

Amend Senate S. 1149, Assembly A. 2001, A BUDGET BILL, to amend the tax law.....

Page 2	Title	After "(O)", Insert: "; and to amend the tax law, in relation to the residential fuel oil storage tank credit under the personal income tax (P); and to amend the tax law, in relation to providing a modification for receipts from certain qualified transportation contracts under article 9-A thereof (Q) "
Page 13	Line 35	Delete: " <u>and</u> ", insert: " <u>or</u> "
	Line 35	After " <u>services</u> ", insert: " <u>or both space and business support services</u> "
Page 14	Line 19	Delete " <u>employee</u> ", insert " <u>employees</u> "
Page 16	Lines 12-13	Delete " <u>, provided that the taxpayer qualifies as a new business under subdivision (j) of section fourteen of this article</u> "
Page 21	Lines 9-10	Delete " <u>and dividing the result by the number of percentages</u> "
Page 21	Lines 20-21	Delete " <u>and dividing the result by the number of percentages</u> "
Page 21	Lines 31-32	Delete " <u>and dividing the result by the number of percentages</u> "
Page 22	Lines 37-38	Delete " <u>and dividing the result by the number of percentages</u> "
Page 22	Lines 49-50	Delete " <u>and dividing the result by the number of percentages</u> "
Page 23	Lines 5-6	Delete " <u>and dividing the result by the number of percentages</u> "
Page 23	Line 43	After first " <u>taxable</u> ", insert: " <u>income</u> "
Page 23	Line 46	After first " <u>taxable</u> ", insert: " <u>income</u> "
Page 23	Line 50	After first " <u>taxable</u> ", insert: " <u>income</u> "
Page 23	Line 53	After first " <u>ble</u> ", insert: " <u>income</u> "
Page 58,	Before line 22,	insert:

"§ 3-a. Paragraph (1) of subsection (h) of section 1452 of the tax law, as added by chapter 63 of the laws of 2000, is amended to read as follows:

(1) Notwithstanding anything to the contrary contained in this section, a corporation that was in existence before January first, two thousand and was subject to tax under article nine-A of this chapter for its last taxable year beginning before January first, two thousand, shall continue to be taxable under article nine-A for all taxable years beginning on or after January first, two thousand and before January first, two thousand one. The preceding sentence shall not apply to any taxable year during which such corporation is a banking corporation described in paragraphs one through eight of subsection (a) of this section. Notwithstanding anything to the contrary contained in this section, a banking corporation that was in existence before January first, two thousand and was subject to tax under this article for its last taxable year beginning before January first, two thousand, shall continue to be taxable under this article for all taxable years beginning on or after January first, two thousand and before January first, two thousand one. Provided, however, that nothing in this subsection shall prohibit a corporation that elected pursuant to subsection (d) of this section to be taxable under article nine-A of this chapter from revoking that election in accordance with such subsection (d).

For purposes of this paragraph, a corporation shall be considered to be subject to tax under article nine-A of this chapter for a taxable year if such corporation was not a taxpayer but was properly included in a combined report filed pursuant to section two hundred eleven of this chapter for such taxable year and a corporation shall be considered to be subject to tax under this article for a taxable year if such corporation was not a taxpayer but was properly included in a combined return filed pursuant to subsection (f) or (g) of section fourteen hundred sixty-two of this article for such taxable year. A corporation that was in existence before January first, two thousand but first becomes a taxpayer in a taxable year beginning on or after January first, two thousand and before January first, two thousand one, shall be considered for purposes of this paragraph to have been subject to tax under article nine-A of this chapter for its last taxable year beginning before January first, two thousand if such corporation would have been subject to tax under such article for such taxable year if it had been a taxpayer during such taxable year. A corporation that was in existence before January first, two thousand but first becomes a taxpayer in a taxable year beginning on or after January first, two thousand and before January first, two thousand one, shall be considered for purposes of this paragraph to have been subject to tax under this article for its last taxable year beginning before January first, two thousand if such corporation would have been subject to tax under this article for such taxable year if it had been a taxpayer during such taxable year."

Page 58,

Line 41

After "two.", insert "Provided, however, that nothing in this subsection shall prohibit a corporation that elected pursuant to subsection (d) of this section to be taxable under article nine-A of this chapter from revoking that election in accordance with such subsection (d)."

Page 60,

Before line 28, insert:

"§ 5-a. Paragraph 1 of subdivision (g) of section 11-640 of the administrative code of the city of New York, as added by chapter 63 of the laws of 2000, is amended to read as follows:

(1) Notwithstanding anything to the contrary contained in this section, a corporation that was in existence before January first, two thousand and was subject to tax under subchapter two of this chapter for its last taxable year beginning before January first, two thousand, shall continue to be taxable under subchapter two for all taxable years beginning on or after January first, two thousand and before January first, two thousand one. The preceding sentence shall not apply to any taxable year during which such corporation is a banking corporation described in paragraphs one through eight of subdivision (a) of this section. Notwithstanding anything to the contrary contained in this section, a banking corporation that was in existence before January first, two thousand and was subject to tax under this subchapter for its last taxable year beginning before January first, two thousand, shall continue to be taxable under this subchapter for all taxable years beginning on or after January first, two thousand and before January first, two thousand one. Provided, however, that nothing in this subdivision shall prohibit a corporation that elected pursuant to subdivision (d) of this section to be taxable under subchapter two of this chapter from revoking that election in accordance with such subdivision (d).

For purposes of this paragraph, a corporation shall be considered to be subject to tax under subchapter two of this chapter for a taxable year if such corporation was not a taxpayer but was properly included in a combined report filed pursuant to subdivision four of section 11-605 of this chapter for such taxable year and a corporation shall be considered to be subject to tax under this subchapter for a taxable year if such corporation was not a taxpayer but was properly included in a combined report filed pursuant to subdivision (f) or (g) of section 11-646 of this chapter for such taxable year. A corporation that was in existence before January first, two thousand but first becomes a taxpayer in a taxable year beginning on or after January first, two thousand and before January first, two thousand one, shall be considered for purposes of this paragraph to have been subject to tax under subchapter two of this chapter for its last taxable year beginning before January first, two thousand if such corporation would have been subject to tax under such subchapter for such taxable year if it had been a taxpayer during such taxable year. A corporation that was in existence before January first, two thousand but first becomes a taxpayer in a taxable year beginning on or after January first, two thousand and before January first, two thousand one, shall be considered for purposes of this paragraph to have been subject to tax under this subchapter for its last taxable year beginning before January first, two thousand if such corporation would have been subject to tax under this subchapter for such taxable year if it had been a taxpayer during such taxable year."

Page 60,

Line 47

After "two.", insert "Provided, however, that nothing in this subdivision shall prohibit a corporation that elected pursuant to subdivision (d) of this section to be taxable under subchapter two of this chapter from revoking that election in accordance with such subdivision (d)."

Page 68, After line 54, insert:

"Part P

Section 1. Subsection (p-1) of section 606 of the tax law, as added by section 1 of part n of chapter 63 of the laws of 2000, is amended to read as follows:

(p-1) Residential fuel oil storage tank credit. (1) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this article for the removal[,] or permanent closure [or] and installation of a below-ground or above-ground residential fuel oil storage tank used to provide heating fuel for single to four-family residences located in this state.

(2) Amount of credit. The amount of the credit shall be equal to [the sum of:

(A)] the costs of removal or permanent closure [during the taxable year] of an existing unprotected below-ground or above-ground residential fuel oil tank[, not to exceed two hundred fifty dollars;

(B) the costs of permanently closing during the taxable year an existing unprotected below-ground or above-ground residential fuel oil tank, not to exceed two hundred fifty dollars; and

(C)] and the purchase and installation costs of a new below-ground or above-ground residential fuel oil storage tank which is installed during the taxable year, [and] where such new tank is used in place of such [a] formerly used unprotected below-ground or above-ground residential fuel oil tank [and provided that such unprotected tank] which was removed or permanently closed during the taxable year or the immediately preceding taxable year, not to exceed [two] five hundred [fifty] dollars.

(3) Limitation. [The costs described in subparagraphs (A), (B) and (C) of paragraph two of this subsection with respect to a particular residence may be used only once in computing a] A credit allowed under this subsection may be allowed only once with respect to a particular residence.

(4) Carryover. If the amount of the credit allowable under this subsection exceeds the taxpayer's tax for any taxable year, the excess may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

§ 2. This act shall take effect immediately; provided, however, that the amendments made to subsection (p-1) of section 606 of the tax law by section 1 of this act shall apply to taxable years beginning in 2002 and 2003; and, provided further that subsection (p-1) of section 606 of the tax law, as added by part n of chapter 63 of the laws of 2000 and amended by section 1 of this act, shall expire and be deemed repealed January 1, 2004."

Page 68, After line 54, insert:

"Part Q

Section 1. Paragraph (a) of subdivision 9 of section 208 of the tax law is

amended by adding a new subparagraph 15 to read as follows:

(15) The amount deductible pursuant to paragraph (n) of this subdivision.

§2. Subdivision 9 of section 208 of the tax law is amended by adding a new paragraph (n) to read as follows:

(n) Qualified gas transportation contracts.

(a) A taxpayer shall be allowed a deduction for taxable years commencing on or after January first, two thousand, computed as hereinafter provided, if all of the following conditions are met:

(1) For periods ending prior to January first, two thousand, the taxpayer paid the franchise tax due under section one hundred eighty-four of this chapter.

(2) For the taxable year, all of the receipts from the pipeline transportation of natural gas attributable to the taxpayer and included in the taxpayer's entire net income (without regard to this paragraph) are solely from the transportation of natural gas for wholesale customers and commercial retail customers.

(3) The taxpayer's franchise tax liability under this article for the taxable year (computed without regard to this paragraph) is determined under paragraph (a) of subdivision one of section two hundred ten of this article, and such tax liability (without regard to this paragraph) is greater than the liability the taxpayer would have incurred under sections one hundred-eighty-three and one hundred-eighty-four of this chapter (as such sections existed on December thirty-first, nineteen ninety-nine) based on the same taxable period.

(4) The taxpayer is a party to a "qualified gas transportation contract," as defined herein.

(b) The deduction shall be allowed only for the taxable years during which such qualified gas transportation contract is in full force and effect. The amount of the deduction shall be the receipts of the taxpayer less any expenses of the taxpayer (but not less than zero), during the taxable year, to the extent included in entire net income (computed without regard to this paragraph), which are attributable to any such qualified gas transportation contracts. Provided, further, in any event, the modification hereunder shall expire and be of no further force and effect for taxable years commencing on or after January first, two thousand fifteen.

(c) The term "qualified gas transportation contract" shall mean a service agreement for the transportation of natural gas for an end-user which is a qualified cogeneration facility with a rated capacity of one thousand megawatts or more, which (i) was entered into before January first, two thousand, and was in full force and effect and binding on the parties thereto as of such date, (ii) as originally executed, was for a term of at least twenty years and (iii) the terms of which prohibit the pass-through to such customer of the franchise tax imposed under this article, while allowing the recovery of the gross earnings tax imposed under section one hundred eighty-four of this chapter. A contract shall not qualify as a qualified gas

transportation contract if there is: (i) any renewal or extension of an otherwise qualified gas transportation contract occurring on or after January first, two thousand, or (ii) any material amendment to, or supplementation of, an otherwise qualified gas transportation contract on or after such date. Such renewal, extension, or material amendment or supplementation shall have the same force and effect of terminating the modification hereunder as if the qualifying contract had expired by its own terms.

§3. Clause (D) of subparagraph 2 of paragraph (a) of subdivision 3 of section 210 of the tax law, as amended by chapter 802 of the laws of 1975, is amended to read as follows:

(D) all other business receipts earned within the state, bear to the total amount of the taxpayer's receipts, similarly computed, arising during such period from all sales of its tangible personal property, services, rentals, royalties, receipts from the sales of rights for closed-circuit and cable television transmissions and all other business transactions, whether within or without the state, provided, however, the numerator and the denominator of the receipts factor shall not include any receipt included in the computation of the deduction under subparagraph fifteen of paragraph (a) of subdivision nine of section two hundred eight of this article;

4. This act shall take effect immediately and apply to taxable years commencing on or after January first, two thousand, and shall be deemed repealed for taxable years commencing on or after January first, two thousand fifteen."