

NEW YORK CITY'S COMMERCIAL RENT TAX FAQ

1. *Who pays the Commercial Rent Tax?*

The Commercial Rent Tax is charged to tenants who occupy a property for commercial activity in Manhattan below 96th Street (not counting the World Trade Center area) and pay over \$250,000 in annual base rent before the 35% rent reduction and other permissible reductions, such as those allowable under the Commercial Revitalization Program. Exceptions include:

- Tenants renting premises for 14 days or less during the tax years.
- Tenants using at least 75% of the floor space to rent to others for residential purposes (does not apply to hotel operators)
- Tenants using property for theatrical productions (in which case the exemption is for the first 52 weeks after the production begins)
- Tenants occupying a property that is located in the Commercial Revitalization Program abatement zone and is being used for retail sales purposes.
- Governmental bodies or nonprofit religious, charitable, or educational organizations. Other types of nonprofit organizations will also be exempt, provided the property is not used for commercial purposes, as they receive a written tax exemption from Finance.

2. *How do I calculate base rent?*

Your base rent is the annual rent paid by a tenant for a location minus the rent received or due from a subtenant. When base rent is for less than a year (or less than 3 months on a quarterly return) it must be annualized over the entire period of return. The annualized base rent is used to determine the appropriate tax rate.

3. *What other costs may be included in the base rent that I may not be aware of?*

Most commercial leases require tenants to pay additional rent attributable to increases in the real property tax on their buildings. These escalations constitute additional rent for the Commercial Rent Tax to factor into the base rent— meaning that some tenants ultimately pay the 6% CRT not on their initial base rent, but on their rent after the real property tax is factored in.

4. *How do I calculate how much is due in Commercial Rent Tax?*

To calculate how much is due in Commercial Rent Tax:

- Calculate the base rent that is subject to the tax.
- Subtract all permissible deductions, including those allowed under the Commercial Revitalization Program from the gross rent paid

- Apply the rent reduction percentage (35%)
- If the property was not rented for every month of the return, annualize the amount from Step #1 over the entire period of return. You can do this by dividing the base rent by the number of months rented, then multiplying by either 3 (quarterly return) or 12 (annual return).
- Determine the effective tax rate, 0% or 6%, using the amount from Step #1 (or the prorated partial-period rentals from Step #2) and the chart on page 2 of the return.
- Calculate the tax liability by applying the tax rate from Step #3 to the base rent amount from Step #1.

5. *Who does the Commercial Rent Tax benefit now?*

The Commercial Rent Tax generates tax dollars that go to the City of New York, and generates 1% of the city's budget – approximately \$700 million. This year, however, there is a projected budget surplus of \$2.5 billion dollars, which makes now a good time to eliminate this tax.

6. *Why was this tax created?*

The Commercial Rent Tax was first implemented in 1963 as a way for New York City to increase its tax revenue by fully capitalizing on growth in property values. The tax provides a way for New York City to tap into the full potential of its property values without infringing on the constitutionally-constrained Real Property Tax.

7. *Why is the tax no longer necessary? Shouldn't New York City still be capitalizing as much as possible on its own property values?*

There are a few reasons the Commercial Rent Tax is no longer necessary. First, it was created a time when other sources of city revenue did not exist, such as personal income tax, which generates about \$10 billion annually. Second, the CRT results in many competitive disadvantages to Manhattan's commercial businesses and tenants, as well as individual brokers and salespeople trying to lease spaces in affected areas. Third, the CRT can result in double taxation when combined with leases that count increases in real property tax as part of the tenant's base rent. Fourth, the CRT is largely seen as unfair and discriminatory, and could result in some companies taking their businesses across the river to New Jersey, where New York would no longer be benefiting from their presence at all.

8. *Why only Manhattan and Florida; Is Florida looking to do away with the tax as well?*

Florida is in a similar situation to Manhattan in that the CRT generates approximately 1% of its budget, but the tax is frequently met with criticism by officials and business owners. There have been many efforts to repeal or lessen the tax, the most recent being Senate Bill 176, sponsored by Senator Dorothy Hukill, which would have permanently reduced the tax from 6% to 5% as of January 15th, 2015.

9. *Do you have any statistics on how many businesses have been affected by the CRT (i.e. closed)? And of these businesses, how many small businesses?*

In 2013, the CRT yielded \$652 million from 6,757 tenant businesses. Small businesses with rents below \$500,000, of which there were roughly 2,600, only accounted for \$33 million of this – less than 2% of the city's total tax revenue.

Source – Manhattan Chamber of Commerce May 2016 report, “Reducing the Burden of NYC’s Commercial Rent Tax” (<http://www.manhattancc.org>)

10. *Many people are unaware of CRT and other important issues. How can I get in front this and stay up to date on REBNY’s efforts?*

For more information on this and other legislative and policy issues, please visit REBNY’s Action Network at <http://www.rebny.com/advocacy>, where you can get:

- Information about government and policy proposals that affect YOU
- Easy turn-key ways to have your voice heard and take action NOW
- Opportunities to meet elected officials and other Action Network members