



# This Week in State Tax (TWIST)

May 18, 2026



## New York City: ALJ finds billboard advertising not subject to City commercial rent tax

In a [recent decision](#) issued by the New York City Tax Appeals Tribunal, four Broadway production companies challenged New York City's imposition of the commercial rent tax (CRT) on payments they made to third-party billboard companies for advertising their respective Broadway shows. In New York City, the CRT is imposed on the "rent" paid by tenants for "taxable premises." The term "rent" is defined as the "consideration paid or required to be paid by a tenant for the use or occupancy of premises," and "taxable premises" as "any premises in the city occupied, used or intended to be occupied or used for the purpose of carrying on or exercising any trade, business, profession, vocation or commercial activity." An administrative rule defines "taxable premises" to include advertising signs on top or outside of buildings or otherwise unoccupied land.

As summarized by the Administrative Law Judge, the case hinged on whether the contracts between the production companies and the billboard owners were "simply about providing advertising services ... or whether these contracts granted [the taxpayers] the use of the [billboards]." The ALJ ultimately agreed with the production companies that the payments were for advertising services, not "rent" for the use or occupancy of real property. In examining the contracts, the ALJ found that the billboard companies retained possession and control of the billboard structures, selected and managed the locations, installed the copy, and handled all maintenance and operational decisions. The production companies had no physical or virtual access to the billboard space and could not independently enter or control the premises.

The ALJ distinguished these facts from prior cases cited by the Department of Finance in which the payors clearly had access to, and a degree of control over, the underlying premises (such as garages, heliports, or sports facilities). In contrast, the production companies here purchased advertising services delivered via billboards owned and controlled by the billboard companies. The production companies did not have a lease, license, or other agreement granting them use or occupy the billboard space, meaning the payments did not qualify as "rent" for CRT purposes. Accordingly, the ALJ cancelled the Notices of Determination, holding that the billboard advertising payments at issue were not subject to the New York City CRT. For additional questions on [In re The Phantom Company LP](#) or other questions on the CRT or New York City indirect tax matters, please reach out to [Judy Cheng](#) and [Jenn White](#).

Learn about us:



[kpmg.com](https://www.kpmg.com)

INTERNAL USE ONLY

© 2026 KPMG LLP, a Delaware limited liability partnership, and its subsidiaries are part of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved. USCS039001

The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.