

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  City  Town  Village  
(Select one.)

of Briarcliff Manor

Local Law No. 2 of the year 2024

A local law A LOCAL LAW AMENDING CHAPTER 195 ENTITLED "TAXATION" IN THE CODE  
(Insert Title)  
OF THE VILLAGE OF BRIARCLIFF MANOR

Be it enacted by the Board of Trustees of the  
(Name of Legislative Body)

County  City  Town  Village  
(Select one.)

of Briarcliff Manor as follows:

SEE ATTACHED

(If additional space is needed, attach pages the same size as this sheet, and number each.)

**(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)**

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2024 of the (County)(City)(Town)(Village) of BRIARCLIFF MANOR was duly passed by the BOARD OF TRUSTEES on FEBRUARY 20 2024, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted *(Elective Chief Executive Officer\*)* on \_\_\_\_\_ 20    , in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. *(Elective Chief Executive Officer\*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

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\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph <sup>1</sup>\_\_\_\_\_ above.



\_\_\_\_\_  
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 2-27-24

(Seal)

A LOCAL LAW AMENDING CHAPTER  
195 ENTITLED "TAXATION" IN THE  
CODE OF THE VILLAGE OF  
BRIARCLIFF MANOR

Be it enacted by the Board of Trustees of the Village of Briarcliff Manor as follows:

Section 1. Chapter 195 Taxation of the Code of the Village of Briarcliff Manor, is hereby repealed in its entirety and replaced with the following:

## Chapter 195. Taxation

### Article I. Commercial Tax Exemption

[Adopted 11-9-2021 by L.L. No. 18-2021<sup>[1]</sup>]

[1]

*Editor's Note: This local law also repealed former Art. I, Commercial Tax Exemption, adopted 12-15-2020 by L.L. No. 1-2021.*

#### § 195-1. Legislative intent.

The purpose of this article is to provide for the local adoption of the real property tax exemption provided for in Subdivision 7 of § 485-b of the New York State Real Property Tax Law ("RPTL § 485-b"), consistent with the findings that delaying the full increase of assessed property value after improvements of commercial properties encourages targeted economic development and creates or retains permanent private sector jobs, and is justified by the need to provide employment opportunities and broaden the tax base within the Village of Briarcliff Manor.

#### § 195-2. Short title.

This article shall hereafter be known and cited as the "Commercial Tax Exemption Law."

#### § 195-3. Definitions.

As used in this article, words shall, unless otherwise expressly stated, be defined as set forth in RPTL § 485b.

#### § 195-4. Conditions for exemption.

The real property tax exemption percentage as set forth herein is subject to the specific conditions hereunder.

A.

The subject property must be used primarily for buying, selling, storing, or developing goods or services, for the manufacture or assembly of goods, for processing raw materials, or for hotel or motel purposes (but not for any other type of dwelling accommodations for residents or transients).

B.

Construction or improvement must begin after the later of:

(1)

July 1, 2020; and

(2)

The effective date of this article.

C.

Completion of the construction or improvement project must be demonstrated by a certificate of occupancy issued by the Village of Briarcliff Manor.

D.

The subject site must have undergone verified and substantiated expenditures of at least \$50,000 for new construction, renovations, and/or alterations.

E.

The completed property improvements must generate additional real estate tax revenues to the applicable taxing authorities.

F.

The subject site must be verified in writing by the Village of Briarcliff Manor prior to construction, renovation and/or alteration to be within the specific defined geographic boundaries for said RPTL § 485-b real property tax exemption.

G.

The RPTL § 485-b tax exemption application by the owner applicant must be in conformance with the requirements of the New York State Real Property Tax Law and be reviewed and approved by the applicable Tax Assessor.

H.

The RPTL § 485-b tax exemption application must be filed by the owner of the subject property with the applicable Assessor between January 1 and March 1 for any year where the verifiable construction, renovation and/or alteration work has progressed in the prior twelve-month period.

I.

The applicant owner must meet or otherwise be in compliance with all New York State, County of Westchester, and Village of Briarcliff Manor zoning requirements and have received all required municipal approvals.

J.

The applicant owner has not received, and will not apply for, any other real property tax exemptions for the subject site.

K.

The applicant owner has fully satisfied any outstanding tax obligations, and penalty and interest payments related thereto, for all properties within the Village of Briarcliff Manor for which he has such obligations.

## § 195-5. Calculation of exemption.

The following percentages of the increase in assessed value resulting from the construction or improvement should be applied:

<b>Year of Exemption</b>	<b>Percentage of Exemption</b>
1	50%
2	45%
3	40%
4	35%
5	30%
6	25%
7	20%
8	15%
9	10%
10	5%

## § 195-6. Qualifying properties.

Any noncommercial property shall be excluded from the property tax exemptions provided herein.

## § 195-7. Repealer.

When effective, this article repeals the former Chapter 195, Article I, Business Investment Exemption, and any of its predecessors, including local Law 5-1976, adopted December 2, 1976.

## § 195-8. When effective.

This article shall take effect immediately upon filing in the office of the Secretary of State of New York.

## Article II. Senior Citizens Exemption

[Adopted 9-18-1980; amended in its entirety 1-16-2003 by L.L. No. 1-2003]

### § 195-9. Exemption granted.

A partial exemption from taxation to the extent of 50% of the assessed valuation of real property which is owned by certain persons with limited income who are 65 years of age or older meeting the requirements set forth in § 467 of the Real Property Tax Law is hereby granted.

### § 195-10. Exemption income levels.

[Amended 5-1-2003 by L.L. No. 2-2003; 4-15-2004 by L.L. No. 4-2004; 5-17-2007 by L.L. No. 2-2007]

The exemption income levels are established as follows:

A.

For the period expiring on June 30, 2007:

<b>Annual Income</b>	<b>Percentage of Assessed Value Exempt from Taxation</b>
\$0 to \$26,000.00	50%
\$26,000.01 to \$26,999.99	45%
\$27,000.00 to \$27,999.99	40%
\$28,000.00 to \$28,999.99	35%
\$29,000.00 to \$29,899.99	30%
\$29,900.00 to \$30,799.99	25%
\$30,800.00 to \$31,699.99	20%
\$31,700.00 to \$32,599.99	15%
\$32,600.00 to \$33,499.99	10%
\$33,500.00 to \$34,399.99	5%

B.

For the period commencing on July 1, 2007, and expiring on June 30, 2008:

<b>Annual Income</b>	<b>Percentage of Assessed Value Exempt from Taxation</b>
\$0 to \$27,000.00	50%
\$27,000.01 to \$27,999.99	45%
\$28,000.00 to \$28,999.99	40%
\$29,000.00 to \$29,999.99	35%
\$30,000.00 to \$30,899.99	30%

<b>Annual Income</b>	<b>Percentage of Assessed Value Exempt from Taxation</b>
\$30,900.00 to \$31,799.99	25%
\$31,800.00 to \$32,699.99	20%
\$32,700.00 to \$33,599.99	15%
\$33,600.00 to \$34,499.99	10%
\$34,500.00 to \$35,399.99	5%

C.

For the period commencing on July 1, 2008, and expiring on June 30, 2009:

<b>Annual Income</b>	<b>Percentage of Assessed Value Exempt from Taxation</b>
\$0 to \$28,000.00	50%
\$28,000.01 to \$28,999.99	45%
\$29,000.00 to \$29,999.99	40%
\$30,000.00 to \$30,999.99	35%
\$31,000.00 to \$31,899.99	30%
\$31,900.00 to \$32,799.99	25%
\$32,800.00 to \$33,699.99	20%
\$33,700.00 to \$34,599.99	15%
\$34,600.00 to \$35,499.99	10%
\$35,500.00 to \$36,399.99	5%

D.

For the period commencing on July 1, 2009, and expiring on April 30, 2024:

<b>Annual Income</b>	<b>Percentage of Assessed Value Exempt from Taxation</b>
\$0 to \$29,000.00	50%
\$29,000.01 to \$29,999.99	45%
\$30,000.00 to \$30,999.99	40%
\$31,000.00 to \$31,999.99	35%
\$32,000.00 to \$32,899.99	30%
\$32,900.00 to \$33,799.99	25%
\$33,800.00 to \$34,699.99	20%
\$34,700.00 to \$35,599.99	15%
\$35,600.00 to \$36,499.99	10%
\$36,500.00 to \$37,399.99	5%



E.

For the period commencing on May 1, 2024:

<b>Annual Income</b>	<b>Percentage of Assessed Value Exempt from Taxation</b>
\$0 to \$50,000.00	50%
\$50,000.01 to \$50,999.99	45%
\$510,000.00 to \$51,999.99	40%
\$52,000.00 to \$52,999.99	35%
\$53,000.00 to \$53,899.99	30%
\$53,900.00 to \$54,799.99	25%
\$54,800.00 to \$55,699.99	20%
\$55,700.00 to \$56,599.99	15%
\$56,600.00 to \$57,499.99	10%
\$57,500.00 to \$58,399.99	5%

## § 195-11. Qualifications for exemption.

No exemptions shall be granted hereunder:

A.

If the income of the owner or the combined income of the owners of the property for the income tax year immediately preceding the date of making application for exemption exceeds the sum of the maximum income exemption eligibility level for the granting of partial exemption from real property taxation as provided herein. "Income tax year" shall mean the twelve-month period for which the owner or owners filed a federal personal income tax return or, if no such return is filed, the calendar year. Where title is vested in either the husband or the wife, their combined income may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings, and net income from self-employment, but shall not include a return of capital, gifts or inheritances or veteran's disability compensation, as defined in Title 38 of the United States Code, and any such income shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid for by insurance. In computing net rental income and net income from self-employment, no depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income.

B.

Unless the title of the property shall have been vested in the owner or one of the owners of the property for at least 24 consecutive months prior to the date of making application for exemption; provided, however, that, in the event of the death of either a husband or wife in whose name title of the property shall have been vested at the time of death and then becomes

vested solely in the survivor by virtue of devise or by descent from the deceased husband or wife, the time of ownership of the property by the deceased husband or wife shall be deemed also a time of ownership by the survivor and such ownership shall be deemed continuous for the purposes of computing such period of 24 consecutive months, and provided further that, in the event of a transfer by either a husband or wife to the other spouse of all or part of the title to the property, the time of ownership of the property by the transferor spouse shall be deemed also a time of ownership by the transferee spouse and such ownership shall be deemed continuous for the purposes of computing such period of 24 consecutive months, and provided further that, where property of the owner or owners has been acquired to replace property formerly owned by such owner or owners and taken by eminent domain or other involuntary proceeding, except a tax sale, the period of ownership of the former property shall be combined with the period of ownership of the property for which application is made for exemption and such periods of ownership shall be deemed to be consecutive for purposes of this section. Where a residence is sold and replaced with another within one year and is in the same assessing unit or municipality, the period of ownership of the former property shall be combined with the period of ownership of the replacement residence and deemed consecutive for exemption from taxation by each such assessing unit or municipality; provided, however, that, where the replacement property is in the same assessing unit but in another school district, the period of ownership of both properties shall also be deemed consecutive for purposes of the exemption from taxation by such school district. Notwithstanding any other provision of law, where a residence is sold and replaced with another within one year and both residences are within the state, the period of ownership of both properties shall be deemed consecutive for purposes of the exemption from taxation by a municipality within the state granting such exemption.

C.

Unless the property is used exclusively for residential purposes.

D.

Unless the real property is the legal and primary residence of, and is occupied in whole or in part by, the owner or by all of the owners of the property.

## § 195-12. Application for exemption.

Application for an exemption pursuant to this article must be filed by the owner, or by all of the owners of the property, annually in the Assessor's office on forms prescribed by the New York State Board of Real Property Services on or before the appropriate taxable status date.

## § 195-13. Cooperative apartments.

As set forth in Real Property Tax Law § 459-c, Subdivision 6, title to that portion of real property owned by a cooperative apartment corporation in which a tenant-stockholder resides and which is represented by his or her share or shares of stock in such corporation, determined by its or their proportional relationship to the total outstanding stock of the corporation, including that owned by the corporation, shall be deemed to be vested in such

tenant-stockholder. That proportion of the assessment of such real property owned by a cooperative apartment corporation, determined by the relationship of such real property vested in such tenant-stockholder to such real property owned by such cooperative apartment corporation in which such tenant-stockholder resides, shall be subject to exemption from taxation pursuant to Real Property Tax Law § 459-c, and any exemption so granted shall be credited by the appropriate taxing authority against the assessed value of such real property; the reduction in real property taxes as realized thereby shall be credited by the cooperative apartment corporation against the amount of such taxes otherwise payable by or chargeable to such tenant-stockholder.

## Article III. Veterans Exemption

[Adopted 9-19-1984 by L.L. No. 8-1984]

### § 195-14. Purpose.

The purpose of this article is to provide that no real estate tax exemption shall be granted by the Village of Briarcliff Manor by reason of § 458-a of the Real Property Tax Law.

### § 195-15. No exemption to be granted.

Pursuant to Subdivision 4 of § 458-a of the Real Property Tax Law, no exemption provided for by § 458-a of the Real Property Tax Law shall be granted with respect to real estate taxes levied by the Village of Briarcliff Manor.

## Article IV. Collection

[Adopted 8-4-1994 by L.L. No. 2-1994]

### § 195-16. Legislative purpose.

The Board of Trustees of the Village of Briarcliff Manor has determined it desirable to continue to utilize the tax enforcement provisions of Title 3, Article 14 of the Real Property Tax Law.

### § 195-17. Continuation of collection of property taxes.

Pursuant to § 6 of Chapter 602 of the Laws of 1993, as amended by a chapter of the laws of 1994, as proposed in legislative bill number S. 8560-A, the Village of Briarcliff Manor hereby acts by local law, not subject to referendum, to provide that the collection of property taxes shall continue to be enforced pursuant to Title 3 of Article 14 of the Real Property Tax Law, as is in effect on December 31, 1994.

### § 195-18. Filing of this article.

[Amended 1-16-2003 by L.L. No. 1-2003]

Upon adoption, and no later than October 1, 1994, a copy of this article shall be filed with the New York State Board of Real Property Services.

### § 195-19. Effective date.

This article shall take effect on the same day as a chapter of the laws of 1994 takes effect as proposed in legislative bill number S. 8560-A, except that if S. 8560-A shall become a law prior to adoption of this article, this article shall take effect immediately.

## Article V. Tax on Utilities

[Adopted 6-20-2002 by L.L. No. 1-2002]

### § 195-20. Imposition of tax.

Pursuant to the authority granted by § 5-530 of the Village Law of the State of New York, a tax equal to 1% of its gross income from June 1, 2002, is hereby imposed upon every utility doing business in the Village of Briarcliff Manor which is subject to the supervision of the State Department of Public Service, which has a gross income for 12 months, ending May 31, in excess of \$500, except motor carriers or brokers subject to such supervision under the Public Service Law, and a tax equal to 1% of its gross operating income is hereby imposed from June 1, 2002, upon every other utility doing business in the Village of Briarcliff Manor which has a gross operating income for 12 months, ending May 31, in excess of \$500, which taxes shall have application only within the territorial limits of the Village of Briarcliff Manor and shall be in addition to any and all other taxes and fees imposed by any other provision of law for the same period. Such taxes shall not be imposed on any transaction originating or consummated outside of the territorial limits of the Village of Briarcliff Manor, notwithstanding that some act is necessarily performed with respect to such transaction within such limits.

### § 195-21. Applicability of other laws.

All of the provision of § 186-a of the Tax Law, so far as same are or can be made applicable, shall apply to the taxes authorized by this article. Notwithstanding any other provision of this article or of § 186-a of the Tax Law, the words "gross income" shall include:

A.

In the case of a utility engaged in selling telephony or telephone services, only receipts from local exchange service wholly consummated within the Village.

B.

In the case of a utility engaged in selling telegraphy or telegraph service, only receipts from transactions wholly consummated within the Village.

### § 195-22. Records required.

Every utility subject to tax under this Article shall keep such records of its business and in such form as the Treasurer may require, and such records shall be preserved for a period of three years, except that the Treasurer may consent to their destruction within that period or may require that they be kept longer.

### § 195-23. Collection of tax.

The Village Treasurer shall collect the taxes imposed by this article.

# Article VI. Exemption For Persons with Disabilities and Limited Incomes

[Adopted 7-10-2003 by L.L. No. 5-2003]

## § 195-24. Legislative intent and authority.

Pursuant to the authority conferred by Real Property Tax Law § 459-c, the purpose of this article is to grant persons with disabilities who meet the requirements set forth in that state statute a partial residential real property tax exemption up to 50% of the assessed value.

## § 195-25. Exemption granted.

A.

Subject to all of the conditions, definitions and requirements set forth in § 459-c of the Real Property Tax Law, real property owned by one or more persons with disabilities, or real property owned by a husband, wife, or both, or by siblings, at least one of whom has a disability, and whose income is limited by reason of such disability, shall be exempt from taxation by the Village of Briarcliff Manor to the extent set forth in the schedule below:

[Amended 4-15-2004 by L.L. No. 4-2004; 5-17-2007 by L.L. No. 2-2007]

(1)

For the period expiring on June 30, 2007:

<b>Annual Income</b>	<b>Percentage of Assessed Value Exempt from Taxation</b>
\$0 to \$26,000.00	50%
\$26,000.01 to \$26,999.99	45%
\$27,000.00 to \$27,999.99	40%
\$28,000.00 to \$28,999.99	35%
\$29,000.00 to \$29,899.99	30%
\$29,900.00 to \$30,799.99	25%
\$30,800.00 to \$31,699.99	20%
\$31,700.00 to \$32,599.99	15%
\$32,600.00 to \$33,499.99	10%
\$33,500.00 to \$34,399.99	5%

(2)

For the period commencing on July 1, 2007, and expiring on June 30, 2008:

<b>Annual Income</b>	<b>Percentage of Assessed Value Exempt from Taxation</b>
\$0 to \$27,000.00	50%

<b>Annual Income</b>	<b>Percentage of Assessed Value Exempt from Taxation</b>
\$27,000.01 to \$27,999.99	45%
\$28,000.00 to \$28,999.99	40%
\$29,000.00 to \$29,999.99	35%
\$30,000.00 to \$30,899.99	30%
\$30,900.00 to \$31,799.99	25%
\$31,800.00 to \$32,699.99	20%
\$32,700.00 to \$33,599.99	15%
\$33,600.00 to \$34,499.99	10%
\$34,500.00 to \$35,399.99	5%

(3)

For the period commencing on July 1, 2008, and expiring on June 30, 2009:

<b>Annual Income</b>	<b>Percentage of Assessed Value Exempt from Taxation</b>
\$0 to \$28,000.00	50%
\$28,000.01 to \$28,999.99	45%
\$29,000.00 to \$29,999.99	40%
\$30,000.00 to \$30,999.99	35%
\$31,000.00 to \$31,899.99	30%
\$31,900.00 to \$32,799.99	25%
\$32,800.00 to \$33,699.99	20%
\$33,700.00 to \$34,599.99	15%
\$34,600.00 to \$35,499.99	10%
\$35,500.00 to \$36,399.99	5%

(4)

For the period commencing on July 1, 2009 and expiring on April 30, 2024:

<b>Annual Income</b>	<b>Percentage of Assessed Value Exempt from Taxation</b>
\$0 to \$29,000.00	50%
\$29,000.01 to \$29,999.99	45%
\$30,000.00 to \$30,999.99	40%
\$31,000.00 to \$31,999.99	35%
\$32,000.00 to \$32,899.99	30%
\$32,900.00 to \$33,799.99	25%



<b>Annual Income</b>	<b>Percentage of Assessed Value Exempt from Taxation</b>
\$33,800.00 to \$34,699.99	20%
\$34,700.00 to \$35,599.99	15%
\$35,600.00 to \$36,499.99	10%
\$36,500.00 to \$37,399.99	5%

(5)  
For the period commencing on May 1, 2024:

<b>Annual Income</b>	<b>Percentage of Assessed Value Exempt from Taxation</b>
\$0 to \$50,000.00	50%
\$50,000.01 to \$50,999.99	45%
\$51,000.00 to \$51,999.99	40%
\$52,000.00 to \$52,999.99	35%
\$53,000.00 to \$53,899.99	30%
\$53,900.00 to \$54,799.99	25%
\$54,800.00 to \$55,699.99	20%
\$55,700.00 to \$56,599.99	15%
\$56,600.00 to \$57,499.99	10%
\$57,500.00 to \$58,399.99	5%

## § 195-26. Qualifications for exemption.

No exemptions shall be granted hereunder:

A.

If the income of the owner or the combined income of the owners of the property for the income tax year immediately preceding the date of making application for exemption exceeds the sum of the maximum income exemption eligibility level for the granting of partial exemption from real property taxation as provided herein. "Income tax year" shall mean the twelve-month period for which the owner or owners filed a federal personal income tax return or, if no such return is filed, the calendar year. Where title is vested in either the husband or the wife, their combined income may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings, and net income from self-employment, but shall not include a return of capital, gifts or inheritances or veteran's disability compensation, as defined in Title 38 of the United States Code, and any such income shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid for by insurance. In computing net rental income and net income from self-employment, no

depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income.

B.

Unless the title of the property shall have been vested in the owner or one of the owners of the property for at least 24 consecutive months prior to the date of making application for exemption; provided, however, that, in the event of the death of either a husband or wife in whose name title of the property shall have been vested at the time of death and then becomes vested solely in the survivor by virtue of devise or by descent from the deceased husband or wife, the time of ownership of the property by the deceased husband or wife shall be deemed also a time of ownership by the survivor and such ownership shall be deemed continuous for the purposes of computing such period of 24 consecutive months, and provided further that, in the event of a transfer by either a husband or wife to the other spouse of all or part of the title to the property, the time of ownership of the property by the transferor spouse shall be deemed also a time of ownership by the transferee spouse and such ownership shall be deemed continuous for the purposes of computing such period of 24 consecutive months, and provided further that, where property of the owner or owners has been acquired to replace property formerly owned by such owner or owners and taken by eminent domain or other involuntary proceeding, except a tax sale, the period of ownership of the former property shall be combined with the period of ownership of the property for which application is made for exemption and such periods of ownership shall be deemed to be consecutive for purposes of this section. Where a residence is sold and replaced with another within one year and is in the same assessing unit or municipality, the period of ownership of the former property shall be combined with the period of ownership of the replacement residence and deemed consecutive for exemption from taxation by each such assessing unit or municipality; provided, however, that, where the replacement property is in the same assessing unit but in another school district, the period of ownership of both properties shall also be deemed consecutive for purposes of the exemption from taxation by such school district. Notwithstanding any other provision of law, where a residence is sold and replaced with another within one year and both residences are within the state, the period of ownership of both properties shall be deemed consecutive for purposes of the exemption from taxation by a municipality within the state granting such exemption.

C.

Unless the property is used exclusively for residential purposes.

D.

Unless the real property is the legal and primary residence of, and is occupied in whole or in part by, the owner or by all of the owners of the property.

## § 195-27. Application for exemption.

Application for an exemption pursuant to this article must be filed by the owner, or by all of the owners of the property, annually in the Assessor's office on forms prescribed by the New York State Board of Real Property Services on or before the appropriate taxable status date.

## § 195-28. Cooperative apartments.

As set forth in Real Property Tax Law § 459-c, Subdivision 6, title to that portion of real property owned by a cooperative apartment corporation in which a tenant-stockholder resides and which is represented by his or her share or shares of stock in such corporation, determined by its or their proportional relationship to the total outstanding stock of the corporation, including that owned by the corporation, shall be deemed to be vested in such tenant-stockholder. That proportion of the assessment of such real property owned by a cooperative apartment corporation, determined by the relationship of such real property vested in such tenant-stockholder to such real property owned by such cooperative apartment corporation in which such tenant-stockholder resides, shall be subject to exemption from taxation pursuant to Real Property Tax Law § 459-c, and any exemption so granted shall be credited by the appropriate taxing authority against the assessed value of such real property; the reduction in real property taxes as realized thereby shall be credited by the cooperative apartment corporation against the amount of such taxes otherwise payable by or chargeable to such tenant-stockholder.

## Article VII. Hotel Room Occupancy Tax

### § 195-29. Short title.

This article shall be known as the "Village of Briarcliff Manor Hotel Room Occupancy Tax Law."

### § 195-30. Definitions.

As used in this article, the following terms shall have the meanings indicated:

#### **HOTEL**

A building or portion of it which is regularly used and kept open for the lodging of guests. The term "hotel" includes, but is not limited to, an apartment hotel, motel, tourist home, inn, club, boarding house, and any similar place of public accommodation, whether or not meals are served.

#### **OCCUPANCY**

The use or possession, or the right to the use or possession, of any room in a hotel.

#### **OCCUPANT**

A person who, for consideration, uses, possesses, or has the right to use or possess any room in a hotel under any lease, concession, permit, right of access, license to use or other agreements, or otherwise.

#### **OPERATOR**

Any person operating a hotel in the Village of Briarcliff Manor, including but not limited to the owner or proprietor of such premises, lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such hotel.

#### **PERMANENT RESIDENT**

Any occupant of any room or rooms in a hotel for at least 30 consecutive days shall be considered a permanent resident with regard to the period of such occupancy.

#### **PERSON**

An individual, partnership, society, association, joint-stock company, corporation, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of the foregoing.

#### **RENT**

The consideration received for occupancy valued in money, whether received in money or otherwise.

#### **ROOM**

Any room or rooms of any kind in any part or portion of a hotel, which is available for or let out for any purpose other than a place of assembly.

#### **VILLAGE TREASURER**

The Village Treasurer of Village of Briarcliff Manor.

### § 195-31. Imposition of tax.

Consistent with provisions of New York State Tax Law, Chapter 60, Article 29, Part 1, Subpart A, Section 1202-HH\*3, a tax of three percent (3%) of the per diem rental rate for each room, whether such room is rented on a daily or longer basis, shall be imposed upon the rent for

every occupancy of any room within the Village of Briarcliff Manor, except that such tax shall not be imposed upon any exempt organizations as defined in § 195-33.

## § 195-32. Transactional provisions.

The tax imposed by this article shall be paid upon any occupancy on or after the first day of January 1, 2023, although such occupancy is pursuant to a prior contract, lease or other arrangement. Where rent is paid on a weekly, monthly or other term basis, the rent shall be subject to the tax imposed by this article to the extent that it covers any period on or after the first day of January 2023, and such rent shall be apportioned on the basis of the ratio of the number of days falling within said period to the total number of days covered thereby.

## § 195-33. Exempt organizations.

Except as otherwise provided in this section, any use or occupancy by any of the following shall not be subject to the tax imposed by this article:

(1)

The state of New York, or any public corporation (including a public corporation created pursuant to agreement or compact with another state or the dominion of Canada), improvement district or other political subdivision of the state;

(2)

The United States of America, insofar as it is immune from taxation; or

(3)

Any corporation or association, or trust, or community chest, fund or foundation organized and operated exclusively for religious, charitable or educational purposes, or for the prevention of cruelty to children or animals, and no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; provided, however, that nothing in this paragraph shall include an organization operated for the primary purpose of carrying on a trade or business for profit, whether or not all of its profits are payable to one or more organizations described in this paragraph.

(4)

A permanent resident of a hotel or motel. For the purposes of this section, the term "permanent resident" shall mean a natural person occupying any room or rooms in a hotel or motel for at least thirty consecutive days.

## § 195-34. Territorial limitations.

The tax imposed by this article shall apply only within the territorial limits of the Village of Briarcliff Manor.

## § 195-35. Registration; certificate of authority to collect.

A.

Within ten (10) days after the effective date of this article or, in the case of operators commencing business after such effective date, within three (3) days after such commencement or opening, every operator shall file with the Treasurer a certificate of registration on a form prescribed by the Treasurer.

B.

The Treasurer shall, within five (5) days after such registration, issue without charge to each operator a certificate of authority empowering such operator to collect the tax from the occupant and a duplicate thereof for each additional hotel of such operator. Each certificate or duplicate shall identify the hotel to which it is applicable. Such certificate of authority shall be prominently displayed by the operator in such manner that it may be seen and come to the notice of all occupants and persons seeking occupancy. Such certificate shall be nonassignable and nontransferable and shall be surrendered immediately to the Treasurer upon the cessation of business at the hotel named or upon its sale or transfer.

## § 195-36. Administration and collection.

A.

The tax imposed by this article shall be administered and collected by the Treasurer or such other Village employee as he/she may designate by such means and in such manner as are other taxes which are now collected and administered or as otherwise provided by this article.

B.

The tax to be collected shall be stated and charged separately from the rent and shown separately on any record thereof, at the time when the occupancy is arranged or contracted for and charged for, and upon every evidence of occupancy or any bill or statement of charges made for said occupancy issued or delivered by the operator, and the tax shall be paid by the occupant to the operator as trustee for and on account of the Village. The operator shall be responsible for the collection of the tax and be liable to the Village for the tax due. The operator and any officer of any corporate operator shall be personally liable for the tax collected or required to be collected under this article, and the operator shall have the same right in respect to collecting the tax from the occupant, or in respect to nonpayment of the tax by the occupant, as if the tax were part of the rent for the occupancy payable at the time such tax shall become due and owing, including all rights of eviction, dispossession, repossession and enforcement of any innkeeper's lien that he/she may have in the event of nonpayment of the rent by the occupant; provided, however, that the Treasurer or employees or agents duly designated by him/her shall be joined as a party in any action or proceeding brought by the operator to collect or enforce collection of the tax.

C.

The Treasurer may, whenever he/she deems it necessary for the proper enforcement of this article, provide by regulation that the occupant shall file returns and pay directly to the Treasurer the tax imposed at such times as returns are required to be filed and payment made over by the operator.

D.

For the purpose of the proper administration of this article and to prevent evasion of the tax hereby imposed, it shall be presumed that all rents are subject to tax until the contrary is established, and the burden of proving that a rent for occupancy is not taxable hereunder shall be upon the operator or occupant. Where an occupant claims exemption from the tax under the provisions of § **195-33** of this article, the rent shall be deemed taxable hereunder, unless

the operator shall receive from the occupant claiming such exemption a copy of a New York State sales tax exemption certificate.

E.

All of the provisions under Article 28 of the Tax Law of the State of New York relating to or applicable to the administration and collection of the taxes imposed by that article shall apply to the taxes imposed by this article, with the same force and effect as if those provisions had been incorporated in full into this article, except as otherwise provided in § 1250 of the Tax Law.

## § 195-37. Filing of returns.

A.

Every operator shall file with the Village Treasurer a return of occupancy and of rents and of the taxes payable thereon for each quarterly period ending the last day of February, May, August and November of each year. Such returns shall be filed within twenty (20) days from the final day of the period covered thereby. The Village Treasurer may permit or require returns to be made by other periods and upon such dates as she may specify. If the Village Treasurer deems it necessary in order to ensure the payment of the tax imposed by this article, she may require returns to be made for shorter periods than those prescribed pursuant to the foregoing provisions of this section and upon such dates as she may specify.

B.

The forms of return shall be prescribed by the Village Treasurer and shall contain such information as she may deem necessary for the proper administration of this article. The Village Treasurer may require amended returns to be filed within twenty (20) days after notice of any deficiency in the information required.

## § 195-38. Determination of tax; reviewability.

Any final determination of the amount of any tax payable hereunder shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under Article 78 of the Civil Practice Law and Rules if application therefor is made to the Supreme Court within thirty (30) days after giving the State of New York notice of such final determination; provided, however, that any such proceeding under Article 78 of the Civil Practice Law and Rules shall not be instituted unless:

A.

The amount of any tax sought to be reviewed, with such interest and penalties thereon as may be provided for by local laws or regulations, shall be first deposited and there shall be filed an undertaking, issued by a surety company authorized to transact business in this state and approved by the Superintendent of Insurance of this state as to solvency and responsibility, in such amount as a Justice of the Supreme Court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding; or

B.

At the option of the petitioner, such undertaking may be in a sum sufficient to cover the taxes, interests and penalties stated in such determination plus the costs and charges which may accrue against it in the prosecution of the proceeding, in which event the petitioner shall not

be required to pay such taxes, interests or penalties as a condition precedent to the application.

## § 195-39. Payment of taxes.

At the time of filing a return of occupancy and of rents, each operator shall pay to the Treasurer the taxes imposed by this article upon the rents required to be included in such return, as well as all other moneys collected by the operator acting or purporting to act under the provisions of this article; even though it be judicially determined that the tax collected is invalidly required to be filed, it shall be due from the operator and payable to the Treasurer on the date prescribed herein for the filing of the return for such period, without regard to whether a return is filed or whether the return which is filed correctly shows the amount of rents and taxes due thereon. Where the Treasurer in his/her discretion deems it necessary to protect revenues to be obtained under this article, he/she may require any operator required to collect the tax imposed by this article to file with him/her a bond, issued by a surety company authorized to transact business in this state and approved by the Superintendent of Insurance of this state as to solvency and responsibility, in such amount as the Treasurer may find to secure the payment of any tax and/or penalties and interest due or which may become due from such operator. In the event that the Treasurer determines that an operator is to file such bonds, he/she shall give notice to such operator to that effect, specifying the amount of the bond required. The operator shall file such bond within five days after the giving of such notice unless, within such five days, the operator shall request in writing a hearing before the Treasurer at which the necessity, propriety and amount of the bond shall be determined by the Treasurer. Such determination shall be final and shall be complied with within fifteen (15) days after the giving of notices thereof. In lieu of such bond, securities approved by the Treasurer or cash in such amount as he/she may prescribe may be deposited with him/her, which shall be kept in the custody of the Treasurer, who may at any time, without notice of the depositor, apply them to any tax and/or interest or penalties due, and for that purpose the securities may be sold by him/her at public or private sale without notice to the depositor thereof.

## § 195-40. Disposition of revenues.

All of the revenues resulting from the imposition of tax authorized by this article shall be paid into the treasury of the Village of Briarcliff Manor and shall be credited to and deposited in the general fund of the Village; and may thereafter be allocated at the discretion of the Briarcliff Manor Village Board for any Village purpose.

## § 195-41. Refunds.

A.

In the manner provided in this section, the Treasurer shall refund or credit, without interest, any tax penalty or interest erroneously, illegally or unconstitutionally collected or paid if application to the Treasurer for such refund shall be made within one year from the payment thereof. Whenever a refund is made by the Treasurer, he/she shall state his/her reason therefor in writing. Such application may be made by the occupant, operator or other person who has actually paid the tax. Any application made by an operator who has collected and paid over such tax to the Treasurer, must be made within one year of the collection of tax by the operator, but no actual refund of moneys shall be made to such operator until it shall first establish to the satisfaction of the Treasurer, under such regulations as the Treasurer may



prescribe, that it has repaid to the occupant, or other person who has actually paid the tax, the amount for which the application for refund is made. The Treasurer may, in lieu of any refund required to be made, allow credit therefor on payments due or to become due from the applicant.

B.

An application for a refund or credit made as herein provided shall be deemed an application for a revision of any tax, penalty or interest complained of, and the Treasurer may receive evidence with respect thereto. After making his/her determination, the Treasurer shall give notice thereof to the applicant, who shall be entitled to review such determination by a proceeding pursuant to Article 78 of the Civil Practice Law and Rules, provided that such proceeding is instituted within thirty (30) days after the giving of the notice of such determination, and provided that a final determination of tax due was not previously made. Such a proceeding shall not be instituted unless an undertaking is filed with the Treasurer in such amount and with such sureties as a Justice of the Supreme Court shall approve to the effect that, if such proceedings be dismissed or the tax confirmed, the petitioner will pay costs and charges which may accrue in the prosecution of such proceeding.

C.

Under this section a person shall not be entitled to a revision, refund or credit of a tax, interest or penalty which had been determined to be due pursuant to the provisions of § **195-41** of this article where it has had a hearing or an opportunity for a hearing, as provided in said section, or has failed to avail itself of the remedies therein provided. No refund or credit shall be made of a tax, interest or penalty paid after a determination by the Treasurer made pursuant to § **195-41** of this article unless it be found that such determination was erroneous, illegal or unconstitutional or otherwise improper by the Treasurer after a hearing or on his/her own motion or in a proceeding under Article 78 of the Civil Practice Law and Rules, pursuant to the provisions of said section, in which event refund or credit without interest shall be made of the tax, interest or penalty found to have been overpaid.

D.

The remedies provided by §§ **195-38** and **195-41** of this article shall be the exclusive remedies available to any person for the review of tax liability imposed by this article, and no determination or proposed determination of tax or determination on any application for refund shall be enjoined or reviewed by an action for declaratory judgment, an action for money had and received or by any action or proceeding other than a proceeding in a nature of a certiorari proceeding under Article 78 of the Civil Practice Law and Rules; provided, however, that a taxpayer may proceed by declaratory judgment if he/she institutes suit within thirty (30) days after a deficiency assessment is made and pays the amount of the deficiency assessment to the Treasurer prior to the institution of such suit and posts a bond for costs as provided in § **195-39** of this article.

## § 195-42. Penalties and interest.

A.

Any person failing to file a return or to pay or pay over any tax to the Treasurer within the time required by this article shall be subject to a penalty of five percent (5%) of the amount of tax due per month or any fraction of a month to a maximum of twenty-five percent (25%) for each year, plus interest at the rate of one percent (1%) of such tax for each month of delay or fraction of a month after such return was required to be filed or such tax became due; but the Treasurer, if satisfied that the delay was excusable, may remit all or any part of such penalty, but not

interest. Such net penalties and interest shall be paid and disposed of in the same manner as other revenues from this article. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this article.

B.

Any operator or occupant and any officer of an operator or occupant failing to file a return required by this article, or filing or causing to be filed or making or causing to be made or giving or causing to be given any return, certificate, affidavit, representation, information, testimony or statement required or authorized by this article which is willfully false, and any operator and any officer of a corporate operator willfully failing to file a bond required to be filed pursuant to § 195-39 of this article, or failing to file a registration certificate and such data in connection therewith as the Treasurer may by regulation or otherwise require, or failing to display or surrender the certificate of authority as required by this article or assigning or transferring such certificate of authority, and any operator or any officer of a corporate operator willfully failing to charge separately from the rent the tax herein imposed or willfully failing to state such tax separately on any evidence of occupancy and on any bill or statement or receipt of rent issued or employed by the operator or willfully failing or refusing to collect such tax from the occupant, any operator or any officer of a corporate operator who shall refer or cause reference to be made to this tax in a form or manner other than that required by this article, and any such person or operator failing to keep records required by this article shall, in addition to the penalties herein or elsewhere prescribed, be guilty of a violation, punishable by a fine of up to \$1,000. Officers of a corporate operator shall be personally liable for the tax collected or required to be collected by such corporation under this article and penalties and interest thereon and subject to the fines herein authorized.

C.

The certificate of the Treasurer to the effect that a tax has not been paid, that a return, bond or registration certificate has not been filed or that information has not been supplied pursuant to the provisions of this article shall be presumptive evidence thereof.

D.

Except in the case of a willfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the date of the filing of a return; provided, however, that where no return has been filed as provided by law, the tax may be assessed at any time.

### § 195-43. Construction and enforcement.

This article shall be construed and enforced in conformity with Articles 28 and 29 of the Tax Law of the State of New York pursuant to which the same is enacted and which are incorporated in this article by this reference.

### § 195-44. Records to be kept.

Every operator shall keep records of every occupancy and of all rent paid, charged or due thereon and of the tax payable thereon, in such form as the Village Treasurer may by regulation require. Such records shall be available for inspection and examination at any time upon demand by the Village Treasurer or his duly authorized agent or employee and shall be preserved for a period of three years, except that the Village Treasurer may consent to their destruction within that period or may require that they be kept longer.

## § 195-45. Promulgation of rules and regulations.

The Village Treasurer is hereby empowered to promulgate and amend suitable rules and regulations prescribing the necessary forms for carrying into effect the provisions of this article relating to tax on the occupancy of hotel rooms.

## § 195-46. Returns to remain confidential.

A.

It shall be unlawful, except in accordance with proper judicial order or as otherwise provided to the fullest extent permitted by law, for the Treasurer or employee or designee of the Treasurer to divulge or make known in any manner the rents or other information relating to the business of a taxpayer contained in any return required under this article. The officers charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the Treasurer in an action or proceeding under the provisions of this article or on behalf of any party to any action or proceeding under the provisions of this article when the returns or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit in evidence so much of, said returns or of the facts shown thereby as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the delivery to a taxpayer or his/her duly authorized representative of a certified copy of any return filed in connection with his/her tax nor to prohibit the publication of statistics so classified to prevent the identification of particular returns and items thereof or the inspection by the Village Attorney or other legal representatives of the Village or by the District Attorney of any county of the return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted for the collection of a tax or penalty. Returns shall be preserved for three years and thereafter until the Treasurer permits them to be destroyed.

B.

Any violation of Subsection **A** of this section shall be punishable by a fine not exceeding \$1,000, in the discretion of the court, and if the offender is an officer or employee of the Village, he/she may be, at the discretion of the Village Administrator, dismissed from office and be incapable of holding any further Village office as may be determined according to law.

## § 195-47. Notices and limitations of time.

A.

Any notice authorized or required under the provisions of this article may be given to the person to whom it is intended in a postpaid envelope addressed to such person at the address given in the last return filed by him/her pursuant to the provisions of this article or in any application made by him/her or, if no return has been filed or application made, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this article by the giving of notice shall commence five days after the date of mailing of such notice.

B.

The provisions of the Civil Practice Law and Rules or any other law relative to limitations of time for the enforcement of a civil remedy shall not apply to any proceeding or action taken by the Village to levy, appraise, assess, determine or enforce the collection of any tax or penalty provided by this article. However, except in the case of a willfully false, fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the date of filing of a return; provided, however, that in the case of a return which should have been filed and has not been filed as provided by law, the tax may be assessed at any time.

C.

Where, before expiration of the period prescribed herein for the assessment of an additional tax, a taxpayer has consented in writing that such period be extended, the amount of such additional tax due may be determined at any time within such extended period. The period so extended may be further extended by subsequent consents in writing made before the expiration of the extended period.

### § 195-48. Renewability.

This local law shall apply for a period of three (3) years ending on December 31, 2025. However, this local law shall automatically renew for the maximum period allowable under New York State law if authorized by action of the New York State legislature.

### § 195-49. Severability.

If any provision of this article, or the application thereof to any person or circumstance, is held invalid, the remainder of this article, and the application of such provision to other persons or circumstances, shall not be affected thereby.

### § 195-50. Effective date.

This article shall take effect immediately on filing with the Office of the Secretary of State of New York in accordance with the provisions of the Municipal Home Rule Law. However, any tax assessed hereunder shall apply to occupancy no earlier than the first day of the month following the date ten (10) days after the effective date here.

Section 2. Severability. The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any part of this local law which can be given effect without such valid part or parts.

Section 3. Effective Date. This local law shall take effect immediately upon filing in the Office of the Secretary of State of New York in accordance with the provisions of the Municipal Home Rule Law.