

TAX SECTION

New York State Bar Association

Committees on New York State Tax Matters and
New York City Tax Matters, Report On Researching
New York State and New York City Tax Law

January 30, 1992

Table of Contents

Cover Letter: i

I.A Word About Research Materials..... 1

II.New York State 2

 A. Overview of New York State Tax Law 2

 B. Principal Sources of New York State Tax Law Authority..... 4

 C. Legislative Authority 4

 1. New York Tax Statutes 4

 2. Tax Bills 4

 3. Governor's Memoranda on Bills Approved..... 5

 4. Memoranda in support of or opposition to a particular bill (Bill
 Jacket) 5

 D. Administrative Authority: Division of Taxation 5

 1. Regulations 5

 2. Declaratory Ruling issued by the Commissioner 5

 3. Advisory Opinion issued by the Commissioner 6

 4. Opinions of Counsel 6

 5. Technical Services Bureau Memoranda..... 7

 6. Technical Services Bureau Notices of Change 8

 7. Conciliation Conference Orders..... 8

 8. State Tax Commission Decisions..... 9

 9. Other Sources 9

 10. Miscellaneous 9

 E. Administrative Authority: Division of Tax Appeals 10

 1. Tax Appeals Tribunal Decisions..... 10

 2. Administrative Law Judge Determinations 11

 3. Small Claims Hearing Determinations..... 11

 F. Judicial Authority 11

III. New York City 12

A.	Overview of New York City Tax Law.	12
B.	Primary Sources.	14
1.	Administrative Code	14
2.	Rules and Regulations	15
3.	Proposed Regulations	15
4.	Letter Rulings	16
5.	Statements of Audit Procedure.....	16
6.	Finance Information/Policy Bulletins.....	16
7.	Finance Administration Bulletins.....	17
8.	Hearings Decisions	17
9.	New York City Tax Appeals Tribunal Decisions.....	17
10.	Court Decisions	18
C.	Secondary Sources	18
1.	The Finance Quarterly Bulletin ("FQB").....	18
2.	City Record	19
3.	Matthew Bender, New York Tax Service.....	19
4.	CCH, New York Tax Reporter.....	20
5.	Prentice Hall, New York State and Local Tax Service	21
6.	New York Tax Cases [Published by W.S. Hein & Co.]	21
7.	Lexis	22
8.	Westlaw	22
	Sources for New York City Tax Authority.....	23

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January 30, 1992

Ms. Linda Prentice Cohen
Assistant Managing Editor
State Tax Department
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111 Terminal Avenue
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Dear Ms. Cohen:

Enclosed please find a brief report of the Tax Section on researching New York State and New York City tax law and authority. We thank those who reviewed and commented on drafts of this report.

It is the intention of the report to present to tax practitioners a concise description of the available sources, both primary and secondary, for New York State and City tax law, and in that regard to comment on the depth and timeliness of coverage by the commercial secondary sources. Frequently, tax practitioners experienced with federal tax law and practice find it difficult to research New York State and City tax issues. Hopefully, the enclosed report will help to facilitate such research.

We intend to update the report next year. During this year, we will be monitoring and comparing the commercial secondary sources more closely. We plan to check the speed and completeness of the reporting by the commercial services of new tax laws enacted by the State legislature or New York City Council, explanations of the law issued by the State and City tax agencies, and administrative and court decisions.

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For example, the Department of Finance of the City of New York publishes a Finance Quarterly Bulletin (FQB) that contains all New York City tax materials that have been issued in the previous quarter. We plan to use the FQB as one of the bench marks against which the commercial services can be compared and judged.

We welcome your comments on and criticism of the enclosed report and also would welcome your help and suggestions in updating this report next year.

Very truly yours,

James M. Peaslee
Chair

Enclosure

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New York State Bar Association, Tax Section,
Committees on New York State Tax Matters and
New York City Tax Matters, Report On Researching
New York State and New York City Tax Law¹

It is relatively difficult to research New York State and New York City tax issues, particularly by comparison with federal tax research. Available sources vary widely in the extent and degree of coverage. There are nonetheless sufficient sources that, in combination, can produce thorough and complete research. The hurdle for researchers is to know the sources, their availability and what can be expected from each. This short monograph is intended to help in overcoming this hurdle.

I.A Word About Research Materials²

The Commerce Clearing House New York Tax Reporter, the Prentice Hall New York State and Local Tax Service and the Matthew Bender New York Tax Service are the principal commercial guides to New York State and New York City tax law. (The sources will be referred to herein as CCH, Prentice Hall and Matthew Bender.) A researcher must be even more careful than usual not to rely entirely on these secondary sources, however, because each of them suffers to varying extents from organizational problems and from a failure to integrate recent materials quickly or

¹ This report was written by Robert Brown and Greg Gumina (New York State tax matters) and Robert Plautz (New York City tax matters), with helpful comments from Paul Comeau. John Corry. Carolyn Ichel. Robert Levinsohn, James Peaslee. Arthur Rosen. David Sachs Michael Schler and Irwin Slomka.

² The information in this report is believed current as of January 20, 1992.

sometimes at all.³ Furthermore, the effective date notations of each service have proved to be unreliable. Lexis and Westlaw both provide New York State tax materials. Westlaw provides no New York City tax material except the Administrative Code, the regulations and court decisions. Because both electronic services continuously add more sources of authority, a researcher should check to see what is currently available.

In addition to the principal services, the W.S. Hein & Co., New York Tax Cases reprints ALJ determinations and Tax Appeals Tribunal Decisions. In addition, there are several periodicals that provide analysis of developments in New York tax law, including Inside New York Taxes, New York Tax Update and the Journal of New York Taxation.

Telephone conversations with staff members of the New York State Department of Taxation and Finance and the New York City Department of Finance are often helpful in clarifying issues where research results in uncertainty. Lists of personnel appear in CCH, Prentice Hall and Matthew Bender.

II. New York State

A. Overview of New York State Tax Law

The power to tax is granted by Article XVI of the New York Constitution. Among other things, the Constitution prohibits

³ A caveat is in order concerning Matthew Bender In its "Current Developments" section, Matthew Bender does not annotate or mention decisions by the New York State Tax Appeals Tribunal that affirm administrative law judge determinations; it only annotates Tax Appeals Tribunal decisions that reverse ALJ determinations. Tax Tribunal decisions that affirm ALJ determinations are only cited when the "Main Analysis" section is rewritten, which is approximately once a year.

the levying of an excise tax solely because of the ownership or possession of intangible personal property, and provides that there may be no discrimination in the rates and methods of taxation between corporations incorporated under the laws of the United States and other corporations.

In general, tax laws that implement basic policy changes originate in Governor's Program Bills and those that significantly affect revenues originate in Budget Bills. Proposals which increase tax revenues receive much more favorable attention from the Governor and the Legislature than those which seek to make administrative changes. The Legislative Digest Sheets and the Legislative Retrieval System report any amendments that are made to bills as they wind their way through the legislative process. Both of these services can be ordered from the Legislature by calling (518) 455-7626 and (518) 455-7672, respectively.

The legislative process in New York, particularly with respect to tax and budget legislation, is tightly controlled by the Governor, the Speaker of the Assembly and the Senate Majority Leader. Final legislative negotiations are actually conducted by these individuals and their staffs, and many compromises are made in the last hours of a legislative session largely as a result of purely fiscal considerations. As a result, there is sparse legislative history to an enacted bill. There are no committee reports, to say nothing of committee staff "General Explanations." Further, although the Department's Office of Counsel prepares memoranda on tax bills as originally proposed, the enacted bills often bear little resemblance to their original form. Selected memoranda in support of or opposition to a bill, prepared by interested state agencies or private parties and

called a Bill Jacket, may be obtained by telephone order (see below).

B. Principal Sources of New York State Tax Law Authority

The Legislature, the Department and the courts are the primary sources of tax law authority. Two autonomous units of the Department are sources of tax law authority, the Division of Tax Appeals and the Division of Taxation. The Division of Tax Appeals, which was established in 1987, is responsible for the administrative review of tax disputes between taxpayers and the Department. The Appeals Division generates two sources of authority, administrative law judge ("ALJ") and Tax Appeals Tribunal opinions, both of which are discussed in more detail below.

The Division of Taxation is the State's revenue collection agency and, as such, is responsible for audits, enforcement, and collections, along with several other duties. The Division of Taxation promulgates regulations and issues interpretations of the tax law in various forms (e.g., advisory opinions, declaratory rulings, memoranda, etc.), which are discussed below.

C. Legislative Authority

1. New York Tax Statutes – Available in McKinney's Consolidated Laws of New York, CCH, Prentice Hall and Matthew Bender.

2. Tax Bills – Bills often include a brief explanation of the law enacted. Available in the Session Laws of New York,

and may be obtained by calling the Senate Document Room at (800) 342-9860.

3. Governor's Memoranda on Bills Approved – May be helpful. These are available in the Session Laws of New York.

4. Memoranda in support of or opposition to a particular bill (Bill Jacket) – May be helpful. These can be obtained by calling (800) 342-9860.

D. Administrative Authority: Division of Taxation

1. Regulations. – Regulations are the official Division of Taxation interpretation of the law. They have the force and effect of law to the extent they are not inconsistent therewith. They are reported in New York Code, Rules and Regulations, published by Lenz & Riecker, Inc., Albany, New York (NYCRR), CCH, Prentice Hall, Matthew Bender, Lexis and Westlaw. Proposed regulations may be obtained by calling the Secretary to the Commissioner at (518) 457-3292. By contrast with federal practice, many proposed regulations are finalized after a 45-day comment period. In general, regulations are not effective before adoption as final regulations.

2. Declaratory Ruling issued by the Commissioner. – Under Section 204 of the Administrative Procedure Act, the Commissioner of Taxation ("Commissioner") is authorized to promulgate declaratory rulings regarding the applicability of any tax rule, regulation or statute to any person, property or set of facts. The Division of Taxation is bound by a declaratory ruling in situations where the facts are similar to those in such ruling. 20 NYCRR §900.1(c). Declaratory Rulings are available in CCH and

Prentice Hall.

3. Advisory Opinion issued by the Commissioner. – The Commissioner must issue an Advisory Opinion when so requested by a taxpayer. 20 NYCRR §901.1(a). These opinions bind the Division of Taxation only with respect to the applicants for such opinions. 20 NYCRR §901.4. The Commissioner's authority to issue advisory opinions is delegated to the deputy director of the Technical Services Bureau of the Division of Taxation. 20 NYCRR §901.1(a). Advisory opinions are divided into six different categories based on the type of tax, which are listed below; they are also organized numerically by year. The Technical Services Bureau issued advisory opinions prior to mid-1981 as part of the "TSB-H" series, and those after mid- 1981 as part of the "TSB-A" series. To illustrate, the first advisory opinion in each category for 1980 and 1991 would be identified as follows:

	<u>1980</u>	<u>1991</u>
1. Personal Income Tax Series	TSB-H-80(1)I	TSB-A-91(1)I
2. Corporate Franchise Tax Series:	TSB-H-80(1)C	TSB-A-91(1)C
3 Sales and Use Tax Series:	TSB-H-80(1)S	TSB-A-91(1)S
4 Estate and Gift Tax Series:	TSB-H-80(1)E/G	TSB-A-91(1)E/G
5 Miscellaneous Tax Series:	TSB-H-80(1)M	TSB-A-91(1)M
6 Real Property Gains and Transfer Tax Series:	TSB-H-80(1)R	TSB-A-91(1)R

Advisory Opinions are available in CCH, Prentice Hall, Lexis and Westlaw. Matthew Bender also has some TSB-As and TSB-Hs.

4. Opinions of Counsel. – The Counsel of the Division of Taxation may from time to time, in his or her sole discretion, promulgate official opinions interpreting the applicability of the tax law or regulations to a factual situation. 20 NYCRR §900.2(a)(1). Neither the Commissioner nor the Division of Tax Appeals is bound by opinions of counsel. 20 NYCRR §900.2(c).

However, all other sub-units of the Division of Taxation must follow the opinions when faced with similar fact situations, id. These opinions are carried on Westlaw and may be obtained by contacting:

Records Access Officer
Department of Taxation and Finance, Room 200
Building 9, W.A. Harriman Campus
Albany, New York 12227
(518) 457-3818

5. Technical Services Bureau Memoranda. – The Technical Services Bureau of the Division of Taxation generally issues memoranda describing major changes and developments in the tax law and regulations. The memoranda are organized in the same manner as advisory opinions (discussed above), except that they are issued as part of the "TSB-M" series. For example, the first memorandum issued in the sales tax area for 1991 would be identified as TSB-M-91(1)S. The memoranda state audit policy only, and thus are not binding on either the Commissioner or the Division of Tax Appeals. They do, however, have persuasive value. Technical Services Bureau Memoranda are available on Lexis and Westlaw and in CCH and Prentice Hall. Selective materials are available in Matthew Bender. To be put on a mailing list to receive Technical Services Bureau Memoranda, contact:

Forms Control Unit
NYS Department of Taxation & Finance
W.A. Harriman Campus
Albany, New York 12227
Attn: Sue Conklin

6. Technical Services Bureau Notices of Change. -

Notices of Change are issued by the Technical Services Bureau to describe changes in tax law or administrative procedure when there is insufficient time to issue a regulation or Technical Services Bureau Memorandum. The notices are organized in the same manner as advisory opinions (discussed above), except that they are issued as part of the TSB-N" series. To obtain copies or be put on a mailing list contact the Technical Services Bureau in Albany.

7. Conciliation Conference Orders. - Any taxpayer who

receives a statutory notice (usually referred to as a "90-day letter") has the right to request a conciliation conference conducted by the Division of Taxation's Bureau of Conciliation and Mediation Services. Tax Law §170.3-a(a). The conciliation conference will issue an order resolving the matter at issue at the conclusion of the conference. Tax Law §170.3-a(e). The order has no precedential value and is binding on the Division of Taxation only with respect to the taxpayer and particular issue involved (i.e., a taxpayer cannot use a prior conciliation order in a subsequent conference even if it involves identical legal issues, although in such a case the prior order would likely have a persuasive effect), and only if it is not in direct conflict with the Tax Law. Tax Law §§170.3- a(e),(f); Matter of Kumax Corp.. TSB-H-86(68)S (February 18, 1986). The order is binding on the taxpayer unless he requests a hearing before the Division of Tax Appeals within 90 days of the issuance of the order. Tax Law §170.3-a(e). The Division of Taxation is not required to publish conciliation orders. Tax Law §170.3-a(f). Requests to review such documents are, however, decided on a case by case basis. Contact the Records Access Officer at the address given in the "Opinions of Counsel" section on page 6.

8. State Tax Commission Decisions. – The State Tax Commission, which was the predecessor to the Division of Tax Appeals (discussed below), provided the highest level of administrative review available to a taxpayer prior to 1988. Its decisions expressed the Department's audit policy at the time they were issued, but currently have no precedential value (although they will have a persuasive effect). State Tax Commission decisions, and any related judicial opinions, were issued as part of the "TSB-H" series (see the discussion of advisory opinions, above). They are available on Lexis and Westlaw and in CCH and Prentice Hall. Matthew Bender also has some decisions.

9. Other Sources. – The following sources of authority are not binding on the Division of Taxation, even if relied upon by a taxpayer:

1. Letters from a district tax supervisor;
2. Informal Sales Tax Bureau information letters;
3. Information from Audit Division employees;
4. Information or instructions on or concerning tax forms; and
5. Acceptance of tax payments without informing the taxpayer that taxes were due for other periods.

Even though these sources of authority are not precedential, they may often help to clarify the official interpretation of ambiguous statutory or regulatory provisions.

10. Miscellaneous. – Department publications that provide information on various specific subjects are available by

contacting the Department's Forms and Publications Hotline at (800) 462-8100.

The Audit Division's Audit Guidelines for various types of tax (e.g., corporate tax, estate tax, sales and use tax) are available under the Freedom of Information Law.

Freedom of Information Law requests can be used to obtain other useful information such as auditors' work papers and narrative audit reports and, in some cases, internal memoranda and similar materials. There is a photocopying charge of \$.25 per page. Requests should be submitted to the Records Access Officer at the address given in the "Opinions of Counsel" section on page 6.

E. Administrative Authority: Division of Tax Appeals

1. Tax Appeals Tribunal Decisions. - Tribunal decisions are the highest level of administrative review available to a taxpayer. The Tribunal has authority to invalidate regulations. 20 NYCRR §3000.11 (e)(3). All Tribunal decisions have precedential value (i.e., the Division of Taxation is bound by Tribunal decisions with respect to all taxpayers). See 20 NYCRR §3000.10(e)(2), which limits the effect only of ALJ determinations. Tribunal decisions, and any related judicial opinions, are issued as part of the "TSB-D" series (see the discussion of advisory opinions, above). Tax Appeals Tribunal Decisions are available on Lexis and Westlaw and in New York Tax Cases, CCH and Prentice Hall, or by contacting the Records Access Officer at the address given in the "Opinions of Counsel" section on page 6. Taxpayer' appeals from the Tax Appeals Tribunal are taken to the Appellate Division, Third Department. At the present time, the State cannot appeal adverse decisions.

2. Administrative Law Judge Determinations. – An ALJ hearing usually follows a Conciliation Conference at the Division of Taxation, although such conferences are optional at the taxpayer's request. ALJ decisions have no precedential value, and thus the Division of Taxation need not follow the determination with respect to other taxpayers. 20 NYCRR §3000.10(e)(2). ALJ determinations are available on Lexis and Westlaw and in New York Tax Cases, CCH and Prentice Hall, or by contacting the Records Access Officer at the address given in the "Opinions of Counsel" section on page 6. Matthew Bender carries selected ALJ determinations.

3. Small Claims Hearing Determinations. – A taxpayer may elect to attend a small claims hearing in lieu of the more formal ALJ hearing discussed above (the jurisdictional dollar limits are \$20,000 for sales and use taxes, and \$10,000 for all other taxes). 20 NYCRR §3000.9. The determinations issued at the conclusion of such hearings are not subject to review within the Division of Tax Appeals, and have no precedential value. 20 NYCRR §3000.9(h)(2). Requests to receive a copy of these determinations are decided on a case by case basis. Contact the Records Access Officer at the address given in the "Opinions of Counsel" section on page 6.

F. Judicial Authority

Judicial decisions interpreting the Tax Law will either have precedential value or a persuasive effect. Most decisions arising under the Tax Law will come from Article 78 reviews of Tax Appeals Tribunal decisions taken to the Appellate Division, Third Department. Declaratory Judgment actions may originate in the Supreme Court, however. Federal courts may occasionally

address state tax issues in the context of constitutional law or bankruptcy proceedings. Judicial decisions are available on Lexis and Westlaw, in the Federal and New York State reporters and in the New York Supplement reporter, published by West Publishing Company.

III. New York City

A. Overview of New York City Tax Law.

The City of New York does not have any independent power or authority to directly impose any tax. Under the New York State Constitution, the power to tax is exclusively reserved to the Legislature. Art. III, § 1 and Art. XVI, § 1. Taxing power cannot be exercised by any city unless granted the power through specific enabling legislation. Municipal Home Rule Law § 10; Sonmax, Inc. v. City of New York. 43 N.Y. 2d 253, 401 NYS 2d 173, 175 (1977). The enabling legislation is usually requested by the locality in the form of a home rule resolution to the legislature. However, the legislature can, without formally receiving such home rule message, directly authorize or even impose a local tax. Kessel v. Purcell. 119 Misc. 2d 449, 463 NYS 2d 384, 387 (1983); Weber v. City of New York. 18 Misc. 2d 543, 195 NYS 2d 269, 274 (1959). Conversely, there are also taxes authorized by the legislature but not imposed by the City, such as taxes on theater tickets and movies, Tax Law § 1201 (i), drycleaning services, tailoring, shoe repair and admission charges to sporting events in which the patron is to be a participant, Tax Law § 1210(h).

There are 23 taxes imposed by or for the benefit of the City of New York, including the real property tax. One of these taxes, the sales tax, is imposed directly by the State for the

benefit of the City. Tax Law § 1107. Depending on the specific tax involved, the enabling acts for the remaining taxes may be found either in the consolidated laws or unconsolidated laws. For example, the enabling legislation for the New York City personal income tax law is Article 30 of the Tax Law; for the utilities taxes it is Article 29 of the Tax Law; and for the mortgage recording tax it is § 253-a of the Tax Law. However, for the general business taxes, including the general and financial corporation taxes and the unincorporated business income tax, the enabling legislation is in the unconsolidated laws, L. 1966, Ch. 772, although McKinney's reprints this legislation in full as an appendix to the General City Law entitled "City Business Taxes", setting forth "Model Local Laws."

The enabling legislation for such taxes as cigarettes, L. 1952, Ch 235, and commercial rent, L. 1963, Ch. 257, are reprinted in McKinney's unconsolidated laws under Title 27, Chapter 6. For still other taxes such as the commercial motor vehicle tax, L. 1960, Ch. 1032, the enabling legislation can only be found in the session laws.⁴

The extent of specificity varies in the enabling legislation as to both the manner and rate of taxation. Some provide virtually every detail while others provide only the principal features of the tax. In any event, before the enabling legislation becomes law for the City of New York, it must be "enacted" into the Administrative Code of the City of New York. Title 11 is the title section of the Administrative Code where all non-property taxes imposed by the City of New York can be found. The City real property tax is generally imposed under the

⁴ Citations to the enabling legislation for each New York City tax can be found in Prentice Hall. Vol. 4. New York State and Local Tax Service. "New York City", under the specific tax or in CCH. Vol. 6. New York Tax Reporter. "New York City Taxes", under the tab "N.Y. City Special Tax Powers".

New York State Real Property Tax Law and under Title 11 of the Administrative Code.

The New York City Council generally "enacts" tax laws that have been authorized for the City in the enabling legislation, and once signed by the Mayor into law, they become part of the Administrative Code of the City of New York. However, given the legislature's supremacy over the City with respect to taxation, the City Council does little more than codify these laws into the Administrative Code (although wording changes are sometimes made). Indeed, the Administrative Code, at least with respect to taxes, is frequently amended directly by the legislature without any action by the City Council, e.g., L. 1990, Ch. 406.

Not all of the taxes imposed by or for the City of New York are administered or assessed by the City. The Department of Finance of the City of New York ("Department of Finance") does not administer the City's personal income tax, sales and use tax, nonresident earnings tax, mortgage recording tax, leaded fuel tax or beer and liquor excise tax. These taxes are administered by New York State Department of Taxation and Finance. Similarly, disputes involving these taxes are within the jurisdiction of the New York State Division of Tax Appeals (see discussion above).

B. Primary Sources.

There are ten primary sources for New York City tax law. They are available in the secondary sources as indicated:

1. Administrative Code. – Lenz & Riecker is the official publisher. Also available in Vol. 7, Commerce Clearing House, New York Tax Reporter [CCH]; Vol. 4, Prentice Hall,

NewYorkStateandLocalTaxReporter: Vol. 5, Matthew Bender,
NewYorkTaxService: and on Lexis.

2. Rules and Regulations. – Promulgated by the Department of Finance under authority of either the enabling legislation and/or the Administrative Procedure Act of the City of New York. New York City Charter § 1043, et seq. However, as noted earlier, the City personal income tax is administered by the New York State Department of Taxation and Finance and it is the State agency that formulates the regulations for the personal income tax. As also noted earlier, the sales tax is imposed by the State for the benefit of the City. Tax Law § 1107. Regulations for this tax are also formulated by the New York State Department of Taxation and Finance.

Lenz & Riecker is the official publisher of New York City tax regulations and final regulations are published in the City Record 30 days prior to their effective date. They are also available in CCH, Prentice Hall, Matthew Bender and on Lexis.

3. Proposed Regulations. – Published in the City Record with notice of a 30-day comment period, New York City Charter Ch. 45, § 1043. Interested parties can be put on a mailing list and receive actual notice of proposed regulations by making application in writing to:

Records Access Officer
Department of Finance
345 Adams Street
Brooklyn, New York

At the present time, proposed regulations are not published in any commercial service, although notice of the proposed

regulations can be found in the "Current Developments" section and monthly "Newsletter" to the Matthew Bender NewYorkTaxService.

4. Letter Rulings. – Letter rulings are opinions issued by the Deputy Commissioner for Legal Affairs setting forth the applicability of statutory and regulatory provisions to a particular tax administered by the City. Any person may request a ruling by setting forth specific facts in a request to the Office of Legal Affairs, accompanied by a \$250 fee. Letter rulings are binding on the City only with respect to the taxpayer requesting the ruling, although the policies are generally followed with respect to similarly situated taxpayers. They may be revoked or modified at any time "under appropriate circumstances," but not retroactively except in "rare or unusual cases." See Title 19, RCNY Chap. 16 for the procedure for obtaining rulings and their effect.

Letter rulings are reproduced in full in the Finance Quarterly Bulletin (infra) and are on Lexis.

5. Statements of Audit Procedure. – Statements of Audit Procedures are issued by the Audit and Enforcement Division of the Department of Finance. They set forth audit guidelines for field auditors on specific subjects. Known as "SAPs", they are cited by reference to the type of tax involved and followed by the date of issuance, e.g., "SAP/BT-2, 1/23/91."

At the present time, the only source where SAPs are available is in the Finance Quarterly Bulletin (not cumulatively indexed) (infra) and on Lexis.

6. Finance Information/Policy Bulletins. – Statements of policy on specific issues that were issued by the Department

of Finance between 1982 and 1988. All of these bulletins can be found in the chronological order in which they were issued in the Matthew Bender service. Some are also annotated in CCH and Prentice Hall services.

7. Finance Administration Bulletins. – Quarterly newsletters issued between December 1969 and November 1988 containing summaries of rulings, policy bulletins and regulations. All are published in the Matthew Bender Service but without a topical index.

8. Hearings Decisions. – Decisions by the Bureau of Hearings of the Department of Finance. At the present time, the Hearings Bureau has jurisdiction to hear and decide the business income and excise taxes administered by the City. Cited as, e.g., "FHD (315)-UBT- 3/91 (0-0-0)".

All Hearings Decisions are printed in full in the Finance Quarterly Bulletin and in New York Tax Cases {infra}, and are on Lexis. As indicated in the section on secondary sources, "some" hearing decisions are printed in full in CCH ("...about 35 to 40%...") and Prentice Hall (editors state that they print approximately "35% to 40%", but actual review indicated a lesser amount). Other Hearings Decisions are annotated in these two services. Matthew Bender does not print Hearings Decisions in full, but annotates a "majority" of them.

9. New York City Tax Appeals Tribunal Decisions. – Decisions by the New York City Tax Appeals Tribunal. At the present time, the New York City Tax Appeals Tribunal does not have jurisdiction to hear and decide appeals from the Hearings Bureau involving the business income taxes. Its only jurisdiction is to hear and decide appeals from the Hearings Bureau involving

non-property excise taxes and vault charges administered by the City. Cited as, e.g., "TAT No. 90-604." All decisions are published in the Finance Quarterly Bulletin and in New York Tax Cases, and are on Lexis.

10. Court Decisions. – Judicial review of New York City Tax Appeals Tribunal decisions and Hearings Bureau decisions that are not appealable to the City Tax Appeals Tribunal is through Article 78 proceedings brought in Supreme Court, New York County. These decisions are sometimes reported in the official reports and West's New York Supplement.

All decisions of the Appellate Division, First Department, to which many Article 78 cases are transferred or appealed, are published in the official reports and West's New York Supplement and are on Lexis and Westlaw. Prentice Hall and CCH print some, but not all, court decisions.

C. Secondary Sources

1. The Finance Quarterly Bulletin ("FQB"). – Started in January 1989, the FQB is published quarterly by the Department of Finance and contains all Letter Rulings, Hearings Decisions, Statements of Audit Procedure and New York City Tax Tribunal decisions issued during the previous quarter. Unfortunately, as of the time of this report, it does not have a cumulative topical index, but plans are being made to include a cumulative topical index in the future.

In addition, the FQB contains news items concerning the Department of Finance and synopses of recent court decisions. It also reports generally on amendments to regulations, but does not publish verbatim either the regulations or proposed regulations.

The subscription cost for the FQB is \$40 a year and can be obtained by writing to:

The Finance Quarterly Bulletin
NYC Department of Finance
One Centre Street, Room 505c
New York, N.Y. 10007

2. City Record. – The official journal of the City of New York, published daily. The City Record is the official source for giving notice of proposed regulations and announcing and publishing new regulations that have been adopted. Subscription on either paper or microfilm is available at \$400 a year from:

Citybooks
223 Municipal Building
New York, N.Y. 10007

3. Matthew Bender, New York Tax Service. Vol. 5, New York City Taxes – Provides explanatory material written by experienced practitioners for each New York City tax it covers. It publishes the entire Administrative Code and regulations related to taxes and is the only service that contains a "majority" of tax forms in exact size.

The Matthew Bender Service does not publish in full the proposed regulations, Hearings Decisions, Letter Rulings, New York City Tax Tribunal decisions or Statements of Audit Procedure. It is, however, supplemented monthly and provides in a "Current Developments" section a synopsis of a "majority" of the Hearings Decisions and "important" Letter Rulings as identified by the editors. The editors believe that most New York City tax issues involve allocation issues and that most Hearings Decisions

and Letter Rulings are repetitive and unnecessary to be reported. As part of its service to subscribers, it will fax or mail upon telephone request a copy of any authority cited in its service that is not printed in full.

Its monthly "Newsletter" and "Current Developments" section also advises of, but does not print in full, proposed regulations. The monthly "Newsletter" also advises when new regulations become effective.

It is the only service that publishes all of the old Finance Information/Policy Bulletins and Finance Administration Bulletins (since replaced in part by Statements of Audit Procedure and the Finance Quarterly Bulletin). These bulletins are not indexed topically, and are only printed in the chronological order in which they were issued by the Department of Finance.

4. CCH, New York Tax Reporter. Vols. 6 and 7, New York City Taxes – Contains explanatory material for each New York City tax, the entire Administrative Code and regulations related to taxes. The explanatory material is annotated. It is the only service containing explanatory material that prints in full many, but not all, of the Hearings Decisions and New York City Tax Tribunal decisions. It also prints selected Letter Rulings and some Finance Policy Bulletins. The editorial policy of CCH is to "report Hearings Decisions. . .on a selective basis; the selection criteria include the general interest to subscribers, the newness or novelty of the legal or factual issues raised, and the type of tax at issue. Procedural matters are not generally reported."

While CCH does not publish proposed regulations or Statements of Audit Procedure, it does, however, as part of their twice monthly "Report Letter", advise concerning proposed regulations and when new regulations have become effective.

Upon request, CCH will furnish subscribers with a copy of any available authority cited in its service that is not printed in full.

5. Prentice Hall, New York State and Local Tax Service. Vol. 4, New York City [Published by Thomson Professional Publishing, Inc.] – Contains explanatory material for each New York City tax and the complete Administrative Code and regulations related to taxes. The explanatory material is annotated and supplemented every four weeks. However, depending on what the editors regard as "important", material received from the City may or may not make it into the next supplement. Also includes a weekly newsletter that covers all 50 states.

Based on what the editors regard as "significant", the editors of Prentice-Hall have advised that they publish either in full or in annotated form between "35% to 40%" of the Hearings Decisions and Letter Rulings. Prentice Hall does not publish proposed regulations or Statements of Audit Procedure. The annotations do make reference to the former Finance Information/Policy Bulletins.

The Prentice Hall service was recently acquired by Thomson Professional Publishing (publishers of RIA and Warren, Gorham & Lamont). Substantial changes are anticipated.

6. New York Tax Cases [Published by W.S. Hein & Co.] – Publishes all Hearings Decisions and City Tax Appeals Tribunal

Decisions with a cumulative topical index, a table of the current docket and a case name table. It also publishes all procedural regulations related to the Bureau of Hearings and the New York City Tax Appeals Tribunal as well as a monthly digest that summarizes every decided case.

7. Lexis – New York City material is in the New York State file [NY;NYCTAX]. Lexis has all New York City tax material, with the exception of proposed regulations, on line. Material is put on line in full text and is not annotated or edited. Lexis advises that all tax material received from the City is on line within three weeks of receipt.

8. Westlaw – Does not have any New York City tax material on line except the Administrative Code, the Regulation and Court Decisions.

Sources for New York City Tax Authority

Primary Sources

	Admin Code	Regulations	Proposed Regulations	Court Decisions	NYC Tax Tribunal	Hearings Decisions	Letter Rulings	Finance SAP's	Finance Policy Bulletins	Admin Bulletins
FQB	NO	NO	1	2	All, In Full	All, In Full	All, In Full	All, In Full	N/A	N/A
MB	Yes	Yes	1	2	2	2	2	No	All, In Full	All, In Full
CCH	Yes	Yes	1	3	3	3	3	No	Some Annotations	Some Annotations
P-H	Yes	Yes	1	3	3	3	3	No	Some Annotations	Some Annotations
NYTC	Yes, Related to Proc.	Yes, Related to Proc.	No	No	All, in Full	All, in Full	No	No.	No	No
Lexis	Yes	Yes	No	Yes	Yes	Yes	Yes	No	No	No
Westlaw	Yes	Yes	No	Yes	No	No	No	No	No	No
City Record	No	No	Yes	No	No	No	No	No	No	No

1. Announces, but does not print in full.
2. Annotates "important" material.
3. Prints in full and annotates "selective " material

Sources for New York State Tax Authority

Primary Sources

	Statutes	Regulations	Proposed Regulations	Court Decisions	Tax Appeal Tribunal	ALJ Determinations	Advisory Opinions	Technical Service Bureau Memoranda	State Tax Commission Decisions	Declaratory Rulings	Opinions of Counsel
MB	Yes	Yes	1	2	2	2	2	2	2	No	No
CCH	Yes	Yes	1	3	3	3	3	3	3	3	No
P-H	Yes	Yes	1	3	3	3	3	3	3	3	No
NYTC	Yes	Yes	No	No	All, in Full	All, in Full	No	No	No	No	No
Lexis	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	No	No
Westlaw	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes

1. Announces, but does not print in full.
2. Annotates "important" material.
3. Prints in full and annotates "selective " material