Bill de Blasio
PUBLIC ADVOCATE FOR THE CITY OF NEW YORK

# THROWING AWAY TAXPAYER DOLLARS

## A Look At The Wasteful Industrial & Commercial Abatement Program

## INTRODUCTION

New York City is wasting millions of dollars on a poorly targeted tax abatement program for businesses that don't need it, depriving the City of revenue that could be invested in education or other vital City services.

When a property owner builds or renovates space on their property, the assessed value and tax bill of the property typically increases, too. For certain types of development, the City offers a tax break under the Industrial and Commercial Abatement Program, or ICAP, to ease this increase in property taxes. This tax break seeks to do good—encourage the development of business property in places that need it to create new spaces for job creation and economic development. Unfortunately, in its current incarnation, this tax break is badly targeted: it gives away too much money to projects in Manhattan, to retail projects that displace economic activity and don't create good jobs, and to projects which would have happened even in the absence of this valuable tax break. It is time to end these taxpayer giveaways. A new analysis of data provided by the Independent Budget Office shows that (i) only 5% of the benefit goes to traditional industrial or manufacturing projects; (ii) ICAP primarily benefits retail and hotel projects, enough to support 125 average factory projects; and (iii) projects in Manhattan account for almost 20% of the subsidy.

## BACKGROUND

The Industrial and Commercial Abatement Program, or ICAP, is the most recent incarnation of a tax incentive program that offers time-limited tax abatements to developers of industrial or commercial property. Under the program, increases in property taxes due to qualified rehabs or new construction of industrial, commercial, or mixed-use structures in designated areas are abated for up to 25 years, in order, ostensibly, to spur the development of jobs-creating projects in areas of the city suffering from chronic underinvestment and in need of employment opportunities.

The previous iteration of this program, known as the Industrial and Commercial Incentive Program, or ICIP, was heavily criticized as poorly targeted and wasteful. The ICIP program offered tax breaks to projects that would have gone forward in the absence of the tax subsidy and disproportionately subsidized large Manhattan office projects and big box retail stores that do not create good jobs. A 2007 report by the NYC Economic Development Corporation found that more than 75% of the subsidized projects, receiving tax breaks worth over $2.8 billion, would have been viable even in the absence of any subsidy. A 2008 report by Manhattan Borough President Scott Stringer found that 88 percent of the Manhattan subsidy for retail was provided to chain retail stores, and that fast food restaurants and gas stations were receiving substantial subsidy in contravention of City public health goals. ICIP was retired and replaced with the ICAP program in 2008, but properties could receive ICIP benefits for projects whose construction was completed by 2013. ICIP properties will continue to receive the tax through the end of their 12-25 year benefit period. The ICAP reforms were intended to reduce the overall cost of the program, the level of benefits for retail properties, encourage industrial projects, and reduce the portion of the benefit going to projects in Manhattan.

## DATA

The Public Advocate's Office requested the City's Independent Budget Office (IBO) to calculate the fiscal impact of the ICAP and ICIP tax expenditure programs. The IBO provided data on several points, including the total tax expenditures associated with the two programs broken down by borough, data documenting the distribution of parcels receiving ICAP/ICIP and ICAP/ICIP tax expenditures by property type. This new data analysis from the IBO shows that the ICAP program still offers too many tax breaks for the wrong projects in the wrong places.

The current number of ICAP beneficiaries is modest: just 137 beneficiary properties in 2013, valued at a total of $6.7 million. This low number is widely seen as an artifact of the weak real estate market and the continued eligibility of projects in development through 2013 for the more-generous ICIP. While the portion of projects receiving the benefit in Manhattan has declined, these projects are still too expensive to taxpayers. The portion of the tax benefit going to industrial or manufacturing projects is far too low. The overwhelming majority of the value of the benefit is going to retail, commercial condos, and hotels.

**Table 1: 2013 Industrial and Commercial Abatement Program Beneficiaries by Property Type**

| Property Type | ICAP Lots | % of Lots | ICAP Tax Expenditure | % of Benefit | Average ICAP Expenditure |
|---|---|---|---|---|---|
| Hotel | 9 | 7% | $1,695,711 | 25% | $188,412 |
| Store/Mixed Use | 43 | 31% | $1,368,608 | 20% | $31,828 |
| Office Building | 15 | 11% | $703,113 | 10% | $46,874 |
| Institutional/Charitable | 5 | 4% | $701,032 | 10% | $140,206 |
| Garage | 10 | 7% | $670,981 | 10% | $67,098 |
| Commercial Condominium | 14 | 10% | $663,815 | 10% | $47,415 |
| Warehouse | 27 | 20% | $574,209 | 8% | $21,267 |
| Factory | 13 | 9% | $315,957 | 5% | $24,304 |
| Loft | 1 | 1% | $66,789 | 1% | $66,789 |
| **Total** | 137 | 100% | $6,760,215 | 1 | $634,193 |

*Source: IBO Analysis of Department of Finance Data. Property type coding based on building classification in the Department of Finance Real Property Assessment Database. Institutional/Charitable includes institutional, charitable, recreational, religious, and educational buildings.*

**Table 2: 2013 Industrial and Commercial Abatement Program Beneficiaries by Borough**

| Borough | ICAP Lots | % of Lots | ICAP Tax Expenditure | % of Benefit | Average ICAP Expenditure |
|---|---|---|---|---|---|
| Manhattan | 6 | 4% | $1,190,743 | 18% | $198,457 |
| Bronx | 22 | 16% | $1,416,055 | 21% | $64,366 |
| Brooklyn | 43 | 31% | $1,904,193 | 28% | $44,284 |
| Queens | 54 | 39% | $2,080,471 | 31% | $38,527 |
| Staten Island | 12 | 9% | $168,753 | 2% | $14,063 |
| **Citywide** | 137 | 100% | $6,760,215 | 100% | $49,345 |

*Source: IBO Analysis of Department of Finance Data*

### Too Little Subsidy for Goods Production:
**Only 5% of the Total Benefit of the ICAP Program Goes to the Development of Space for Industrial Production or Manufacturing**

A purported key purpose of the Industrial and Commercial Abatement program is to support the development of industrial space for the creation of manufacturing jobs in New York City. However, according to the IBO analysis of Department of Finance data, just 5% of the dollar value of the tax break and 9% of the projects receiving the benefit are "factories" (sites of industrial production), with an average tax benefit of just over $24,000 per property. Another 8% of the value of the tax abatement goes to the 20% of the projects classified as "warehouses."

### Too Much Money for Industries that Don't Need Subsidies:
**ICAP Primarily Subsidizes Retail Space and Hotels**

The primary beneficiary of the Industrial and Commercial Abatement Program are retail projects and hotels. It is dubious whether these uses need or deserve City subsidy at all. The hotel market is lucrative and a hot target for investment money. According to NYC & Co., over the past six years, the City has added 167 hotels, including 72 outside of Manhattan -- an increase in room capacity of 26%. What's more, retail employment tends to create lower-paying jobs than other commercial or industrial development. New retail options do little to diversify the city's economy and generally, according to the City's Economic Development Corporation, "do not create new economic activity, but rather serve to move expenditures around a neighborhood or city."[1] Nevertheless, retail space, either independently or as part of a mixed-use development, constitutes 31% of the beneficiary projects and 20% of the value of the benefit. Hotel projects constitute just 7% of the projects, but because of the high value of the property on which they are built, constitute 25% of the total value of the entire ICAP tax break.

### Too Much Money for Manhattan:
**Subsidized ICAP Manhattan Projects Account for 4% of the Lots—but Almost 20% of the Subsidy**

While the portion of the benefits of ICAP going to Manhattan properties is substantially lower than under ICIP, the portion remains troublingly high. In 2013, 30% of the value of the benefit to those properties still receiving ICIP benefits was in Manhattan, 11.3% of the total number of ICIP lots. In contrast, only 18% of the value of the ICAP benefits was in Manhattan, constituting 4% of the ICAP lots. According to the IBO, the six Manhattan ICAP projects, receiving an average tax break of nearly $200,000/year, include a standalone hotel, a theatre, two commercial condo units classified as retail, a hotel that is part of the same condo complex as the retail units, and a gas station.

### Value of Benefit for Retail and Hotel Projects Could Support 125 Average Factory Projects

In 2013, the total value of tax breaks for retail and hotel projects was just more than $3 million. This same tax benefit would have provided the average benefit for factory projects to more than 125 projects, or larger benefits to larger projects which provide good jobs in emerging industries.

[1] Testimony of David Ehrenberg, Executive Vice President of the Real Estate Transaction Division of the New York City Economic Development Corporation, before the New York City Council Committee on Economic Development, June 25, 2013. Available at http://legistar.council.nyc.gov/View.ashx?M=F&ID=2556844&GUID=D9D55612-FD0A-4D02-BEE5-A5C5C885EE1A

## RECOMMENDATION: ELIMINATE ICAP

While the total number of ICAP projects is currently low, the distribution of beneficiaries is still too tilted towards retail and non-industrial projects, and retail and gas stations in Manhattan are still receiving tax breaks. The City should not wait to act until this tax breaks balloons into a tax benefit worth hundreds of millions of dollars per year when its flaws are apparent now.

Public Advocate Bill de Blasio believes that because of these continued flaws in the distribution of benefits of the Industrial and Commercial Abatement Program, it should be eliminated.

Any replacement tax credit program should be narrowly targeted to maximize value to New York City taxpayers and meet the following criteria:

- Does not provide subsidy for projects in the central business district in Manhattan;
- Targets emerging sectors and non-retail commercial and industrial investment outside of Manhattan;
- Has a reasonable benefit period which does not deprive City of revenue beyond what is necessary to induce desired economic activity;
- Requires LEED certification or a city-certified equivalent for benefits for the construction of new buildings;
- Does not provide "inflation protection" for property in appreciating areas; and
- Requires all developments to make a showing of need, verified by an independent analyst, demonstrating that the project would not be viable absent a property tax exemption.

New York City should not continue to allow its tax base to be eroded to support projects that don't create good jobs, don't meaningfully diversify our economy, and would happen even in the absence of public subsidy.