



ADLER & STACHENFELD LLP

Industrial & Commercial Abatement Program (ICAP) Extended Through 2029

**Developers Have More Opportunity to Take Advantage of the
Tax Incentive for the Creation of Commercial and Industrial
Properties**

NYC TAX & INCENTIVES PRACTICE

OCTOBER 2024

On September 20, 2024, the Industrial Commercial Abatement Program (“ICAP”) was officially extended through 2029. This program is available only to commercial or industrial properties. Potential ICAP applicants now have until March 1, 2029 to apply.

What is ICAP?

ICAP provides an abatement in real property taxes for new or renovated non-residential properties in New York City. Succinctly, the ICAP benefit provides an abatement that covers much of the increase of building property taxes incurred for construction and/or renovation at the subject property. The benefit ranges in duration, and at its maximum provides 25 years of abated real property taxes. Our firm has extensive experience drafting and submitting ICAP applications and documentation with the Department of Finance and Division of Small Business Services.

Eligibility

The ICAP benefit is only available to commercial or industrial properties. It is not available to residential properties. Additionally, only certain utility property is eligible. A potential ICAP project is subject to certain geographic and usage restrictions:

- The ICAP benefit is available for commercial and industrial renovations throughout the City *except* between 59th and 96th street in Manhattan.
- New commercial construction projects are available everywhere *except* in Manhattan north of Murray, Frankfort and Dover streets, and south of 96th street.

The ICAP-eligible project must spend at least thirty percent (30%) of the property’s taxable assessed value within four (4) years from the date of the issuance of the first building permit for the ICAP project.

The ICAP construction project must be complete within five years of the date of the issuance of the first building permit. Benefits do not commence until the completion of construction.

The Application Process

ICAP consists of three crucial submissions to the Department of Finance:

1. Preliminary Application: This must be filed prior to the issuance of the first permit for the project. If work has already begun on the space that is to be subject to the ICAP, and no Preliminary Application was filed, the project will not be eligible for benefits.

2. Final Application: The ICAP Final Application includes more detail about the project and should be filed within the first anniversary of the issuance of the first permit denoting construction of the ICAP project.

3. Notice of Completion: The Notice of Completion should be filed within 120 days after the taxable status date following completion of construction. Provided the project fully complies with all ICAP requirements, DOF will then provide a Final Certificate of Completion (“FCE”). Benefits will begin thereafter, as described below.

The Benefit

ICAP benefits commence the July 1st following the taxable status date following completion, or four (4) years from the date of the first DOB construction permit for the project, whichever is earlier.

The completion of construction is determined by the earlier of a Temporary Certificate of Eligibility (“TCO”) for all eligible space, a final Certificate of Occupancy, or when DOF has “otherwise determined that construction is complete.” DOF has accepted an affidavit from the owner and architect affirming the date of completion as evidence construction is complete on a certain date.

If you have any questions regarding ICAP, please contact our NYC Tax & Incentives Team:



YUHTYNG “TYNG” PATKA

Partner & Chair

☎ 212-692-5532

✉ ypatka@adstach.com



ZACHARY NATHANSON

Associate

☎ 212-692-5537

✉ znathanson@adstach.com