

## DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT

### **Notice of Adoption of Amended Rules Governing Tax Exemptions under Section 489 of the Real Property Tax Law**

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE Commissioner of the Department of Housing Preservation and Development by New York City Charter § 1802 and in accordance with the requirements of § 1043 of the Charter, that the Department of Housing Preservation and Development is adopting amended rules governing tax exemptions under Section 489 of the Real Property Tax Law and Section 11-243 (formerly § J-51-2.5) of the New York City Administrative Code. The required public hearing was held on December 6, 2005.

Material to be added is underlined. Material to be deleted is in [brackets].

Section one. Section 5-02 of chapter 5 of title 28 of the Rules of the City of New York is amended by adding new definitions of "Targeted Area" and "Non-targeted Area" to read as follows:

Targeted Area. "Targeted Area" means a geographic area in the city of New York in the zip code listed below that has been determined by the department of health and mental hygiene to have high rates of children with environmental intervention blood lead levels:

<u>Borough</u>	<u>Zip Code</u>	<u>Neighborhood Name</u>
<u>Bronx</u>	<u>10458</u>	<u>Belmont-Fordham-Bedford Park</u>
<u>Bronx</u>	<u>10468</u>	<u>University Heights-Kingsbridge</u>
<u>Brooklyn</u>	<u>11205</u>	<u>Fort Greene-Clinton Hill</u>
<u>Brooklyn</u>	<u>11206</u>	<u>Williamsburg-Bedford Stuyvesant</u>
<u>Brooklyn</u>	<u>11216</u>	<u>Bedford Stuyvesant</u>
<u>Brooklyn</u>	<u>11217</u>	<u>Park Slope-Boerum Hill</u>
<u>Brooklyn</u>	<u>11218</u>	<u>Kensington-Windsor Terrace</u>
<u>Brooklyn</u>	<u>11221</u>	<u>Bushwick-Bedford Stuyvesant</u>
<u>Brooklyn</u>	<u>11222</u>	<u>Greenpoint</u>
<u>Brooklyn</u>	<u>11225</u>	<u>Crown Heights-Prospect Lefferts</u>
<u>Brooklyn</u>	<u>11226</u>	<u>Flatbush</u>
<u>Brooklyn</u>	<u>11230</u>	<u>Midwood</u>
<u>Brooklyn</u>	<u>11233</u>	<u>Stuyvesant Heights-Ocean Hill</u>
<u>Brooklyn</u>	<u>11235</u>	<u>Sheepshead Bay-Brighton Beach</u>
<u>Brooklyn</u>	<u>11237</u>	<u>Bushwick</u>
<u>Brooklyn</u>	<u>11238</u>	<u>Prospect Heights</u>
<u>Manhattan</u>	<u>10026</u>	<u>South Central Harlem</u>
<u>Manhattan</u>	<u>10027</u>	<u>Manhattanville-Harlem</u>
<u>Manhattan</u>	<u>10031</u>	<u>Hamilton Heights</u>
<u>Manhattan</u>	<u>10032</u>	<u>South Washington Heights</u>
<u>Manhattan</u>	<u>10033</u>	<u>Middle Washington Heights</u>
<u>Queens</u>	<u>11102</u>	<u>Old Astoria</u>
<u>Queens</u>	<u>11385</u>	<u>Ridgewood-Glendale</u>

Non-targeted Area. "Non-targeted Area" means a geographic area in the city of New York that is not located in a Targeted Area.

§ 2. Subdivision (b) of section 5-05 of chapter 5 of title 28 of the Rules of the City of New York is amended to read as follows:

(b) Preliminary application. All applicants who intend to apply for tax exemption and tax abatement when they complete conversion, alteration or improvements must file a notice of intent form (form J-11) with the Department of Finance which describes the work for which tax benefits will be claimed, estimates the cost of the work for which tax benefits will be claimed and estimates the cost of the work which will be eligible for tax benefits. Such form must be filed not less than 45 days prior to the commencement of construction. If the scope of the work or the estimated cost changes materially, applicants must file a revised form with the Department of Finance. Applicants who fail to comply with the provisions of this subdivision (b) must pay a penalty at the time of issuance of a Certificate of Eligibility and Reasonable Cost of five hundred dollars (\$500) plus an amount equal to one percent (1%) of the amount stated on the Certificate of Eligibility and Reasonable Cost in excess of ten thousand dollars (\$10,000), provided that HPD may waive the penalty for projects receiving substantial governmental assistance. The penalty prescribed by this §5-05(b) is in addition to the normal filing fees prescribed in §5-05(f). Notwithstanding the foregoing, an applicant who performs an abatement of lead-based paint hazards shall not be required to file a notice of intent form (form J-11) with the Department of Finance prior to commencement of work, and no additional fee or penalty shall be due and owing HPD at the time of issuance of a certificate of eligibility and reasonable cost for failure to file such notice of intent.

§ 3. Items 13a and 13b of the Itemized Cost Breakdown Schedule contained in section 5-08 of chapter 5 of title 28 of the Rules of the City of New York, and accompanying footnote 5a, are hereby deleted, and Item 13 of such Itemized Cost Breakdown Schedule, and accompanying footnote 5, are hereby amended to read as follows:

Item	Units	Allowance
*(13) Abatement of lead-based paint hazards 5		[Applicable Allowance plus 10%] <u>See Itemized Cost Breakdown Schedule for Abatement of Lead-Based Paint Hazards in (h) below</u>
[ *(13a) Inspection for Lead-Based Paint Hazards	dwelling units	400.
*(13b) Risk Assessment of Lead-Based Paint Hazards 5a	dwelling units	250.]

5. For construction commenced on or after August 2, 2004, requires (a) "an abatement" of lead-based paint hazards, as defined in 40 Code of Federal Regulations part 745 or any successor regulations, in any existing dwelling, including any vacant or occupied dwelling unit or any common area, and (b) proof of lead-based paint hazards pursuant to an "inspection" and/or "risk assessment", as defined in 40 Code of Federal Regulations part 745 or any successor

regulations[, and (c) proof that the dwelling unit in which such abatement occurred is occupied by a child of applicable age, as established in accordance with §27-2056.18 of the Administrative Code]. Notwithstanding the foregoing, no such benefit shall be given for (a) any abatement performed to comply with a notice of violation issued for a violation of article fourteen of subchapter two of chapter two of title 27 of the Administrative Code, or (b) any abatement performed in a dwelling unit or in the common areas in such dwelling unless all of the lead-based paint hazards identified in such dwelling unit or in all of the common areas in such dwelling have been abated.

Furthermore, the deleading of lead-based paint hazards pursuant to a NYC Dept. of Health and Mental Hygiene order that is commenced prior to August 2, 2004 will continue to be eligible for J-51 benefits provided that there is an approved contract and sign-off. The allowance for such deleading of lead-based paint hazards will be per contract.

[5a. In order to qualify for benefits pursuant to 13a or 13b above, (a) must be "inspection" or "risk assessment" as defined in 40 Code of Federal Regulations Part 745 or any successor regulations, (b) inspection or risk assessment must have determined that lead-based paint hazards exist in such dwelling unit, (c) dwelling unit in which such inspection or risk assessment occurred must be occupied by a child of applicable age, as established in accordance with §27-2056.18 of the Administrative Code, and (d) must also have performed an "abatement" of lead-based paint hazards, as defined in 40 Code of Federal Regulations Part 745 or any successor regulations, in response to such inspection or risk assessment determination. Notwithstanding the foregoing, no such benefit shall be given for any abatement performed to comply with a notice of violation issued for a violation of article fourteen of subchapter two of chapter two of title 27 of the Administrative Code. Furthermore, such benefits for inspection or risk assessment of lead-based paint hazards shall only be given for such inspections or risk assessments commenced on or after August 2, 2004.]

§ 4. The Itemized Cost Breakdown Schedule contained in section 5-08 of chapter 5 of title 28 of the Rules of the City of New York is amended by adding the following Itemized Cost Breakdown Schedule for Abatement of Lead-Based Paint Hazards to the end thereof to read as follows:

(h) Abatement of Lead-Based Paint Hazards 5

<u>ITEM</u>	<u>Units</u>	<u>Allowance for Non-targeted Areas</u>	<u>Allowance for Targeted Areas</u>
* <u>(1) Inspection for Lead-Based Paint Hazards 20</u>	<u>d.u.</u>	<u>400.</u>	<u>400.</u>
	<u>common area 21</u>		
* <u>(2) Risk Assessment of Lead-Based Paint Hazards 20</u>	<u>d.u.</u>	<u>250.</u>	<u>250.</u>
	<u>common area 22</u>		
* <u>(3) Ceilings, lamination</u>	<u>rooms</u>	<u>320.</u>	<u>420.</u>
* <u>(4) Ceilings, common area, lamination</u>	<u>sq. ft.</u>	<u>1.80</u>	<u>2.50</u>

* <u>(5)</u>	<u>Doors (incl. frame and hardware), main entrance and lobby</u>	<u>set</u>	<u>4600.</u>	<u>5000.</u>
* <u>(6)</u>	<u>Doors (incl. frame and hardware), hollow metal</u>	<u>doors</u>	<u>550.</u>	<u>800.</u>
* <u>(7)</u>	<u>Doors (incl. frame and hardware), wood swing</u>	<u>doors</u>	<u>155.</u>	<u>350.</u>
* <u>(8)</u>	<u>Doors (incl. frame and hardware), bi-fold closet</u>	<u>bi-fold</u>	<u>125.</u>	<u>300.</u>
* <u>(9)</u>	<u>Sliding closet (2 doors, incl. frame and hardware)</u>	<u>set</u>	<u>145.</u>	<u>300.</u>
* <u>(10)</u>	<u>Flooring, finished wood</u>	<u>rooms</u>	<u>575.</u>	<u>1250.</u>
* <u>(11)</u>	<u>Flooring, resilient w/underlayment</u>	<u>rooms</u>	<u>515.</u>	<u>585.</u>
* <u>(12)</u>	<u>Partitions, gypsum board or plaster</u>	<u>rooms</u>	<u>690.</u>	<u>1170.</u>
* <u>(13)</u>	<u>Partitions, common area</u>	<u>sq. ft.</u>	<u>1.80</u>	<u>2.50</u>
* <u>(14)</u>	<u>Stairs, steel (incl. risers, pans, railings, stringers, &amp; newel posts), stripped</u>	<u>steps</u>	<u>45.</u>	<u>60.</u>
* <u>(15)</u>	<u>Window, insulating glass</u>	<u>units</u>	<u>200.</u>	<u>425.</u>
* <u>(16)</u>	<u>Window, insulating glass over 24 sf</u>	<u>sq. ft.</u>	<u>12.</u>	<u>30.</u>
* <u>(17)</u>	<u>Convectors or radiators, new</u>	<u>units</u>	<u>260.</u>	<u>275.</u>
* <u>(18)</u>	<u>Convectors or radiators, stripped</u>	<u>units</u>	<u>115.</u>	<u>150.</u>
* <u>(19)</u>	<u>Risers, stripped</u>	<u>lin. ft.</u>	<u>15.</u>	<u>20.</u>
* <u>(20)</u>	<u>Kitchen cabinets 18</u>	<u>lin. ft.</u>	<u>65.</u>	<u>75.</u>
* <u>(21)</u>	<u>Kitchen cabinets, base &amp; counter 18</u>	<u>lin. ft.</u>	<u>80.</u>	<u>105.</u>
* <u>(22)</u>	<u>Medicine cabinets (incl. mirror) 23</u>	<u>units</u>	<u>95.</u>	<u>125.</u>
* <u>(23)</u>	<u>Remove and install window sill</u>	<u>units</u>	<u>115.</u>	<u>150.</u>
* <u>(24)</u>	<u>Remove and install baseboard, wood molding</u>	<u>lin. ft.</u>	<u>2.50</u>	<u>3.50</u>
* <u>(25)</u>	<u>Remove and install closet shelf and pole</u>	<u>set</u>	<u>55.</u>	<u>75.</u>

20. In order to qualify for benefits for Inspection for Lead-Based Paint Hazards or Risk Assessment of Lead-Based Paint Hazards, (a) the inspection or risk assessment must be an "inspection" or "risk assessment" as defined in 40 Code of Federal Regulations part 745 or any successor regulations, (b) the inspection or risk assessment must have determined that lead-based paint hazards exist in such dwelling, including any vacant or occupied dwelling unit or any common area, and (c) an "abatement" of lead-based paint hazards, as defined in 40 Code of Federal Regulations part 745 or any successor regulations, must have been performed in response to such inspection or risk assessment determination. Notwithstanding the foregoing, no such benefit shall be given for the inspection or risk assessment of a dwelling unit or common area if (a) any abatement performed in a dwelling unit or common area in response to such inspection or risk assessment determination was also performed to comply with a notice of violation issued for a violation of article fourteen of subchapter two of chapter two of title 27 of the Administrative Code, or (b) all of the lead-based paint hazards identified in such dwelling unit or in all of the common areas in such dwelling by such inspection or risk assessment have

not been abated. Furthermore, such benefits for inspection or risk assessment of lead-based paint hazards shall only be given for such inspections or risk assessments commenced on or after August 2, 2004.

21. For dwellings with no more than three stories, the allowance for both non-targeted areas and targeted areas for inspection of all of the common areas in such dwelling is \$400. For dwellings with four to six stories, the allowance for both non-targeted areas and targeted areas for inspection of all of the common areas in such dwelling is \$800. For dwellings with at least seven stories, the allowance for both non-targeted areas and targeted areas for inspection of all of the common areas in such dwelling is \$1200.

22. For dwellings with no more than three stories, the allowance for both non-targeted areas and targeted areas for risk assessment of all of the common areas in such dwelling is \$250. For dwellings with four to six stories, the allowance for both non-targeted areas and targeted areas for risk assessment of all of the common areas in such dwelling is \$300. For dwellings with at least seven stories, the allowance for both non-targeted areas and targeted areas for risk assessment of all of the common areas in such dwelling is \$400.

23. Maximum of one per apartment unless the apartment has two or more bathrooms.

Statement of Basis and Purpose: The proposed rule amendments implement local law number 74 for the year 2005. Local Law No. 74 amended Section 11-243 of the New York City Administrative Code (the "J-51 Law") by extending J-51 tax benefits for the abatement of lead-based paint hazards in common areas as well as in an existing dwelling unit even if such unit is vacant, thereby also eliminating the requirement that the eligible unit be occupied by a child under the age of seven. The local law also requires HPD to establish two schedules of certified reasonable costs for items that are included in an abatement of lead-based paint hazards, one for targeted areas and one for non-targeted areas. Such schedules must be promulgated within 180 days of the effective date of Local Law 74, shall be used for any such abatements that are commenced on or after August 2, 2004, and must be reviewed biennially. Finally, Local Law 74 eliminates the notice of intent requirement for the commencement of lead-based paint abatement work as well as the additional fee or penalty imposed for failure to file such notice with the Department of Finance at least 45 days prior to the commencement of such work.

Shaun Donovan, Commissioner  
January 6, 2006.