

New York City Department of Finance

Notice of Adoption

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED in the Commissioner of Finance by section 1043 of the New York City Charter, that the New York City Department of Finance (“DOF or “Department”) promulgates this new chapter 60 of title 19 of the Rules of the City of New York, regarding the childcare center real property tax abatement for certain buildings where construction, conversion, alteration or improvement that is completed on or after April 1, 2022 results in the creation of a new childcare center or an increase in the maximum number of children allowed in an existing childcare center.

The proposed rules were published on January 10, 2023. A public hearing was held on February 9, 2023. Based on the Statement of Substantial Need for Earlier Implementation of these rules by the Commissioner of Finance, and the approval of such Statement by the Mayor of the City of New York, included herein, these rules will take effect upon publication pursuant to section 1043(f)(1)(d) of the New York City Charter.

Statement of Basis and Purpose of Rule

Sections 499-aaaa through 499-ffff of title 6 of article 4 of the NYS Real Property Tax Law (“RPTL”) requires that the Department provide an abatement of real property taxes for certain buildings where construction, conversion, alteration or improvement that is completed on or after April 1, 2022 results in the creation of a new childcare center or an increase in the maximum number of children allowed in an existing childcare center, as such number is specified in a permit issued by the Department of Health and Mental Hygiene.

The childcare center tax abatement may be provided to an eligible building beginning in the tax year commencing July 1, 2023, and may be applied to the real property tax liability of an eligible building for a period of up to five years, subject to certain limitations provided in title 6 of article 4 of the RPTL. The amount of the abatement will be determined in accordance with section 499-bbbbb of the RPTL, and is subject to certain limitations, including that it may not exceed the real property tax liability of the eligible building for any tax year for which the abatement is provided. An enhanced childcare center tax abatement, in an amount higher than the childcare center tax abatement, will be provided to an owner of an eligible building located within a “childcare desert,” or an area of the City where there are a disproportionate number of children under five as compared to the number of available childcare slots.

The rules provide to owners of eligible buildings information relating to eligibility requirements and the application and approval process for the childcare center tax abatement and the enhanced childcare center tax abatement, including information to supplement the requirements and limitations relating to the abatement provided in title 6 of article 4 of the RPTL.

New material is underlined

[Deleted material is bracketed]

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. Title 19 of the rules of the city of new York is amended to add a new chapter 60 to read as follows:

§ 60-01. Definitions.

When used in this chapter, the following terms have the following meanings:

Abatement period. “Abatement period” means the tax year or tax years in which the abatement is applied by the department to the real property tax liability of an eligible building, provided that such abatement may not be applied to the real property tax liability of such building during more than five tax years.

Applicant. “Applicant” means an owner who files an application for tax abatement.

Childcare center. “Childcare center” means a childcare program for which a permit to operate such program has been issued by the Department of Health and Mental Hygiene pursuant to the NYC Health Code.

Childcare desert. “Childcare desert” means a census tract in New York City where, at the time of an application for tax abatement, there are three or more children under five years of age for each available childcare slot, or where there are no available childcare slots, as of the most recently published determinations by the NYS Office of Children and Family Services.

Childcare center tax abatement. “Childcare center tax abatement” means a tax abatement granted pursuant to sections 499-aaaa through 499-ffff of title 6 of article 4 of the RPTL and this chapter.

City. “City” means the City of New York.

Department. “Department” means the New York City Department of Finance.

Department of Health and Mental Hygiene or DOHMH. “Department of Health and Mental Hygiene” or “DOHMH” means the New York City Department of Health and Mental Hygiene.

Eligible building. “Eligible building” means a class one, class two or class four property, as such classes of property are defined in section 1802 of the RPTL, provided that, for any such property held in the condominium form of ownership, “eligible building” shall mean a tax lot in such property.

Enhanced childcare center tax abatement. “Enhanced childcare center tax abatement” means a childcare center tax abatement provided to an owner of an eligible building that is located in a childcare desert pursuant to sections 499-aaaa through 499-ffff of title 6 of article 4 of the RPTL and this chapter.

Owner. “Owner” means the owner of an eligible building, or with respect to an eligible building held in the cooperative form of ownership, the board of directors of a cooperative apartment

corporation, or, with respect to an eligible building held in the condominium form of ownership, an owner of a tax lot in such building or the board of managers of such building.

Premises. “Premises” means the location of a childcare center as specified on the permit for the operation of such center issued by the Department of Health and Mental Hygiene pursuant to the NYC Health Code.

RPTL. “RPTL” means the New York State Real Property Tax Law.

§ 60-02 Eligibility for Childcare Center Tax Abatement or Enhanced Childcare Center Tax Abatement

a. An owner of an eligible building shall receive a childcare center tax abatement, or an owner of an eligible building that is located in a childcare desert shall receive an enhanced childcare center tax abatement, as provided in title 6 of chapter 4 of the RPTL and this chapter.

b. In accordance with title 6 of chapter 4 of the RPTL, the Department shall provide:

1. A childcare center tax abatement to an owner of an eligible building for construction, conversion, alteration or improvement work that is completed on or after April 1, 2022 and that results in: (i) the creation of a premises of a childcare center; or (ii) an increase in the maximum number of children allowed on the premises of an existing childcare center when such center is in operation, as such number is specified in the permit issued by the Department of Health and Mental Hygiene to operate such center; or

2. An enhanced childcare center tax abatement to an owner of an eligible building located within a childcare desert for construction, conversion, alteration or improvement work that is completed on or after April 1, 2022 and that results in: (i) the creation of a premises of a childcare center; or (ii) an increase in the maximum number of children allowed on the premises of an existing childcare center when such center is in operation, as such number is specified in the permit issued by the Department of Health and Mental Hygiene to operate such center.

c. Such childcare center tax abatement or enhanced childcare center tax abatement shall be provided for a tax year commencing on or after July 1, 2023, and ending on June 30, 2030. No such childcare center tax abatement or enhanced childcare center tax abatement shall be provided for any tax year ending on June 30, 2023, or commencing on or after July 1, 2030.

§ 60-03 Application.

a. Submission of application. To obtain a childcare center tax abatement or an enhanced childcare center tax abatement, an applicant must submit a completed application to the Department on a form prescribed by the Commissioner. Such application must be submitted no later than the March 15 immediately preceding July 1 of the tax year for which the abatement is sought, as follows:

1. To receive such an abatement for the tax year commencing July 1, 2023, an application must be submitted no later than March 15, 2023.

2. To receive such an abatement for the tax year commencing July 1, 2024, an application must be submitted no later than March 15, 2024.

3. To receive such an abatement for the tax year commencing July 1, 2025, an application must be submitted no later than March 15, 2025.

b. In no event may an application be submitted later than March 15, 2025.

c. The application will be available on the website of the Department, and must be submitted electronically to the Department by the applicant or the applicant's designated representative.

d. Content of application. In addition to any other information or supporting documentation that the Department may require, an application for a childcare center tax abatement or an enhanced childcare center tax abatement must:

1. Include all information required by subdivision 2 of section 499-cccc of the RPTL;

2. Indicate whether the eligible building is located within a childcare desert according to the most recently published determinations by the NYS Office of Children and Family Services;

3. Include both (i) proof that the applicant has entered into a lease or other agreement with a person to operate a childcare center in the eligible building, and (ii) a copy of the new or amended permit issued to the childcare center by the Department of Health and Mental Hygiene for such operation, except that where the applicant is also the operator of the childcare center as indicated on such new or amended permit, the applicant is only required to submit a copy of such new or amended permit and is not required to submit proof that such applicant has entered into a lease or other agreement with a person to operate a childcare center in the eligible building; and

4. Where an application is submitted for an abatement for construction or other work that has resulted in an increase in the maximum number of children allowed on the premises of an existing childcare center when such center is in operation, such application must include: (i) a copy of the permit for the childcare center that indicates the maximum number of children that were allowed on the premises of such childcare center prior to completion of such construction or other work; and (ii) a copy of the new or amended permit for the childcare center demonstrating that the maximum number of children allowed on the premises of the childcare center has increased following completion of such construction or other work.

§ 60-04 Approval of Application for Childcare Center Tax Abatement or Enhanced Childcare Center Tax Abatement

a. Pursuant to subdivision 4 of section 499-cccc of the RPTL, upon a determination by the Department that an applicant has submitted proof acceptable to the Department that the requirements for obtaining a childcare center tax abatement or an enhanced childcare center tax abatement have been satisfied, the application of such applicant shall be approved.

b. Upon approval of an application for a childcare center tax abatement or enhanced childcare center tax abatement, such abatement shall be applied to the real property tax liability of the eligible building for the tax year for which the abatement was sought, provided that there are no outstanding real property taxes, water and sewer charges, payments in lieu of taxes or other municipal charges with respect to such eligible building.

§ 60-05 Amount of the Tax Abatement

a. Abatement amount. The Department shall provide the childcare center tax abatement or the enhanced childcare center tax abatement to an eligible building in the amount and manner, and subject to the applicable limitations, as provided in title 6 of article 4 of the RPTL and this section, including the limitation on the aggregate amount of all childcare center tax abatements and all enhanced childcare center tax abatements in any tax year set forth in paragraph (c) of subdivision 2 of section 499-bbbbb of the RPTL.

b. In accordance with section 499-bbbbb of the RPTL, if the amount of the childcare center tax abatement or enhanced childcare center tax abatement exceeds the real property tax liability of the eligible building for any tax year during the abatement period, any amount of the abatement remaining may be applied to the real property tax liability for the eligible building for a succeeding tax year, provided the abatement must be applied in one or more of the four such succeeding tax years.

c. Any abatement that requires adjustment as a result of an allocation required by paragraph (b) of subdivision 2 of section 499-bbbbb of the RPTL shall be final and shall be reflected in the amended real property tax bill, statement of account or other similar bill or statement that is prepared.

§ 60-06 Revocation

a. A childcare center tax abatement or enhanced childcare center tax abatement provided pursuant to this chapter may be revoked in accordance with title 6 of article 4 of the RPTL or this section.

b. Revocation for ceased operations. In accordance with paragraph (a) of subdivision 1 of section 499-eeee of the RPTL, the Department shall revoke, in whole or in part, a childcare center tax abatement or enhanced childcare center tax abatement whenever the Department receives notice from DOHMH that the childcare center in the eligible building for which such abatement was approved has ceased operation as a childcare center for a period exceeding one hundred eighty (180) days during the abatement period.

c. Revocation for false or misleading statement. In accordance with paragraph (b) of subdivision 1 and subdivision 4 of section 499-eeee of the RPTL, a childcare center tax abatement or enhanced childcare center tax abatement shall be revoked, in whole or in part, whenever the Department determines that an application, certification, report or any other document submitted to the Department by the owner contains a false or misleading statement as to a material fact or omits to state any material fact necessary in order to make the statement therein not false or misleading.

d. Notice of revocation. Where an abatement is revoked pursuant to title 6 of article 4 of the RPTL or this section, the Department shall provide written notice of the revocation of the abatement to the owner of the eligible building. The written notification described in this subdivision may be in a form and manner as determined by the Commissioner, including in an electronic form.

Statement of Substantial Need for Earlier Implementation


I hereby find, pursuant to section 1043(f)(1)(d) of the New York City Charter, that there is a substantial need for the implementation of the rule regarding the childcare center tax abatement upon the publication in the City Record of its Notice of Adoption.

Title 6 of Article 4 of the Real Property Tax Law (RPTL) requires the Department of Finance to provide an abatement of real property taxes, beginning in the tax year commencing July 1, 2023, for certain buildings where improvements completed on or after April 1, 2022, result in the creation of a new childcare center or an increase in the maximum number of children allowed in an existing childcare center. RPTL section 499-cccc(1) requires that an application for the abatement be submitted to a designated agency no later than the March 15 before the tax year commencing on July 1 for which the tax abatement is sought. Accordingly, March 15, 2023, is the deadline to apply for the abatement for the tax year beginning July 1, 2023, the first tax year for which this abatement is available.

The rule requires that the application be submitted to the Department of Finance, indicating that the Department of Finance is the designated agency for such purposes. The rule further provides that the application for the first tax year the abatement is available must be submitted no later than March 15, 2023, and contains additional details and requirements with respect to the application and the abatement. For these reasons, it is imperative that these rules be adopted upon publication in the City Record of its Notice of Adoption.



Preston Niblack
Commissioner
Department of Finance

Approved: 
Eric Adams, Mayor

Date: 2/16/23