid by a single entity, including but not limited to a mortgage escrow agent as defined in subparagraph (ii) of this paragraph, if the total amount paid is equal to or greater than three hundred thousand dollars annually, such amount shall be used to determine whether the taxpayer or entity is required to participate in an electronic funds transfer program.

(ii) For purposes of this paragraph, the term "mortgage escrow agent" shall include every banking organization, federal savings bank, federal savings and loan association, federal credit union, bank, trust company, licensed mortgage banker, savings bank, savings and loan association, credit union, insurance corporation organized under the laws of any state other than New York, or any other person, entity or organization which, in the regular course of its business, requires, maintains or services escrow accounts in connection with mortgages on real property located in the city.

d. *Electronic payment program.* The owner of real property, or other person or entity authorized by such owner to pay real property taxes on real property for which payment must be made by electronic funds transfer under this section, may choose between participating in a taxpayer initiated payment program or an automatic debit program, as set forth in this subdivision and described in rules promulgated by the commissioner of finance.

1. Taxpayer initiated program. In such a program, taxpayers initiate payment by electric funds transfer, including payment by fedwire.

2. Automatic debit program. In such a program, taxpayers authorize the department of finance, or the department's designee as determined by the commissioner of finance, to debit the taxpayer's account for the amounts due.

e. *Notification of participation requirements.* For taxpayers or entities subject to this section, the department of finance shall mail notice of such requirement to the property owner or other party who has been designated to receive real property tax bills on an owner's registration card filed by such owner. Such notice shall include the date by which the owner or other party designated by such owner to pay real property taxes on the property must enroll in the electronic payment program.

f. *Authorization.* To administer the payment of real property taxes by electronic funds transfer by automatic debit as described in paragraph two of subdivision d of this section, the department of finance may require that the party responsible for the payment of real property taxes:

1. execute an electronic funds transfer agreement with the department of finance or its designee, on a form approved by the department of finance. Such form may be in a format designated by the commissioner, including an electronic format. The agreement shall require that the taxpayer authorize the department of finance or its designee to debit such account on the last date by which the real property taxes may be paid without the accrual of interest in accordance with applicable law; and

2. furnish the department of finance or its designee with information to enable the department of finance to complete the electronic funds transfer transaction. Such information shall include, but not be limited to, the name and address of the bank from which an electronic funds transfer shall be authorized, the account number from which the payment shall be authorized, the American Bankers Association (ABA) routing number of the bank where the taxpayer maintains an account and the borough, block and lot of the real property for which such payments are authorized.

g. *Timely payment.* Notwithstanding any provision of law to the contrary, where real property taxes are required to be made by electronic funds transfer pursuant to subdivision c of this section, payment of real property tax by electronic funds transfer shall be deemed timely and not subject to interest charges if:

1. for taxpayers enrolled in a taxpayer initiated program pursuant to paragraph one of subdivision d of this section, (i) the taxpayer properly initiates payment on the last date by which the real property taxes may be paid without the accrual of interest in accordance with applicable law; and (ii) on the last date by which the real property taxes may be paid without the accrual of interest in accordance with applicable law, such account contains sufficient funds to enable the successful completion of the electronic funds transfer; or

2. for taxpayers enrolled in an automatic debit program pursuant to paragraph two of subdivision d of this section, (i) the department of finance or its designee has been authorized to debit the taxpayer's account on the last date by which the real property taxes may be paid without the accrual of interest in accordance with applicable law; (ii) such account is properly identified; and (iii) on the date such payment is due, such account contains sufficient funds to enable the successful completion of the electronic funds transfer.

h. *Charge on returned payments.* Where the department of finance or its designee attempts to debit a taxpayer's account pursuant to a valid electronic funds transfer agreement and is unable to successfully complete the electronic funds transfer due to insufficient funds or other cause not attributable to the department of finance or its designee, in addition to any interest accruing from the late payment of taxes in accordance with applicable law, the same fee that is imposed for a dishonored check pursuant to section eighty-five of the general municipal law shall be imposed on the affected real property, and such fee may be collected in the manner provided in such section.

i. *Hardship.* If a taxpayer is unable to enroll in the electronic payment program required by subdivision c of this section or subsequent to enrollment becomes unable to make payments by electronic funds transfer as required by this section, the taxpayer may seek a waiver by written application to the department of finance that sets forth the reason for such inability. Such waiver may be granted in the discretion of the commissioner of finance, who may consider such criteria as:

1. the hardship, whether financial or practical, created by participation in the electronic funds transfer program for the taxpayer seeking the waiver;

2. the length of time for which the waiver is requested; and

3. any other factors that the commissioner may deem relevant. The commissioner shall issue a determination, in writing, within ten days of the department of finance's receipt of a waiver request pursuant to this subdivision, but no waiver shall be granted with respect to the payment of any installment of real property taxes that is due within thirty days of the date of the request for a waiver.

j. *Confidentiality.* The department of finance shall assure the confidentiality of information supplied by taxpayers in effecting electronic funds transfers in accordance with applicable provisions of law. The provisions of article six of the public officers law shall not apply to any such information furnished by taxpayers subject to the requirements of this section.

k. *Failure to pay by electronic funds transfer.*

1. With respect to any real property as to which real property taxes are required to be paid by electronic funds transfer under this section, but for which an installment of real property taxes is not paid by electronic funds transfer and is paid instead by any other method, including payment by check, (i) with respect to the first installment that is paid by any other method, including payment by check, the department of finance shall mail a warning notice to the taxpayer setting forth the requirement to make payment by electronic funds transfer and the penalties for failure to do so; and (ii) with respect to each and every subsequent installment that is paid by any other method, including payment by check, the department of finance shall impose a penalty charge in the amount of one percent of the amount of the tax installment that was required under this section to be paid by electronic funds transfer.

2. Any penalty charge imposed under this subdivision shall be a lien against the real property for which the taxpayer failed to make a payment in the manner required by this section, and shall accrue interest at the same rate as is imposed on a delinquent tax on real property, to be calculated to the date of payment from the date of entry. Such lien shall be a tax lien within the meaning of sections 11-319 and 11-401 and may be sold, enforced or foreclosed in the manner provided in chapters three and four of this title.

l. *Rules.* The commissioner may promulgate rules necessary to implement this section.

§ 11-129 Department of finance statement of account.

a. At intervals determined by the commissioner of finance, the department of finance shall send to owners of real property a statement of account for the property, which shall represent a bill for taxes, charges and assessments, and which shall include, in a manner determined by the commissioner, a description of taxes, charges and assessments that remain unpaid on the property, and payments received by the department for taxes, charges and assessments on the property, and which may include additional information as the commissioner deems appropriate. In any statement of account representing a bill for real property taxes due on July 1, when the amount of taxes due is based on a calculation using the tax rate for the prior fiscal year, the department shall include a notice that the taxes due are subject to adjustment upon the adoption of the tax rate for the new fiscal year, and that a subsequent bill issued during the course of the tax year may reflect the adjusted amount of tax due and the new tax rate.

b. The statement of account shall be sent to owners who notified the department of a mailing address for such statements, or, if no mailing address has been so provided, to the owner of record at the property address appearing on the assessment roll.

c. Notwithstanding subdivision b of this section, in lieu of mailing the statement of account, the department may send the statement of account by electronic means to any owner whose electronic mailing address is known to the department.

d. The department shall establish and maintain a system to contact owners by electronic-mail and provide access electronically to a receipt for, and information on, each payment made for charges on a statement of account. The department shall notify owners of the availability of such system on the statement of account and shall solicit the submission of an email address at the time of payment. Such receipt shall include the property address, borough, block and lot number, the amount paid, and the date the payment was received, and may include additional information as the commissioner of finance deems appropriate. Such system shall also provide information on how the amount paid was applied toward the tax, charge or assessment on the statement of account. The city shall not be liable for any damages as a result of failure to provide access to a receipt, nor shall any cause of action arise from such failure.

(Am. L.L. 2020/106, 10/24/2020, eff. 10/24/2020; Am. L.L. 2020/107, 10/24/2020, eff. 7/1/2021)

Editor's note: Pursuant to § 2 of L.L. 2020/107, subsection d. takes effect on July 1, 2021.

§ 11-129.1 Department of finance notification to property owners regarding tax liens.

a. No later than 45 days after the date on which each installment of real property tax is due pursuant to paragraph (b) of subdivision 2 of section 1519-a of the charter, the department of finance shall send a notification to each owner of real property with an assessed value of two hundred fifty thousand dollars or less where the amount of tax liens arising as a result of the nonpayment of taxes on such property exceeds \$100.

b. No later than 45 days after the date on which each installment of real property tax is due pursuant to paragraph (b) of subdivision 3 of section 1519-a of the charter, the department of finance shall send a notification to each owner of real property with an assessed value of more than two hundred fifty thousand dollars where the amount of tax liens arising as a result of the nonpayment of taxes on such property exceeds \$100.

c. A notification required pursuant to subdivision a or b of this section shall include a summary of all tax liens on such property, other than a tax lien arising as a result of the nonpayment of sewer rents, sewer surcharges, or water rents and interest and penalties thereon, as such terms are defined in section 11-301. Such notification shall advise an owner of real property regarding obtaining information from the department of environmental protection about any such tax lien arising as a result of the nonpayment of sewer rents, sewer surcharges, or water rents.

d. Each notification required pursuant to this section shall be in writing and sent in the manner provided in section 11-129.

e. Failure by the department of finance to send a notification as required by this section shall not:

1. create any liability for the city of New York;
2. affect the obligation of an owner to pay any such installment;
3. prevent or otherwise affect the levy, collection and enforcement of taxes on such property; or
4. prevent or otherwise affect the accrual of any interest imposed for the nonpayment of taxes.

(L.L. 2024/082, 7/30/2024, eff. 10/28/2024)

Editor's note: For related unconsolidated provisions, see Appendix A at L.L. 2024/082.

§ 11-130 Financial institution data match system for tax collection purposes.

1. Definitions. As used in this section:

(a) "Debt" means all liabilities, including unpaid tax, interest, and penalty, that the commissioner of finance is required by law to collect and that have been reduced to judgment by the docketing of a city tax warrant in the office of the county clerk of the appropriate county.

(b) "Tax debtor" means a natural person or any entity other than a natural person named on a city tax warrant and identified thereon as a judgment debtor.

(c) "Financial institution" means any financial institution authorized or required to participate in a financial institution data match system or program for child support enforcement purposes under federal or state law.

2. Financial institution data match system for tax collection purposes.

(a) To assist the commissioner of finance in the collection of debts, the department of finance shall develop and operate a financial institution data match system for the purpose of identifying and seizing the non-exempt assets of tax debtors as identified by the commissioner of finance. The commissioner is authorized to designate a third party to develop and operate this system. Any third party designated by the commissioner to develop and operate a financial data match system shall keep all information it obtains from both the department and the financial institution confidential, and any employee, agent or representative of that third party is prohibited from disclosing that information to anyone other than the department or the financial institution.

(b) Each financial institution doing business in the state of New York shall, in conjunction with the commissioner or the commissioner's authorized designee, develop and operate a data match system to facilitate the identification and seizure of non-exempt financial assets of tax debtors identified by the commissioner or the commissioner's authorized designee. If a financial institution has a data match system developed or used to administer the child support enforcement programs of this state, and if that system is approved by the commissioner or the commissioner's authorized designee, the financial institution may use that system to comply with the provisions of this section.

3. Each financial institution shall provide identifying information each calendar quarter to the department of finance for each tax debtor identified by the department who or that maintains an account at the institution. The identifying information shall include the tax debtor's name, address, and social security number or other taxpayer identification number, and all account numbers and balances in each account.

4. A financial institution that complies with this section will not be liable under state or city law to any person for the disclosure of information to the commissioner or the commissioner's authorized designee, or any other action taken in good faith to comply with this section.

5. Both the financial institution furnishing a report to the commissioner under this section and the commissioner's authorized designee are prohibited from disclosing to the tax debtor that the name of the tax debtor has been received from or furnished to the commissioner, unless authorized in writing by the commissioner to do so. A violation of this subdivision will result in the imposition of a civil penalty equal to the greater of one thousand dollars or the amount in the account of the person to whom the disclosure was made for each instance of unauthorized disclosure by the financial institution. That civil penalty can be assessed and collected under this code as if that penalty were tax.

6. A financial institution may disclose to its depositors or account holders that the department of finance has the authority to request certain identifying information on certain depositors or account holders under the financial institution data match system for city tax collection purposes.

§ 11-131 Voluntary disclosure and compliance program.

a. Notwithstanding the provisions of any other law to the contrary, there is hereby established a voluntary disclosure and compliance program, as described in this section, to be administered by the commissioner, for all eligible taxpayers as described in this section, owing any tax imposed or previously imposed under this title.

b. For purposes of the voluntary disclosure and compliance program established under this section, an eligible taxpayer is an individual, partnership, estate, trust, corporation, limited liability company, joint stock company, or any other company, trustee, receiver, assignee, referee, society, association, business or any other person subject to a tax imposed by this title and who meets the following criteria:

(1) the taxpayer is not currently under audit by the department;

(2) the taxpayer is one who is voluntarily disclosing a New York city tax liability that the department has not determined, calculated, researched or identified at the time of the disclosure;

(3) the taxpayer is not currently a party to any criminal investigation being conducted by an agency of the state or any political subdivision thereof; and

(4) the taxpayer is not seeking to disclose participation in a tax avoidance transaction that is a federal or New York state reportable or listed transaction.

c. Under the voluntary disclosure and compliance program, upon execution of a voluntary disclosure and compliance agreement by the eligible taxpayer and the commissioner, the commissioner shall waive any applicable penalties for the following:

- (1) failure to pay any such tax liability;
- (2) failure to file a return or report with respect to any such tax liability; and
- (3) failure to pay estimated tax.

In addition, no criminal action or proceeding shall be brought against an eligible taxpayer relating to the tax liability covered by the agreement. This agreement shall not preclude the auditing of the returns filed to determine if those returns were completed in accordance with existing law and regulation. Intentional failure to pay all the taxes, plus related interest, pursuant to the voluntary disclosure and compliance agreement entered into between the taxpayer and the commissioner, shall invalidate any waiver of penalty, invalidate the forbearance of any administrative or criminal action or proceeding.

d. To participate in the voluntary disclosure and compliance program, an eligible taxpayer must apply by submitting a disclosure statement in the form and manner prescribed by the commissioner. The disclosure statement shall contain all the information the commissioner reasonably deems necessary to effectively administer the program. As long as all the requirements of the voluntary disclosure and compliance program are met, no application shall be denied solely because the taxpayer has admitted that the delinquency was the result of willful or fraudulent conduct. Except in instances where the taxpayer has failed to comply with the terms of a voluntary disclosure and compliance agreement, the commissioner shall not use the taxpayer's disclosure as evidence in any proceeding brought against the taxpayer or reveal the contents of the disclosure to any law enforcement or other agency. However, the disclosure of any returns or reports filed under this program with the secretary of the treasury of the United States, his or her delegates, or the proper tax officer of any state or city is permitted as otherwise provided for in this title.

e. (1) If the taxpayer and the tax liability are eligible under the voluntary disclosure and compliance program, the commissioner is authorized to enter into a voluntary disclosure and compliance agreement with the taxpayer. A voluntary disclosure and compliance agreement will be in a form to be established by the commissioner and include such terms as the commissioner may reasonably require to satisfy the taxpayer's disclosed tax obligations and enable and require the taxpayer to comply with the applicable provisions of this title in the future. The taxpayer must pay the tax and the related interest that are the subject of the voluntary disclosure and compliance agreement when the agreement is executed or within the time stated on a bill issued to the taxpayer by the commissioner. In the event the commissioner is satisfied that the taxpayer cannot make immediate full payment of the disclosed tax liability, the commissioner may enter into an installment payment program with the taxpayer for the payment of the tax and interest due. The commissioner may require a financial disclosure statement setting forth information concerning the taxpayer's current assets, liabilities, earnings, and other financial information before entering into an installment payment plan with the taxpayer. In addition to any other information and terms that the commissioner determines are appropriate, the voluntary disclosure and compliance agreement shall provide that, if the taxpayer complies with the terms of the compliance agreement, the taxpayer will not be subject to any criminal tax prosecution in New York city for the conduct disclosed by the taxpayer.

(2) If the taxpayer intentionally provides false material information or omits material information in his or her submissions to the commissioner, or attempts to intentionally defeat or evade a tax due pursuant to the agreement executed under this section, or intentionally fails to comply with the terms of the compliance agreement, such agreement shall be deemed rescinded.

f. Unless the commissioner on his or her own motion redetermines the amount of tax due, including applicable interest, no refund shall be granted or credit allowed with respect to any taxes, including applicable interest, paid under this program. The commissioner may promulgate regulations, issue forms and instructions, and take any and all other actions necessary to implement the provisions of the program established under this section.

g. The commissioner shall publicize the program provided for in this section so as to maximize public awareness of and participation in such program.

h. For purposes of this section, the term "taxpayer" includes any person required to collect any of the taxes specified in subdivision a of this section.

i. The voluntary disclosure and compliance application, the disclosure statement, the voluntary disclosure and compliance agreement, and other documents filed by an eligible taxpayer pursuant to the program established by this section are deemed to be reports and returns:

(a) subject to the secrecy provisions of this title in the same manner and to the same extent as if such documents were referred to in any of the secrecy provisions of this title; and

(b) for purposes of the criminal provisions of chapter forty of this title.

§ 11-132 Mandatory electronic filing and payment.

a. For purposes of this section, the following terms have the specified meanings:

(1) "Authorized tax document" means a tax document which the commissioner of finance has authorized to be filed electronically.

(2) "Electronic" means computer technology.

(3) "Original tax document" means a tax document that is filed during the calendar year for which that tax document is required or permitted to be filed.

(4) "Tax" means any tax or other matter administered by the commissioner of finance pursuant to the administrative code or any other provision of law.

(5) "Tax document" means a return, report or any other document relating to a tax or other matter administered by the commissioner of finance.

(6) "Tax return preparer" means any person who prepares for compensation, or who employs or engages one or more persons to prepare for compensation, any authorized tax document. For purposes of this section, the term "tax return preparer" also includes a payroll service.

(7) "Tax software" means any computer software program intended for tax return preparation purposes. For purposes of this section, the term "tax software" includes, but is not limited to, an off-the-shelf software program loaded onto a tax return preparer's or taxpayer's computer, an online tax preparation application, or a tax preparation application hosted by the department.

b. The commissioner may, by rule, require that if a tax return preparer prepared more than one hundred original tax documents during any calendar year beginning on or after January first, two thousand nine, and if, in any succeeding calendar year that tax return preparer prepares one or more authorized tax documents using tax software, then, for that succeeding calendar year and for each subsequent calendar year thereafter, all authorized tax documents prepared by that tax return preparer must be filed electronically, in accordance with instructions prescribed by the commissioner.

c. The commissioner may, by rule, require that if a taxpayer does not utilize a tax return preparer to prepare an authorized tax document during any calendar year beginning on or after January first, two thousand ten, but instead prepares that document itself using tax software, then, for that calendar year and for each subsequent calendar year thereafter, all authorized tax documents prepared by the taxpayer using tax software must be filed electronically, in accordance with instructions prescribed by the commissioner.

d. The commissioner may, by rule, require that any tax liability or other amount due shown on, or required to be paid with, an authorized tax document required to be filed electronically pursuant to subdivision b or c of this section must be paid by the taxpayer electronically, in accordance with instructions prescribed by the commissioner.

e. *Failure to electronically file or electronically pay.* The commissioner may, by rule, impose penalties for failing to electronically file or electronically pay as follows:

(1) If a tax return preparer is required to file authorized tax documents electronically pursuant to subdivision b of this section, and that preparer fails to file one or more of those documents electronically, then that preparer will be subject to a penalty of fifty dollars for each failure to electronically file an authorized tax document, unless it is shown that the failure is due to reasonable cause and not due to willful neglect. For purposes of this paragraph, reasonable cause shall include, but not be limited to, a taxpayer's election not to electronically file the authorized tax document.

(2) If a taxpayer is required to electronically pay any tax liability or other amount due shown on, or required to be paid with, an authorized tax document required to be filed electronically pursuant to subdivision b or c of this section, and that taxpayer fails to electronically pay one or more of those liabilities or other amounts due, then that taxpayer will be subject to a penalty of fifty dollars for each failure to electronically pay.

(3) The penalties provided for by this subdivision must be paid upon notice and demand, and will be assessed, collected and paid in the same manner as the tax to which the electronic transaction relates. However, if the electronic transaction relates to another matter administered by the commissioner of finance, then the penalty will be assessed, collected and paid in the same manner as prescribed by the chapter of the code that relates to collection of the general corporation tax.

f. Any provision of the New York city charter or this code requiring electronic payment or electronic filing of a tax return is not affected by this section and will remain in full force and effect.

g. The commissioner of finance is authorized to promulgate any rules necessary to implement this section.

§ 11-133 Consent to dissolution of a corporation.

Where a corporation files an application for consent to dissolution with the commissioner of finance for purposes of obtaining non-judicial dissolution under article ten of the business corporation law or article ten of the not-for-profit corporation law, such consent shall be issued by the commissioner only if the commissioner has determined that all fees, taxes, penalties and interest imposed on such corporation under chapters six, seven, eight, ten, eleven, twelve, thirteen, fourteen, fifteen, twenty-one, twenty-four, twenty-five and twenty-seven of this title have been (a) paid in full, or (b) paid pursuant to an offer in compromise pursuant to paragraph c or d of subdivision two of section fifteen hundred four of the New York city charter. Notwithstanding the preceding sentence, the commissioner of finance is authorized in his or her discretion and in such manner and on such terms as he or she may determine to issue a consent to dissolution if a written agreement for payment of such fees, taxes, penalties and interest is executed with the commissioner. Such applications shall be filed in the form and manner determined by the commissioner.

§ 11-134 Data verification.

1. No exemption described herein shall be granted unless the person applying for such exemption submits:

(a) if applying for the senior citizen homeowner exemption pursuant to section 11-245.3 of this title, a copy of government-issued identification such as a driver's license, passport or birth certificate for all owners turning sixty-five by December thirty-first in the year in which they submit the application for an exemption pursuant to such section; a copy of the previous year's federal tax returns and schedules and attachments for all owners to which the application for an exemption will apply. If any owner was not required to file, such applicant must submit proof of earnings, such as copies of W-2 forms, if applicable; social security benefit statements, if applicable; pension and annuity retirement income, if applicable; documentation of any unreimbursed medical or prescription expenses, if available; and any other information the commissioner deems necessary.

(b) if applying for the exemption for persons with disabilities pursuant to section 11-245.4 of this title, a copy of the previous year's federal tax returns and schedules and attachments for all owners to which the application for an exemption will apply. If any owner was not required to file, such applicant must submit proof of earnings, such as copies of W-2 forms, if applicable; social security benefit statements, if applicable; pension and annuity retirement income, if applicable; documentation of any unreimbursed medical or prescription expenses, if available; a copy of either an award letter from the social security administration, an award letter from the railroad retirement board or United States postal service, or a certificate from the state commission for the blind and visually handicapped; and any other information the commissioner deems necessary.

(c) if applying for the school tax relief exemption pursuant to section four hundred twenty-five of the real property tax law, a copy of the previous year's federal tax returns and schedules and attachments for all owners to which the application for an exemption will apply. If any owner was not required to file, such applicant must submit proof of earnings, such as copies of W-2 forms, if applicable; social security benefit statements, if applicable; pension and annuity retirement income, if applicable; and any other information the commissioner deems necessary.

(d) if applying for the enhanced school tax relief exemption pursuant to subdivision four of section four hundred twenty-five of the real property tax law, a copy of government-issued identification such as a driver's license, passport or birth certificate; a copy of the previous year's federal tax returns and schedules and attachments for all owners to which the application for an exemption will apply. If any owner was not required to file, such applicant must submit proof of earnings, such as copies of W-2 forms, if applicable; social security benefit statements, if applicable; pension and annuity retirement income, if applicable; and any other information the commissioner deems necessary.

(e) if applying for the exemption for veterans pursuant to sections four hundred fifty-eight and four hundred fifty-eight-a of the real property tax law, a copy of DD Form 214 "Certificate of Release or Discharge from Active Duty" or similar document issued by the United States Department of Defense upon a military service member's retirement, separation or discharge from active-duty military; if the applicant served in a combat zone or theater, then a copy of proof of service in such zone or theater; if disabled in a line of duty, then a copy of a letter from the Veterans Administration documenting the disability rating for such veteran seeking a property tax exemption; and any other information the commissioner deems necessary.

(f) if applying for the exemption for clergy pursuant to section four hundred sixty of the real property tax law, a verification letter from the church employer; in cases where such clergy member was unable to perform such work due to an illness or impairment, then a copy of a physician's statement; in the case where the clergy member is over seventy, then a copy of a government-issued identification card, birth certificate, or baptismal certificate; or in the case where the applicant is the surviving unremarried spouse of the clergy member, then a copy of the applicant's marriage certificate and a copy* the deceased spouse's death certificate; and any other information the commissioner deems necessary.

* **Editor's note:** as in original; should likely be "...copy of the...".

2. Any application for any exemption referenced in this section shall contain a certification clause that informs applicants that execution and submission of an application for an exemption referenced herein shall be deemed a certification by such

applicant that all statements made on such application are true and correct to the best of the applicant's knowledge and that such applicant has made no willful false statements of material fact.

§ 11-135 Informational brochure.

1. The department of finance shall publish on its website a brochure or brochures written in plain English that contains the following information:

(a) A description of the way the department determines market value and assessed value for all class one and class two property in the city of New York, and the way the property tax assessment determined by such values affects a property owner's property tax bill.

(b) A description of the statement of account, notice of property value or similar document that provides a property owner with a description of his or her property, applied exemptions, and the assessed and market values of such property, and an explanation of the content contained therein.

(c) A description of property tax exemptions and abatements administered by the department, and the eligibility requirements and application deadlines of such property tax exemptions and abatements.

(d) A timeline of deadlines in the fiscal year as they relate to property tax assessment and payment of property taxes.

(e) A description of the process specified in sections one hundred sixty-four, one hundred sixty-four a, and one hundred sixty-four b of the New York city charter to dispute assessments determined by the department.

2. The brochure or brochures required by this section shall be published on the department's website as follows:

(a) for class one properties, no later than January fifteenth, two thousand thirteen; and

(b) for class two properties, no later than January fifteenth, two thousand fourteen.

3. Such brochure or brochures shall be updated by the department on a periodic basis.

4. Upon the recording of any document with the city register or the office of the Richmond county clerk transferring an ownership interest in any class one property or in any class two property that is a residential condominium or residential cooperative or a four family residential property, as such classes of property are defined in subdivision one of section eighteen hundred two of the real property tax law, the department shall send by mail, or, for any owner whose email address is known to the department, by email, such brochure to the grantee or grantees of such ownership interest.

(Am. L.L. 2018/026, 12/31/2017, eff. 7/1/2018)

§ 11-136 Report on notices of violations returnable to the environmental control board.

a. No later than November first of each year, the department of finance shall submit to the council, and make available on the department's website, a report on the outstanding debt for base penalties, default penalties, and default judgments issued for notices of violations returnable to the environmental control board and referred to the department for collection during the previous fiscal year, and base penalties, default penalties, and default judgments issued for notices of violations returnable to the environmental control board and referred to the department for collection that remain in full force and effect, pursuant to subparagraph (i) of paragraph one of subdivision d of section 1049-a of the charter. Such report shall include: (1) the total number of judgments referred to the department by the environmental control board, including the number of default judgments; (2) the total dollar amount of judgments referred to the department, disaggregated by base penalty, interest, and default penalty; (3) the average length of time for referral of a judgment from the environmental control board to the department; (4) the total dollar amount collected by the department for judgments; (5) an analysis of the length of time for collection of judgments described in paragraph four; (6) the total number of judgments that require corrective action by a respondent; (7) the enforcement efforts used by the department to collect judgments described in paragraph four; and (8) the total number of judgments that are no longer in full force and effect, pursuant to subparagraph (i) of paragraph one of subdivision d of section 1049-a of the charter, and the total dollar amount of such judgments. The department shall disaggregate the information required by paragraphs one through eight of this subdivision by the agency in which the notice of violation originated, and the fiscal year in which the judgment was entered.

b. For purposes of this section, the following terms shall have the specified meanings:

"Base penalty" means, with respect to any notice of violation returnable to the environmental control board, the penalty that would be imposed upon a timely admission by the respondent or finding of liability after a hearing, pursuant to the environmental control board penalty schedule, without regard to reductions of penalty in cases of mitigation or involving stipulations.

"Default judgment" means a judgment of the environmental control board, pursuant to subparagraph (d) of paragraph one of subdivision d of section 1049-a of the charter, determining a respondent's liability based upon that respondent's

failure to plead within the time allowed by the rules of the environmental control board or failure to appear before the environmental control board on a designated hearing date or on a subsequent date following an adjournment.

"Default penalty" means a penalty imposed by the environmental control board, pursuant to section 1049-a of the charter, in the maximum amount prescribed by law for the violation charged.

"Respondent" means a person or entity named as the subject of a notice of violation returnable to, or a judgment issued by, the environmental control board, or such other person or entity who asserts legal responsibility for the liability of the person or entity named in the notice or the judgment.

(L.L. 2015/011, 1/22/2015, eff. 1/22/2015)

§ 11-137 Rent increase exemption programs: ombudspersons, notices and report.

a. Ombudspersons.

(1) The commissioner of finance shall designate an employee of the department of finance to serve as the ombudsperson for the senior citizen rent increase exemption program set forth in title twenty-six of this code and designate a different employee of the department of finance to serve as the ombudsperson for the disability rent increase exemption program set forth in title twenty-six of this code. The duties of each such ombudsperson shall include, but need not be limited to:

- (i) establishing a system for such ombudspersons to receive complaints with respect to each such rent increase exemption program;
- (ii) investigating and responding to complaints received pursuant to subparagraph (i) of this paragraph; and
- (iii) making recommendations to the commissioner of finance regarding the administration of each such rent increase exemption program, which may include recommendations for training appropriate department of finance staff members.

(2) The commissioner of finance shall establish a dedicated email address for the senior citizen rent increase exemption program and a dedicated email address for the disability rent increase exemption program, or links to directly contact each such program through the department of finance's website, to receive written inquiries regarding such rent increase exemption programs. A statement that inquiries may be made to the 311 citizen service center or submitted electronically through the website of the department of finance shall be posted on a page of such website that is dedicated to these rent increase exemption programs. Such statement, along with the name and title of the ombudsperson for the relevant rent increase exemption program, and the email address for, or a link to directly contact, such ombudsperson through the department of finance's website shall also be included on any notice issued by the department of finance pertaining to a rent increase exemption program where such notice is related to:

- (i) the denial, or the appeal of a denial of, such application;
- (ii) the termination of benefits due to the death of a tenant sent to the household or the landlord;
- (iii) the revocation of benefits sent to the tenant or the landlord;
- (iv) the denial of a tenant's application for benefit takeover; and
- (v) any other document deemed appropriate by the department of finance.

(3) No later than October first of each year, the department of finance shall submit a report to the council for the prior fiscal year, indicating:

- (i) the number and nature of inquiries received by the department of finance and the 311 citizen service center regarding the rent increase exemption programs;
- (ii) the number, nature, and resolution of comments and complaints received by the ombudspersons designated pursuant to paragraph one of subdivision a of this section regarding the rent increase exemption programs; and
- (iii) any recommendations made by any such ombudsperson to the commissioner of finance regarding the administration of such rent increase exemption programs.

b. Notice of Eligibility Requirements. The relevant eligibility criteria for the senior citizen rent increase exemption program or the disability rent increase exemption program shall be included on the following documents issued by the department of finance pertaining to such rent increase exemption program:

- (1) the application or renewal application for the program;

- (2) any notice related to the termination of benefits due to the death of a tenant sent to the household or the landlord;
- (3) a tenant renewal reminder notice; and
- (4) any other document deemed appropriate by the department of finance.

c. *Report on Eligibility.* No later than December thirty-first, two thousand eighteen, and every third December thirty-first thereafter, the department of finance shall prepare a report on the population of tenants estimated to be eligible for participation in such rent increase exemption programs. Such report shall be submitted to the council and posted on the website of the department of finance. Such report shall include:

- (1) the total number of tenants estimated to be eligible for the rent increase exemption programs, disaggregated by program, enrollment status, borough, and neighborhood;
- (2) for tenants enrolled in the senior citizen rent increase exemption program and in the disability rent increase exemption program, the average and median:
 - (i) number of years receiving the rent increase exemption;
 - (ii) household size;
 - (iii) age;
 - (iv) annual household income;
 - (v) amount paid in rent by the tenant; and
 - (vi) amount of the tax abatement credit received by the landlord on behalf of a tenant;
- (3) a description of the department of finance's efforts to increase enrollment in each rent increase exemption program; and
- (4) a comparison of the data contained in each such report with the data contained in the most recent prior report issued pursuant to this subdivision.

(L.L. 2015/040, 5/6/2015, eff. 8/4/2015)

§ 11-138 Notice to senior citizen rent increase exemption and disability rent increase exemption program tenants regarding legal regulated and preferential rents.

a. *Definitions.* For purposes of this section, the term "preferential rent" means the amount of rent charged to and paid by a tenant that is less than the legal regulated rent.

b. The department of finance shall provide any tenants enrolled in the senior citizen rent increase exemption or disability rent increase exemption program pursuant to section 26-509 with the following information:

1. the rent amount on which the benefit calculation is based;
2. an explanation that the benefit calculation is based on the legal regulated rent, except that the benefit calculation may be based on a preferential rent in the following cases: (a) the tenant pays a preferential rent pursuant to a written agreement with the landlord that states that the preferential rent will be charged for the life of the tenancy; or (b) the tenant lives in a building that has received a tax credit pursuant to section 42 of the internal revenue code;
3. the legal regulated rent amount;
4. an explanation that the tenant may continue to pay the preferential rent, in accordance with the terms of the lease, even after enrolling in the program; and
5. beginning January 1, 2018, in cases where a tenant who pays a preferential rent submits an initial or renewal application for the senior citizen rent increase exemption or disability rent increase exemption program, the preferential rent amount.

c. 1. The information required pursuant to subdivision b of this section shall be included in any notice issued by the department of finance pertaining to the senior citizen rent increase exemption or disability rent increase exemption program where such notice is related to:

- (a) the approval of such application;
- (b) the approval of a tenant's application for an apartment benefit transfer;

- (c) the approval of a tenant's application for benefit takeover;
- (d) any notice of a tax abatement credit adjustment sent to the tenant;
- (e) the approval of a tenant's application for a redetermination; and
- (f) any other document deemed appropriate by the department of finance.

2. Any such notice shall also include a statement that such tenant can obtain a rent registration history from, and file a complaint of rent overcharge with, the state division of housing and community renewal should such tenant believe his or her landlord has charged or registered more than the regulated rent amount the landlord could lawfully collect from such tenant. Such statement shall also include a telephone number and email address for the state division of housing and community renewal at which inquiries or complaints regarding rent administration can be received.

d. No later than January 1, 2018, in cases where a tenant who pays a preferential rent submits an initial or renewal application for the senior citizen rent increase exemption or disability rent increase exemption program, the department of finance shall ensure that any computer system or database used by the department of finance for the purpose of maintaining or compiling information about applicants and beneficiaries of the program contains both the legal regulated and preferential rents.

(L.L. 2016/013, 2/8/2016, eff. 5/8/2016)

§ 11-139 Dissemination of senior citizen rent increase exemption program information.

a. Each agency designated as a participating agency under the provisions of this section shall, in coordination with the department of finance, implement and administer a program of distribution of information about the senior citizen rent increase exemption program pursuant to the provisions of this section. The following offices are hereby designated as participating agencies: the department for the aging, the city clerk, community boards, the department of consumer and worker protection, the commission on human rights, the department of housing preservation and development, the department of health and mental hygiene, the human resources administration/department of social services, and the department of parks and recreation; provided, however, that the department of finance, as it deems appropriate, may designate additional agencies to be participating agencies. The department of finance shall further make such information available to city hospitals and public libraries.

b. Participating agencies shall offer information about the senior citizen rent increase exemption program provided by the department of finance to all persons identified as sixty-two years of age or older together with written applications and related forms for services, other than emergency services, provided by such agency, in the same languages as such written applications or forms where practicable.

c. Participating agencies and the department of finance shall adopt such rules as may be necessary to implement this section.

(L.L. 2017/010, 2/15/2017, eff. 6/15/2017; Am. L.L. 2020/080, 8/28/2020, eff. 8/28/2020)

Editor's note: For related unconsolidated provisions, see Appendix A at L.L. 2020/080.

§ 11-140 Report on revocations.

Not less than quarterly, the department of finance shall report to the speaker of the council and to the mayor a plan and a timeline for revocation of benefits under section 421-a of the real property tax law for each designated building for which such department received, during the reporting period, a final notice of revocation of such benefits for noncompliance with applicable affordability requirements or applicable rent registration requirements from the department of housing preservation and development pursuant to chapters 15 and 16 of title 26 of the code.

(L.L. 2017/193, 10/16/2017, eff. 10/16/2018)

§ 11-141 Notice to class two properties.

The department shall, prior to the first day of January, provide notice to owners of class two properties, as defined in subdivision 1 of section 1802 of the real property tax law, of their annual obligation to register any dwelling units within their building that are subject to rent stabilization, pursuant to chapter 4 of title 26, with the state division of housing and community renewal. Such notice shall also include information regarding financing programs administered by the department of housing preservation and development to facilitate affordability. Such notice shall, when practicable, be included on the property tax bill for payment of the installment of real property tax that is due and payable on the first day of January.

(L.L. 2017/252, 12/17/2017, eff. 7/1/2018; Am. L.L. 2020/042, 3/29/2020, eff. 3/29/2020)

§ 11-142. Not-for-profit ombudsperson.

- a. The commissioner of finance shall designate an employee of the department of finance to serve as an ombudsperson for not-for-profit organizations that own real property.
- b. For purposes of this section, "not-for-profit organization" means a corporation or association which is organized or conducted exclusively for the purposes described in paragraph a or paragraph b of subdivision 1 of section 11-246 of this code.
- c. Contact information for such ombudsperson shall be posted on the department of finance's website and on any notice issued by the department of finance pertaining to ownership of real property by a not-for-profit organization, including, but not limited to:
 1. Any application for an exemption from real property taxation pursuant to section 420-a, 420-b, 446, or 462 of the real property tax law;
 2. Any denial, revocation or termination of such exemption; or
 3. Any notice required pursuant to subdivision b of section 11-320 of a sale of a tax lien.
- c. The duties of such ombudsperson shall include but need not be limited to:
 1. Responding to inquiries from not-for-profit organizations that own real property about real property tax exemptions and the tax lien sale;
 2. Coordinating and conducting public outreach to increase public awareness of exemptions from the real property tax and exclusions from the tax lien sale available to not-for-profit organizations that own real property; and
 3. Coordinating with other city agencies to address consequences that a not-for-profit organization may confront as a result of a tax lien.

(L.L. 2020/042, 3/29/2020, eff. 9/25/2020)

§ 11-143 Contact information of real property owners.

The department shall make best efforts to collect the name, telephone number, and email address of every owner of real property in the city, or where such information is not available, the name, telephone number, and email address of an individual authorized to receive communications regarding the real property on behalf of such owner. Such best efforts shall include, at a minimum, soliciting the above-listed contact information on hard copy and online forms, applications, and other documents created by the department for submission by a property owner related to the recording of deed-related or mortgage-related documents, as such terms are defined in section 7-628 of this code, or the administration of real property personal tax exemption programs, the tax lien sale, the real property transfer tax, or the tax on mortgages. Upon receipt of any of the contact information described above, the department shall ensure that any computer system or database used by the department for the purpose of maintaining or compiling information about property owners or otherwise administering the real property tax contains such information.

(L.L. 2020/105, 10/24/2020, eff. 7/1/2021)

§ 11-144 Child care credit against certain business income taxes.

- a. *Definitions.* For purposes of this section:

1. **Child care program.** The term "child care program" means a child care program for which a permit to operate such program has been issued by the department of health and mental hygiene pursuant to article forty-seven of the health code.
2. **Child care rate.** The term "child care rate" means the weekly child care subsidy market rates, based on the sixty-ninth percentile of the 2017-18 New York state child care market rate survey, for infant and toddler care provided by a permitted day care center in county cluster five, as reflected in the 2019 child care market rate survey report published by the New York state office of children and family services in compliance with section 98.45 of title forty-five of the code of federal regulations, provided that the department of finance may, by rule, revise such rates based on subsequent editions of the child care market rate survey report, as published by such office, or any other similar report published by such office in compliance with such section.
3. **Child care seats.** The term "child care seats" means the maximum number of children to be allowed on the premises of a child care program at any time that such program is in operation as specified on the permit issued for such program by the department of health and mental hygiene.
4. **Child care seats that are occupied.** The term "child care seats that are occupied" means, for each service year in which a child care program is in operation, the average daily number of children in attendance on the premises of such child care program.

5. **Creates child care.** The term "creates child care" means the making available of child care seats in a child care program by a taxpayer, directly or through a third party, for employees of such taxpayer, where such child care program was not available prior to April first, two thousand twenty-two, provided that the costs imposed on such employees for such child care program do not exceed forty percent of the child care rate.

6. **Expands child care.** The term "expands child care" means the increase in the number of child care seats in a child care program made available by a taxpayer, directly or through a third party, for employees of such taxpayer, provided that such increase requires a new or amended permit issued by the department of health and mental hygiene pursuant to article forty-seven of the health code on or after April first, two thousand twenty-two, and, provided, further, that the costs imposed on such employees for such child care program do not exceed forty percent of the child care rate.

7. **Service year.** The term "service year" means the twelve-month period commencing on October first and ending on September thirtieth in the subsequent calendar year.

b. *Credit allowed.* A taxpayer that creates child care or expands child care shall be allowed a credit against the tax imposed by chapter five, or by subchapter two or three-a of chapter six, of this title to be credited or refunded, without interest, in accordance with the provisions of subdivision (q) of section 11-503, subdivision twenty-three of section 11-604 and subdivision twenty-three of section 11-654 of this title. The amount of such credit shall be, for the portion of the service year in which the child care program was in operation, the sum of: (i) the product of the number of infant child care seats that have been created or expanded and twenty percent of the child care rate for such infant child care seats; and (ii) the product of the number of toddler child care seats that have been created or expanded and twenty percent of the child care rate for such toddler child care seats; provided that such infant and toddler child care seats are child care seats that are occupied. Notwithstanding the preceding sentence, a credit shall not be allowed for more than twenty-five child care seats that are occupied, and the amount of such credit may be reduced as a result of an allocation of available funds, as described in subdivision e of this section, for such credit.

c. *Application process.* A taxpayer must submit an application for such credit by November first of the calendar year in which the service year has ended.

1. Such application shall include but not be limited to:

(a) a permit issued by the department of health and mental hygiene to operate a child care center indicating the number of child care seats or, in the case of a child care center that has experienced an expansion of child care seats, a permit issued by such department demonstrating such expansion; and

(b) a certification from an independent certified public accountant that provides:

(1) the total number of child care seats that are child care seats that are occupied during such service year;

(2) of such total number of child care seats that are occupied, the number of infant child care seats that are occupied and the number of toddler child care seats that are occupied; and

(3) to the extent the taxpayer has expanded child care, the number of child care seats in existence before such expansion and the number of such child care seats that were occupied before such expansion.

2. No later than January thirty-first of the calendar year following the calendar year in which the application was submitted, the department of finance shall approve or deny such application and provide a calculation of the amount of such credit as determined by subdivision e of this section for any application that has been approved.

d. *Application of credit to tax year.* The credit, as approved and calculated by the department of finance pursuant to paragraph two of subdivision c of this section, shall be applied to the tax year in which the service year concludes, except that: (i) for a taxpayer whose tax year concludes on or after September thirtieth and before December thirty-first, the credit shall be applied to the tax year immediately following the tax year in which the service year concludes; and (ii) to provide the credit in a tax year consistent with this subdivision, the department of finance may establish procedures governing the application of such credit where the tax year of a taxpayer who has applied for such credit is less than twelve months, or where such tax year varies in accordance with subsection f of section four hundred forty-one of the internal revenue code.

e. *Maximum amount of credit available.* For each of the three tax years in which the credit authorized by this section is available, the aggregate amount of such credit shall be a maximum of twenty-five million dollars. To the extent that the department of finance has determined that the aggregate amount of such credit, as calculated pursuant to subdivision b of this section, would exceed twenty-five million dollars, such department shall reduce the amount of credit to be granted to each taxpayer who has applied for such credit in accordance with a process to be developed in rules promulgated by such department. In developing such process, the department may consider factors including, but not limited to, the date of application, the number of child care seats in a child care program that are occupied, and the extent to which the taxpayer bears the cost of the child care that is provided to the employees of such taxpayer.

(2022 N.Y. Laws Ch. 59, 4/9/2022, eff. 4/9/2022)

Editor's note: Part II, § 5 of 2022 N.Y. Laws Ch. 59 provides: "This act shall take effect immediately, provided that the credit authorized by section 11-144 of the administrative code of the city of New York, as added by section one of this act, shall be available to be applied to the tax year beginning between January 1, 2023 and December 31, 2023, inclusive of those dates, and to the two tax years immediately following such initial tax year."