§ 489-bbbbbb. Power to enact local law; industrial and commercial real property tax abatement. 1. Authority to enact local law. Any city having a population of one million or more, acting through its local legislative body, is authorized and empowered to determine that incentives in the form of abatement of real property taxes are necessary to encourage industrial and commercial development in such city and to enact a local law providing that such benefits shall be provided in the manner set forth in this title.

2. Amount of abatement base. (a) Calculation of abatement base. Except as provided in paragraph (e) of subdivision three of this section, the abatement base used to determine the amount of the abatement provided under this title shall be the amount by which the post-completion tax on a building or structure exceeds one hundred fifteen percent of the initial tax levied on a building or structure.

(b) Initial tax on building or structure. (i) Determination of initial tax. The initial tax shall be determined by multiplying the final taxable assessed value, without regard to any exemptions, shown on the assessment roll with a taxable status date immediately preceding the issuance of the first building permit by the initial tax rate. For purposes of this subdivision, the initial tax rate shall be the final tax rate applicable to the assessment roll with a taxable status date immediately preceding the issuance of the first building permit. If no permit was required, the initial tax and the initial tax rate shall be determined based on the assessment roll with a taxable status date immediately preceding the commencement of construction.

(ii) Effect of tax lot apportionment or merger. For a property as to which an applicant has applied for benefits pursuant to this title, if such property is apportioned or merged and such apportionment or merger is not reflected in the assessment roll described in subparagraph (i) of this paragraph, the initial tax for the newly created tax lot or lots shall be based on the initial tax of the lot or lots from which they have been created, which shall be apportioned among the newly created tax lot or lots in the manner established by the department for purposes of assessed valuation of real property.

(c) Post-completion tax on building or structure. For purposes of calculating the abatement base only, the post-completion tax is

determined by multiplying the initial tax rate by the final taxable assessed value, without regard to any exemptions, that would be shown on the assessment roll but for the abatement, on the assessment roll with a taxable status date immediately following the earlier of:

(i) completion of construction; or

(ii) four years from the date of issuance of the first building permit, or if no permit was required, the commencement of construction.

(d) (i) If the taxable assessed value is later reduced by a court order or application to the tax commission, then the initial tax or the post-completion tax shall be the tax as reduced.

(ii) The taxable assessed value used for the calculations in this subdivision shall be the lower of the actual and transitional value as provided in subdivision three of section eighteen hundred five of this chapter.

(e) Mixed-use property. For a mixed-use property, the initial tax and post-completion tax shall be apportioned between the residential and nonresidential portions. The department may promulgate rules to determine the method of apportionment.

(f) Initial taxes not to be reduced by abatement. Except as provided in paragraph (e) of subdivision three of this section, the abatement provided under this title shall not be applicable in any year of the benefit period to the initial tax or to the tax on the portion of the assessment attributable to land. Additionally, the abatement shall not result in any credit or refund of real property taxes.

3. Industrial and commercial abatements. (a) Abatement for commercial construction work. Upon approval by the department of a final application for benefits, an applicant who has performed commercial construction work outside of a special commercial abatement area, as designated pursuant to subdivision two of section four hundred eighty-nine-gggggg of this title, or a renovation area, as defined by subdivision three of section four hundred eighty-nine-gggggg of this title, shall be eligible for an abatement of real property taxes, as follows:

(i) Amount of abatement. The first year of the abatement shall be the tax year with the first taxable status date that follows the sooner of (A) completion of construction; or (B) four years from the date the

first building permit was issued, or if no permit was required, the commencement of construction. For years one through eleven, the abatement shall be the amount of the abatement base. For years twelve through fifteen, the abatement shall decrease by twenty percent each year. The following table illustrates the abatement computation:

Tax year during benefit period:	Amount of abatement:
Years 1 through 11	100% of abatement base
12	80% of abatement base
13	60% of abatement base
14	40% of abatement base
15	20% of abatement base

(ii) Minimum required expenditure. For commercial construction work, the minimum required expenditure is thirty percent of the property's taxable assessed value in the tax year with a taxable status date immediately preceding the issuance of the first building permit, or if no permit was required, the commencement of construction. Expenditures for residential construction work or construction work on portions of property to be used for restricted activities shall not be included in the minimum required expenditure.

(b) Abatement for industrial construction work or commercial construction work in special commercial abatement areas on buildings where not more than ten percent of the building or structure is used for retail purposes. Upon approval by the department of a final application for benefits, an applicant who has performed industrial construction work in any area, where not more than ten percent of the building or structure on which such work has been performed is used for retail purposes, or commercial construction work in a special commercial abatement area, as designated pursuant to subdivision two of section four hundred eighty-nine-gggggg of this title, where not more than ten percent of the building or structure on which such work has been performed is used for retail purposes, shall be eligible for an abatement of real property taxes, as follows:

(i) Amount of abatement. The first year of the abatement shall be the tax year with the first taxable status date that follows the sooner of (A) completion of construction; or (B) four years from the date the first building permit was issued, or if no permit was required, the

commencement of construction. For years one through sixteen, the abatement shall be the amount of the abatement base. The abatement shall be adjusted for inflation protection as provided in subparagraph (ii) of this paragraph. For years seventeen through twenty-five, the abatement shall decrease by ten percent each year. The following table illustrates the abatement computation:

Tax year during benefit period:	Amount of abatement:
Years 1 through 16	100% of abatement base
17	90% of abatement base
18	80% of abatement base
19	70% of abatement base
20	60% of abatement base
21	50% of abatement base
22	40% of abatement base
23	30% of abatement base
24	20% of abatement base
25	10% of abatement base

(ii) Inflation protection. (A) Industrial construction work. (I) Effect of assessed valuation increases. For years two through thirteen of the benefit period, except as provided in item (II) of this clause, if there is any increase in tax in that year that is based on an increase of taxable assessed valuation since the immediately prior tax year, such excess tax liability shall be added to the amount of the abatement base. Such addition to the amount of the abatement base shall be determined using the initial tax rate.

(II) Physical increases. Notwithstanding the provisions of item (I) of this clause, if in any of years two through thirteen of the benefit period, a physical change to the property results in an increase in the taxable assessed value of the property of more than five percent for that year, then any increase in taxes for that year shall not be added to the amount of the abatement base in any year.

(III) If the taxable assessed value upon which an adjustment to the abatement under this paragraph is based is later reduced by a court order or application to the tax commission, then the appropriate adjustment to the abatement base shall be made in accordance with the reduced taxable assessed value.

(B) Commercial construction work in special commercial abatement areas on buildings where not more than ten percent of the building or structure is used for retail purposes. (I) Effect of assessed valuation increases. For years two through thirteen of the benefit period, except as provided in item (II) of this clause, if there is any increase in tax in that year that is based on an increase of taxable assessed valuation since the immediately prior tax year that exceeds five percent, such excess tax liability shall be added to the amount of the abatement base. Such addition to the amount of the abatement base shall be determined using the initial tax rate.

(II) Physical increases. Notwithstanding the provisions of item (I) of this clause, if in any of years two through thirteen of the benefit period, a physical change to the property results in an increase in the taxable assessed value of the property of more than five percent for that year, then any increase in taxes for that year shall not be added to the amount of the abatement base in any year.

(III) If the taxable assessed value upon which an adjustment to the abatement under this paragraph is based is later reduced by a court order or application to the tax commission, then the appropriate adjustment to the abatement base shall be made in accordance with the reduced taxable assessed value.

(C) Mixed-use property. For a property as to which benefits are given for both industrial and commercial construction, the inflation protection provided under this subparagraph shall be based on the predominant use of the property as determined by the department.

(iii) Minimum required expenditure. For industrial construction work or commercial construction work in a special commercial abatement area, the minimum required expenditure is thirty percent of the property's taxable assessed value in the tax year with a taxable status date immediately preceding the issuance of the first building permit, or if no permit was required, the commencement of construction. Expenditures for residential construction work or construction work on portions of property to be used for restricted activities shall not be included in the minimum required expenditure.

(b-1) Abatement for industrial construction work on a peaking unit. Upon approval by the department of a final application for benefits, an applicant who has performed industrial construction work in any area on

a peaking unit, shall be eligible for an abatement of real property taxes, as follows:

(i) Amount of abatement. The first year of the abatement shall be the tax year with the first taxable status date that follows the sooner of (A) completion of construction; or (B) four years from the date the first building permit was issued, or if no permit was required, the commencement of construction. For years one through fifteen, the abatement shall be the amount of the abatement base. The abatement shall be adjusted for inflation protection as provided in subparagraph (ii) of this paragraph. The following table illustrates the abatement computation:

Tax year during benefit period:	Amount of abatement:
Years 1 through 15	100% of abatement base

(ii) Inflation protection. (A) Industrial construction work, effect of assessed valuation increases. For years two through thirteen of the benefit period, except as provided in clause (B) of this subparagraph, if there is any increase in tax in that year that is based on an increase of taxable assessed valuation since the immediately prior tax year, such excess tax liability shall be added to the amount of the abatement base. Such addition to the amount of the abatement base shall be determined using the initial tax rate.

(B) Physical increases. Notwithstanding the provisions of clause (A) of this subparagraph, if in any of years two through thirteen of the benefit period, a physical change to the property results in an increase in the taxable assessed value of the property of more than five percent for that year, then any increase in taxes for that year shall not be added to the amount of the abatement base in any year.

(C) If the taxable assessed value upon which an adjustment to the abatement under this paragraph is based is later reduced by a court order or application to the tax commission, then the appropriate adjustment to the abatement base shall be made in accordance with the reduced taxable assessed value.

(iii) Minimum required expenditure. For industrial construction work on a peaking unit, the minimum required expenditure is thirty percent of the property's taxable assessed value in the tax year with a taxable status date immediately preceding the issuance of the first building permit, or if no permit was required, the commencement of construction.

Expenditures for residential construction work or construction work on portions of property to be used for restricted activities shall not be included in the minimum required expenditure.

(c) Abatement for industrial construction work or commercial construction work in special commercial abatement areas on buildings where more than ten percent of the building or structure is used for retail purposes. Upon approval by the department of a final application for benefits, an applicant who has performed industrial construction work in any area, where more than ten percent of the building or structure on which such work has been performed is used for retail purposes, or commercial construction work in a special commercial abatement area, as designated pursuant to subdivision two of section four hundred eighty-nine-gggggg of this title, where more than ten percent of the building or structure on which such work has been performed is used for retail purposes, shall be eligible for an abatement of real property taxes on the non-retail portion of such building or structure and up to ten percent of such building or structure used for retail purposes, in accordance with paragraph (b) of this subdivision, and shall be eligible for an abatement of real property taxes on the remaining retail portion of such building or structure, as follows:

(i) Amount of abatement. The first year of the abatement shall be the tax year with the first taxable status date that follows the sooner of (A) completion of construction; or (B) four years from the date the first building permit was issued, or if no permit was required, the commencement of construction. For years one through eleven, the abatement shall be the amount of the abatement base. For years twelve through fifteen, the abatement shall decrease by twenty percent each year. The abatement shall be adjusted for inflation protection as provided in subparagraph (ii) of this paragraph. The following table illustrates the abatement computation:

Tax year during benefit period:	Amount of abatement:
Years 1 through 11	100% of abatement base
12	80% of abatement base
13	60% of abatement base
14	40% of abatement base

15	20% of abatement base

(ii) Inflation protection. (A) Industrial construction work. (I) Effect of assessed valuation increases. For years two through thirteen of the benefit period, except as provided in item (II) of this clause, if there is any increase in tax in that year that is based on an increase of taxable assessed valuation since the immediately prior tax year, such excess tax liability shall be added to the amount of the abatement base. Such addition to the amount of the abatement shall be determined using the initial tax rate.

(II) Physical increases. Notwithstanding the provisions of item (I) of this clause, if in any of years two through thirteen of the benefit period, a physical change to the property results in an increase in the taxable assessed value of the property of more than five percent for that year, then any increase in taxes for that year shall not be added to the amount of the abatement base in any year.

(III) If the taxable assessed value upon which an adjustment to the abatement under this paragraph is based is later reduced by a court order or application to the tax commission, then the appropriate adjustment to the abatement base shall be made in accordance with the reduced taxable assessed value.

(B) Commercial construction work in special commercial abatement areas on buildings where more than ten percent of the building or structure is used for retail purposes. (I) Effect of assessed valuation increases. For years two through thirteen of the benefit period, except as provided in item (II) of this clause, if there is any increase in tax in that year that is based on an increase of taxable assessed valuation since the immediately prior tax year that exceeds five percent, such excess tax liability shall be added to the amount of the abatement base. Such addition to the amount of the abatement base shall be determined using the initial tax rate.

(II) Physical increases. Notwithstanding the provisions of item (I) of this clause, if in any of years two through thirteen of the benefit period, a physical change to the property results in an increase in the taxable assessed value of the property of more than five percent for that year, then any increase in taxes for that year shall not be added to the amount of the abatement base in any year.

(III) If the taxable assessed value upon which an adjustment to the

abatement under this paragraph is based is later reduced by a court order or application to the tax commission, then the appropriate adjustment to the abatement base shall be made in accordance with the reduced taxable assessed value.

(C) Mixed-use property. For a property as to which benefits are given for both industrial and commercial construction, the inflation protection provided under this subparagraph shall be based on the predominant use of the property as determined by the department.

(iii) Minimum required expenditure. For industrial construction work or commercial construction work in a special commercial abatement area, the minimum required expenditure is thirty percent of the property's taxable assessed value in the tax year with a taxable status date immediately preceding the issuance of the first building permit, or if no permit was required, the commencement of construction. Expenditures for residential construction work or construction work on portions of property to be used for restricted activities shall not be included in the minimum required expenditure.

(d) Abatement for renovation construction work in renovation areas. Subject to the provisions of subparagraph (iii) of this paragraph, upon approval by the department of a final application for benefits, an applicant who has performed renovation construction work in a renovation area, as defined by subdivision three of section four hundred eighty-nine-gggggg of this title, shall be eligible for an abatement of real property taxes, as follows:

(i) Amount of abatement. For the renovation areas defined in paragraphs (a) and (b) of subdivision three of section four hundred eighty-nine-gggggg of this title, the first year of the abatement shall be the tax year with the first taxable status date that follows the sooner of (A) completion of construction; or (B) four years from the date the first building permit was issued, or if no permit was required, the commencement of construction. For years one through eight, the abatement shall be the amount of the abatement base. For years nine through twelve, the abatement shall decrease by twenty percent each year. The following table illustrates the abatement computation:

Tax year during benefit period:	Amount of abatement:
Years 1 through 8	100% of abatement base

9	80% of abatement base
10	60% of abatement base
11	40% of abatement base
12	20% of abatement base

(ii) Amount of abatement. For the renovation area defined in paragraph (c) of subdivision three of section four hundred eighty-nine-ggggggg of this title, the first year of the abatement shall be the tax year with the first taxable status date that follows the sooner of (A) completion of construction; or (B) four years from the date the first building permit was issued, or if no permit was required, the commencement of construction. For years one through five, the abatement shall be the amount of the abatement base. For years six through nine, the abatement shall decrease by twenty percent each year. In year ten, the abatement shall be twenty percent of the abatement base. The following table illustrates the abatement computation:

Tax year during benefit period:	Amount of abatement:
Years 1 through 5	100% of abatement base
6	80% of abatement base
7	60% of abatement base
8	40% of abatement base
9	20% of abatement base
10	20% of abatement base

(iii) If more than five percent of any building or structure upon which renovation construction work is performed is used for retail purposes, no abatement shall be granted for the retail portions of such building or structure in excess of five percent, but five percent of such building or structure used for retail purposes shall be eligible for an abatement of real property taxes in accordance with subparagraph (i) or subparagraph (ii) of this paragraph, as applicable; provided, however, that notwithstanding any other provision of this title, any building or structure located in the renovation area defined in paragraph (a) of subdivision three of section four hundred eighty-nine-ggggggg of this title shall be eligible for an abatement in accordance with subparagraph (i) of this paragraph regardless of the amount of the building or structure used for retail purposes.

(iv) Minimum required expenditure. For renovation construction work in

renovation areas, the minimum required expenditure is thirty percent of the property's taxable assessed value in the tax year with a taxable status date immediately preceding the issuance of the first building permit, or if no permit was required, the commencement of construction. Expenditures for construction work on portions of the property to be used for retail purposes that exceed five percent of the building or structure in renovation areas defined in paragraphs (b) and (c) of subdivision three of section four hundred eighty-nine-gggggg of this title, for residential construction work, or for construction work on portions of the property to be used for restricted activities, shall not be included in the minimum required expenditure.

(e) Additional industrial abatement. In addition to the abatement for industrial construction work provided in paragraph (b) of this subdivision, an applicant who performs industrial construction work that meets the eligibility requirements set forth in this title shall be eligible for an additional abatement, calculated as a percentage of the initial tax, as follows:

(i) Amount of abatement. The first year of the abatement shall be the tax year with the first taxable status date that follows the sooner of (A) completion of construction; or (B) four years from the date the first building permit was issued, or if no permit was required, the commencement of construction. The amount of the additional industrial abatement shall be as follows:

Tax year during benefit period:	Amount of additional abatement:
1 through 4	50% of the initial tax amount
5	40% of the initial tax amount
6	40% of the initial tax amount
7	30% of the initial tax amount
8	30% of the initial tax amount
9	20% of the initial tax amount
10	20% of the initial tax amount
11	10% of the initial tax amount
12	10% of the initial tax amount

(ii) Minimum required expenditure. For the additional industrial abatement, the minimum required expenditure is forty percent of the property's taxable assessed value in the tax year with a taxable status

date immediately preceding the issuance of the first building permit, or if no permit was required, the commencement of construction. Expenditures for residential construction work or construction work on portions of property to be used for restricted activities shall not be included in the minimum required expenditure.

(f) Abatement for commercial construction work on new construction in certain areas of the borough of Manhattan. Notwithstanding any other provision of law, upon approval by the department of a final application for benefits, an applicant who has performed commercial construction work on a new building or structure, in the geographical area as specified in subparagraph (iv) of this paragraph, shall be eligible for an abatement of real property taxes, as follows:

(i) Amount of abatement. The first year of the abatement shall be the tax year with the first taxable status date that follows the sooner of (A) completion of construction; or (B) four years from the date the first building permit was issued, or if no permit was required, the commencement of construction. For years one through four, the abatement shall be the amount of the abatement base. For years five through eight, the abatement shall decrease by twenty percent each year. The following table illustrates the abatement computation:

Tax year during benefit period:	Amount of abatement:
Years 1 through 4	100% of abatement base
5	80% of abatement base
6	60% of abatement base
7	40% of abatement base
8	20% of abatement base

(ii) Minimum required expenditure. The minimum required expenditure is thirty percent of the property's taxable assessed value in the tax year with a taxable status date immediately preceding the issuance of the first building permit, or if no permit was required, the commencement of construction. Expenditures for residential construction work or construction work on portions of property to be used for restricted activities shall not be included in the minimum required expenditure.

(iii) Special eligibility requirements. Notwithstanding any other provision of this title, no benefits shall be granted pursuant to this paragraph unless the building or structure meets the requirements of

clauses (A) and (B) of this subparagraph, and further meets at least two of the requirements set forth in clauses (C) through (G) of this subparagraph:

(A) The height of at least forty percent of the floors in such building or structure shall be not less than twelve feet, nine inches measured from the top of the slab comprising the floor to the bottom of the slab comprising the ceiling;

(B) Such building or structure shall be served by fiber-optic telecommunications wiring and shall contain vertical penetrations for the distribution of fiber optic cabling to individual tenants on each floor;

(C) The total square footage of such building or structure is not less than five hundred thousand gross square feet;

(D) A minimum of two hundred thousand gross square feet or twenty-five per centum of such building or structure is comprised of floors of not less than forty thousand gross square feet;

(E) At least ten per centum of the gross square footage of such building or structure is comprised of floors that contain no more than eight structural columns, excluding any columns within the core or on the periphery of such building or structure;

(F) The electrical capacity of such building or structure is not less than six watts per net square foot;

(G) Emergency backup power sufficient to accommodate a need of six watts per net square foot is available in at least two hundred thousand gross square feet or twenty-five per centum of such building or structure.

(iv) Geographical area. Abatements will only be granted for new construction work pursuant to this paragraph in the following geographical area: the area in the borough of Manhattan bounded by Murray Street on the north starting at the intersection of West Street and Murray Street; running easterly along the center line of Murray Street; connecting through City Hall Park with the center line of Frankfort Street and running easterly along the center line of Frankfort and Dover Streets to the intersection of Dover Street and South Street; running southerly along the center line of South Street to Peter Minuit Plaza; connecting through Peter Minuit Plaza to the center line of State Street and running northwesterly along the center line of State Street

to the intersection of State Street and Battery Place; running westerly along the center line of Battery Place to the intersection of Battery Place and West Street; and running northerly along the center line of West Street to the intersection of West Street and Murray Street, except the area in the borough of Manhattan bounded by Church Street on the east starting at the intersection of Liberty Street and Church Street; running northerly along the center line of Church Street to the intersection of Church Street and Vesey Street; running westerly along the center line of Vesey Street to the intersection of Vesey Street and West Broadway; running northerly along the center line of West Broadway to the intersection of West Broadway and Barclay Street; running westerly along the center line of Barclay Street to the intersection of Barclay Street and Washington Street; running southerly along the center line of Washington Street to the intersection of Washington Street and Vesey Street; running westerly along the center line of Vesey Street to the intersection of Vesey Street and West Street; running southerly along the center line of West Street to the intersection of West Street and Liberty Street; and running easterly along the center line of Liberty Street to the intersection of Liberty Street and Church Street.

4. Limitations on abatement. (a) Subsequent abatement. With respect to any property that has received or is receiving abatement benefits under this title, an applicant shall not file a preliminary application for new abatement benefits under this title for an additional construction project on the same portion of the property for which construction work is the subject of abatement benefits under this title until at least four years have elapsed since the first day of the first tax year of such abatement benefits under the prior abatement, and, in the event that such new benefits are granted, then notwithstanding any other provision of this title or any other law, the initial tax for any such new abatement will be determined without regard to the prior abatement and any other abatement or exemption granted to the property.

(b) Abatement benefits granted under this title shall not in any year exceed the real property taxes imposed on such property.

(c) Once an abatement is granted, no additional benefits pursuant to this title shall be granted for construction work that is substantively a part of eligible construction work for which benefits have been

approved or granted.

(d) No benefits shall be granted for residential construction work.

(e) Any parcel partly located in an excluded area shall be deemed to be entirely located in such area.

(f) Where a tax lot contains multiple structures or buildings with eligible and non-eligible uses, the initial tax shall be apportioned under rules promulgated by the commissioner and only the tax attributable to the eligible portion of the property shall be abated.

(g) (i) No benefits under this title may be received by a property that is concurrently receiving exemption or abatement of real property taxes under any other law, except for an exemption under (A) section four hundred twenty-a, four hundred twenty-b or four hundred fifty-nine-b of this chapter; or (B) any section of this chapter as to which a city that has enacted a local law pursuant to this title has also enacted a local law to implement such exemption and as to which exemption is granted only if the property is the primary or legal residence of one or more of the owners of the property, including such sections in which exemption may be granted if an owner is absent from the residence while receiving medical benefits; or (C) title two-D of this article for a separate project involving separate parts of the building or structure that was completed prior to the application for benefits.

(ii) For purposes of this paragraph, "property" means the real property contained by an individual tax lot.

(iii) Notwithstanding subparagraph (ii) of this paragraph, where a property is owned in condominium form, and an application for benefits under this title includes more than one tax lot in the same condominium, then for purposes of this paragraph, "property" shall include any or all such tax lots that are included in the application.