ANNUAL REPORT ON NEW YORK STATE TAX EXPENDITURES

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TAX EXPENDITURE REPORT

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INTRODUCTION

The sixteenth annual New York State Tax Expenditure Report has been prepared by the Department of Taxation and Finance and the Division of the Budget and is submitted in accordance with the provisions of Section 181 of the Executive Law. The Executive Law defines tax expenditures as "features of the Tax Law that by exemption, exclusion, deduction, allowance, credit, preferential tax rate, deferral, or other statutory device, reduce the amount of taxpayers' liabilities to the State by providing either economic incentives or tax relief to particular classes of persons or entities, to achieve a public purpose."

As required by statute, the Report includes:

- An enumeration of the tax expenditures (Section VII) associated with the:
  - Personal Income Tax (Article 22 of the Tax Law)
  - Corporate Franchise Tax (Article 9-A of the Tax Law)
  - Bank Tax (Article 32 of the Tax Law)
  - Insurance Tax (Article 33 of the Tax Law)
  - Corporation and Utility Taxes (Article 9 of the Tax Law, excluding the organization tax imposed under Section 180 of Article of the Tax Law which the Department of State administers)
  - Sales and Compensating Use Tax (Article 28 of the Tax Law)
  - Petroleum Business Tax (Article 13-A of the Tax Law)
  - Real Estate Transfer Tax (Article 31 of the Tax Law);
- The provisions of law authorizing the tax expenditures, their effective dates, and where applicable, the date that such tax expenditures expire or are reduced (Section VII);
- Estimates (if reliable data are available) of the costs of the tax expenditures for the current taxable or calendar year and the five preceding years[1] (Section VII);
- An analysis of tax expenditure proposals included in the Governor's 2006-2007 Executive Budget (Section IX); and
- Cautionary or advisory notes regarding the use of the Report and data limitations (Section II).

As provided in prior years, the report also includes information that summarizes:

- Federal tax expenditures that "flow through" to New York and impact the Personal Income, Corporate Franchise, Bank and Insurances Taxes (Section XI);
- Tax expenditures that appear in more than one Article of the Tax Law, or "Cross-Article Tax Expenditures" (Section VIII); and
- State legislation enacted in recent years that has resulted in the addition, deletion or modification of various tax expenditure provisions (Section VI).

[1] Section 181 of the Executive Law provides that any information relating to tax expenditures furnished by the Commissioner of Taxation and Finance be furnished in accordance with the secrecy provisions of the Tax Law.

The report also includes the following additional information:

- An illustration of the impact of tax expenditures on tax liability under the Personal Income Tax (Section III);
- A summary of tax expenditures (Section IV);
- A case study that focuses on tax expenditures for education (Section V); and
- A glossary of terms used in this report (Section X).

USE OF THIS REPORT AND DATA LIMITATIONS

As defined by the Executive Law,[1] tax expenditures in this report are defined as "features of the Tax Law that by exemption, exclusion, deduction, allowance, credit, preferential tax rate, deferral, or other statutory device, reduce the amount of taxpayers' liabilities to the State by providing either economic incentives or tax relief to particular classes of persons or entities, to achieve a public purpose." This definition is less subjective than an approach that defines tax expenditures by first defining a normal tax structure because it avoids judgments about what constitutes "normal."

This report does not purport to offer an official list of tax expenditures. Rather, it describes as many tax expenditures as possible and provides revenue estimates for as many provisions as can be isolated and measured. Where applicable data is available, tax expenditure estimates generally cover five historical years. Forecasted estimates project the cost of a tax expenditure to the current calendar year. As a result of new or improved information, the estimates may differ from those published in previous reports.

The "cost of tax expenditure,[2]" or the tax expenditure revenue estimate is the amount by which a tax expenditure reduces taxpayers' liability to the State for a taxable year or on a calendar year basis if a taxable year basis is not appropriate. The reduction in taxpayer liability is the difference between tax liability under the current Tax Law and tax liability if the particular expenditure did not exist. It is important to acknowledge that each tax expenditure estimate is measured separately and independently of other tax provisions (i.e., other taxes are held constant) and no changes in taxpayer behavior are assumed. Thus, the tax expenditure estimates provided in this report are not equivalent to the impact on the State's Financial Plan if the expenditure were repealed or modified. In addition, since the expenditure estimates are measured separately and independently, individual tax expenditures cannot be summed.

The following table lists the taxes included in this report and the years for which tax expenditure estimates are provided.

	Historical	Forecast
Income Tax	1999, 2000, 2001, 2002, 2003	2006
Corporation Franchise Tax*	1998, 1999, 2000, 2001, 2002	2006
Sales and Use Tax	1999, 2000, 2001, 2002, 2003	2006
Corporation & Utilities	1998, 1999, 2000, 2001, 2002	2006
Bank Tax*	1998, 1999, 2000, 2001, 2002	2006
Insurance Tax*	1998, 1999, 2000, 2001, 2002	2006
Petroleum Business Tax	2000, 2001, 2002, 2003, 2004	2006
Real Estate Transfer Tax	1999-2000, 2000-2001, 2001-02, 2002-03, 2003-04	2006-2007

* Tax year is year with liability period beginning in the respective calendar year.

[1]Section 181(a)
[2]Section 181(b)

Federal Exclusions

The personal income (Article 22), corporate franchise (Article 9-A), bank (Article 32) and life insurance (Article 33) taxes are all based, to some extent, on the Federal tax structure. There are provisions in Federal law which reduce the base subject to New York tax because the exclusion flows through to New York law. For example, employer contributions for medical insurance and care are excluded from Federal adjusted gross income. This exclusion flows through to New York which uses Federal adjusted gross income as a starting point for determining New York income. In most cases, New York policymakers have opted to conform to the Federal base for these taxes. Conformity eases administration of the Tax Law while at the same time promoting taxpayer compliance. These items do not constitute tax expenditures in the same sense as provisions specifically designed by New York policymakers to promote economic development or to provide specific tax relief. To focus attention on New York source tax expenditures, Federal exclusions are listed in the Appendix which provides estimates of the revenue foregone by conformity to these provisions.

Reliability of the Estimates

Estimates of the cost of tax expenditures have different levels of reliability based on the accuracy of both the data and the estimation procedure. For all of the taxes, with the exception of the sales and compensating use tax, the Department of Taxation and Finance assigns the highest category of reliability, Level 1, to estimates based on information from actual tax returns that were verified for accuracy. It assigns Level 2 to estimates based on data files containing unverified or incomplete information from actual tax returns. Neither of these return data sources is augmented with audit information. In Level 3 estimates, average marginal tax rates are applied to aggregate data. This sometimes includes Federal tax return data from the Internal Revenue Service's "Statistics of Income." Level 4 estimates are based on national tax expenditure estimates made by the Federal Joint Committee on Taxation (JCT) or the Office of Management and Budget (OMB) or are estimates derived from non-tax data sources.

Estimates for most of the sales tax expenditures are derived from non-tax data sources. Therefore, a somewhat different reliability scheme is employed with all estimates given the fourth level of reliability. Within this fourth level, the report further categorizes estimates based on the accuracy and suitability of the data sources. Category A estimates use both New York State and industry-specific data. Category B estimates use New York-specific data from industry sources, or national data derived from direct industry information such as industry associations. Category C estimates use data other than state or industry-specific data.

The last level of estimates, Level 5, includes those items for which no reliable data source currently exists. Earlier Tax Department discussion papers contain a complete analysis of the reliability classification system.

In some cases the reliability of estimates can change from year to year. This is especially the case for base year and forecast estimates versus historical estimates. For example, provisions previously estimated with either less reliable tax return data or Federal tax information might become Level 1 (highest reliability) if added directly to tax returns and verified for accuracy. This could cause current and projected estimates to differ from historical estimates.

Regardless of data source, the reliability of estimates for the budget year is of distinctly lower quality than that of the historical numbers. The hazards of forecasting generally are exacerbated when point estimates of the value of particular provisions of law are involved. Changes in taxpayer behavior, business organization, and other factors as well as "updating" methodologies can all have profound implications for the estimates of particular provisions in the budget year.

USE OF THIS REPORT AND DATA LIMITATIONS

AN ILLUSTRATION OF THE IMPACT OF TAX EXPENDITURES ON PERSONAL INCOME TAX LIABILITY

The following flow chart (Figure 1) provides an illustration of how tax expenditures impact the computation of tax liability under the Personal Income Tax. The (·) reflect components of income that are included in computing tax liability and ∇ reflect tax expenditures that, if applicable to a taxpayer, reduce their tax liability.

New York is one of 25 states that uses Federal adjusted gross income (FAGI) as the starting point in calculating their personal income taxes. New York is one of 13 states that automatically conforms to changes in FAGI. The additional 12 states conform to FAGI as of a certain point in time.

IMPACT ON PERSONAL INCOME TAX LIABILITY

Figure 1: Calculation of New York Personal Income Tax Liability Tax Year 2006

Federal Gross Income

- Wages, salaries, bonuses, and tips
- Annuities, pensions, and taxable IRA distributions
- Dividends received
- Taxable interest received
- Net business income
- Net gain on sales or exchanges
- Certain taxable fringe benefits
- Net rent, royalty, partnership or S-corporation income
- Prizes
- Net farm income
- Taxable Social Security
- Unemployment compensation
- Alimony received
- Other income

minus

Adjustments to Gross Income

- Self-employed retirement plans contributions
- Alimony paid
- Income earned abroad
- Contributions to individual retirement accounts
- Interest forfeited upon premature withdrawals
- Employment related moving expenses
- Other Federal exclusions
- Other adjustments

equals

Federal Adjusted Gross Income

minus

Negative Modifications

∇ Pension/Annuity exclusion
∇ Social Security and Tier 1 Railroad Retirement exclusion
∇ Interest on U.S. obligations
∇ State and Federal pensions
∇ Disability income exclusion
∇ Exclusion of certain dividends
∇ Accelerated death benefits
∇ Contributions to NYS college choice tuition savings program
∇ Deferral of gain from sale on qualified emerging technology investments
∇ Payments to victims of Nazi persecution
∇ Militia compensation
∇ Other subtractions

plus

Positive Modifications

- Interest on state and local bonds from other states
- Public employee retirement contributions
- Unqualified withdrawals from college choice savings accounts
- Other additions

∇ Tax expenditure

equals

New York Adjusted Gross Income

minus

Deductions

- • Standard deduction or
- ∇ Itemized deductions

minus

Exemptions

- ∇ Dependent exemptions

equals

New York Taxable Income

- • Multiplied by tax rate schedule

yields

New York Tax Liability Before Credits

minus

Credits

- ∇ Household credit
- ∇ Earned income credit
- ∇ Child and dependent care credit
- ∇ Real property tax credit
- ∇ Farmer's school property tax credit
- ∇ Investment credit
- ∇ Investment credit for financial securities industry
- ∇ Accumulation distribution credit
- ∇ Empire zone and zone equivalent areas tax credits
- ∇ Qualified empire zone credits
- ∇ Special additional mortgage recording tax credit carry-forward
- ∇ Solar electricity generating equipment credit
- ∇ Credit for employment of persons with disabilities
- ∇ Qualified emerging technology companies credits
- ∇ College tuition credit
- ∇ Credit for the purchase of an automated external defibrillator
- ∇ Green building credit
- ∇ Low income housing credit
- ∇ Credit for transportation improvement contributions
- ∇ Industrial or manufacturing business credit
- ∇ Long-term care insurance credit
- ∇ Fuel cell electricity generating equipment credit
- ∇ Empire state film production credit
- ∇ Brownfields tax credits
- ∇ Nursing home assessment tax credit
- ∇ Special additional mortgage recording tax credit
- ∇ Security training tax credit
- • Resident credit

equals

New York Tax Liability After Credits

∇ Tax expenditure

SUMMARY OF TAX EXPENDITURES

The Joint Committee on Taxation (JCT) of the U.S. Congress publishes an annual report on Federal Tax Expenditures.[1] One feature of this report is that tax expenditures are presented by Federal budgetary outlay categories.[2] JCT classifies Federal tax expenditures into 12 different outlay categories. This classification allows policymakers to consider tax expenditures in the same policy context as direct expenditures, should they choose to do so. This section of the Annual Report of New York State Tax Expenditures attempts to provide the same form of data presentation.

The state tax expenditures are listed by the general policy area. The classification scheme utilized for this report attempts to follow – where practicable – the JCT scheme. That is, it is not appropriate to strictly follow the JCT methodology given that the Federal report only provides data on income taxes, whereas New York's report includes many additional taxes (i.e., bank tax, insurance tax, corporation tax, sales and use tax, petroleum business tax, real estate transfer tax).

In addition, the Federal and New York State governments fulfill different roles in society. The classic example of the difference in their roles is that the Federal government, unlike New York State, makes outlays for the purpose of national defense. Similarly, New York does not typically engage in international affairs. Accordingly, the JCT categories were modified slightly to better represent the various functions of New York State government. The categories for New York State tax expenditures are:

- Government;
- General Science & Technology;
- Energy, Natural Resources & Environment;
- Agriculture;
- Economic Development;
- Other Business & Commerce;
- Housing;
- Transportation;
- Education & Training;

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[1]Joint Committee on Taxation, *Estimates of Federal Tax Expenditures for Fiscal Years 2005-2009* (JCS-1-05), January 12, 2005.
[2]For a discussion of the origins and uses of the Federal budget functions, see U.S. General Accounting Office. *Budget Function Classifications: Origins, Trends, and Implications for Current Use*. GAO/AIMD-98-67. Washington, D.C., February 1998.

- Social Services;
- Health;
- Income Security, Social Security & Railroad Retirement;
- Veterans' Benefits & Services; and
- General Purpose Fiscal Assistance.

In keeping with JCT practice, several individual (personal) income tax expenditures were classified into multiple categories. These specific tax expenditures are the itemized deduction for charitable contributions (found in the Education & Training, Social Services, and Health categories), the itemized deduction for taxes paid (only a portion of which is found in the Education & Training and General Purpose Fiscal Assistance), and dependent exemptions (only a portion of which is found in Education & Training). In keeping with this scheme, it was also necessary to classify several sales and use tax expenditures into multiple categories. These include the exemptions for New York State and its Political Subdivisions (found in Government and Education & Training) and the exemption for charitable organizations (found in the Education & Training, Social Services, and Health).

Table 1 shows the five largest tax expenditures, in terms of base year estimates (minimal or larger), for each of the governmental function categories noted above. In four categories, there are less than five tax expenditures (i.e., General Science & Technology, Housing, Veterans' Benefits & Services, and General Purpose Fiscal Assistance).

Table 1
Significant Tax Expenditures by Category

Government

Tax	Description	Base Year	Item #	Amount ($ Millions)
Sales and Use Tax	New York State Agencies and Political Subdivisions	2003	106[1]	576.6
Sales and Use Tax	Federal Agencies	2003	108	163.0
Personal Income Tax	Exclusion of Interest on U.S. Obligations	2003	3	106.2
Petroleum Business Tax	Governments	2004	4	69.2
Bank Tax	Deduction of 22.5 Percent of Interest Income from Government Obligations	2002	7	8.9

General Science & Technology

Tax	Description	Base Year	Item #	Amount ($ Millions)
Sales and Use Tax	Research and Development Property	2003	61	61.0
Personal Income Tax	QETC Capital Tax Credit	2003	29a.	0.8
Corporation Franchise Tax	QETC Employment Credit	2002	15b.	0.3
Personal Income Tax	QETC Employment Credit	2003	29b.	0.2

Energy, Natural Resources & Environment

Tax	Description	Base Year	Item #	Amount ($ Millions)
Petroleum Business Tax	Residential Heating	2004	5	280.4
Petroleum Business Tax	Certain Commercial Gallonage	2004	10	88.6
Petroleum Business Tax	Crude Oil and Liquid Petroleum Gases	2004	3	44.9
Petroleum Business Tax	Fuel Used for Non-Residential Heating Purposes	2004	11	13.9
Petroleum Business Tax	Kerosene	2004	1	6.7

Agriculture

Tax	Description	Base Year	Item #	Amount ($ Millions)
Sales and Use Tax	Farm Production and Commercial Horse Boarding	2003	60	62.0
Personal Income Tax	Farmers' School Property Tax Credit	2003	20	23.3
Petroleum Business Tax	Fuel Used for Farm Production	2004	7	7.1
Sales and Use Tax	Fuel, Gas, Electricity, Refrigeration and Steam Used in Farming and Commercial Horse Boarding	2003	30	7.0
Corporation Franchise Tax	Farmers School Property Tax Credit	2002	13	0.8

Economic Development

Tax	Description	Base Year	Item #	Amount ($ Millions)
Corporation Franchise Tax	Exclusion of Interest, Dividends and Capital Gains from Subsidiary Capital	2002	1	1,410.3
Bank Tax	Deduction of 60 Percent of Dividend Income and Excess Gains from Subsidiary Capital	2002	6	83.1
Sales and Use Tax	Industrial Development Agencies	2003	107	83.0
Corporation Franchise Tax	Investment and Retail Enterprise Tax Credit, Employment Incentive Credit and Rehabilitation Credit for Historic Barns	2002	8	76.3
Personal Income Tax	Empire Zone and Zone Equivalent Areas Tax Credits	2003	25	75.0

Other Business & Commerce

Tax	Description	Base Year	Item #	Amount ($ Millions)
Personal Income Tax	Miscellaneous Deductions Subject to 2 Percent of AGI Limitation	2003	15f.	313.4
Sales and Use Tax	Interstate or International Telephone and Telegraph Service	2003	47	300.0
Sales and Use Tax	Machinery and Equipment Used in Production	2003	62	246.0
Sales and Use Tax	Fuel, Gas, Electricity, Refrigeration and Steam Used in Research & Development and Production	2003	29	243.0
Insurance Tax	Limitation on Tax Liability	2002	9	143.5

Housing

Tax	Description	Base Year	Item #	Amount ($ Millions)
Personal Income Tax	Interest Deduction	2003	15b.	783.6
Sales and Use Tax	Capital Improvement Installation Services	2003	5	401.0
Sales and Use Tax	New Mobile Homes	2003	80	2.0

Transportation

Tax	Description	Base Year	Item #	Amount ($ Millions)
Sales and Use Tax	Fuel Sold to Airlines	2003	37	57.0
Petroleum Business Tax	Bunker fuel	2004	2	33.3
Sales and Use Tax	Commercial Aircraft	2003	36	21.0
Sales and Use Tax	Tractor-Trailer Combinations	2003	43	15.0
Sales and Use Tax	Food Sold to Airlines	2003	15	6.0

Education & Training

Tax	Description	Base Year	Item #	Amount ($ Millions)
Sales and Use Tax	New York State Agencies and Political Subdivisions	2003	106[1]	310.5
Personal Income Tax	Taxes Paid Deduction	2003	15e.	282.0
Personal Income Tax	College Tuition Credit	2003	30	129.6
Sales and Use Tax	Food Sold at School Cafeterias	2003	16	70.0
Personal Income Tax	Charitable Contribution Deduction	2003	15c.	67.0

Social Services

Tax	Description	Base Year	Item #	Amount ($ Millions)
Personal Income Tax	Charitable Contribution Deduction	2003	15c.	364.9
Personal Income Tax	Child and Dependent Care Credit	2003	23	325.3
Sales and Use Tax	Charitable Organizations	2003	111[2]	126.4
Sales and Use Tax	Property Sold to Contractors for Capital Improvements or Repairs for Exempt Organizations	2003	86	63.0
Personal Income Tax	Long-Term Care Insurance Credit	2003	37	28.6

Health

Tax	Description	Base Year	Item #	Amount ($ Millions)
Sales and Use Tax	Drugs, Medicine and Medical Supplies	2003	24	621.0
Sales and Use Tax	Charitable Organizations	2003	111[2]	205.8
Sales and Use Tax	Eyeglasses, Hearing Aids and Prosthetic Aids	2003	25	89.0
Personal Income Tax	Medical/Dental Deduction	2003	15a.	84.9
Personal Income Tax	Charitable Contribution Deduction	2003	15c.	45.9

Income Security, Social Security & Railroad Retirement

Tax	Description	Base Year	Item #	Amount ($ Millions)
Sales and Use Tax	Certain Food Products	2003	14	1,337.0
Personal Income Tax	Earned Income Credit	2003	18	681.5
Sales and Use Tax	Energy Sources for Residential Purposes	2003	28	556.0
Personal Income Tax	Exclusion of Pensions, Annuities, Interest and Lump Sum Payments Received by NYS & Municipal Retirees	2003	4	453.3
Personal Income Tax	Exclusion of Social Security and Tier I Railroad Retirement Benefits	2003	2	384.6

Veterans' Benefits & Services

Tax	Description	Base Year	Item #	Amount ($ Millions)
Petroleum Business Tax	Not-For-Profit Groups and Veterans Organizations	2004	8	14.2
Petroleum Business Tax	Not-For-Profit Groups and Veterans Organizations	2004	25	*
Sales and Use Tax	Veterans Posts or Organizations	2003	112	*

General Purpose Fiscal Assistance

Tax	Description	Base Year	Item #	Amount ($ Millions)
Personal Income Tax	Taxes Paid Deduction	2003	15e.	188.0

[1] Item in Government and Education & Training Categories
[2] Item in Social Services and Health Categories

CASE STUDY: TAX EXPENDITURES FOR EDUCATION

This section of the Tax Expenditure report provides a look at a particular type of tax expenditure – tax expenditures for education. In each subsequent annual report, this section will focus on a particular type, group or purpose of one or several tax expenditures that may be of particular interest to users of this report.

Defining Tax Expenditures for Education

As previously noted, definitions of what constitutes a tax expenditure can differ based upon subjective views about what constitutes a "normal" tax structure. For the purposes of this section of the report, "education" includes instruction provided at the K-12 and post-secondary levels, as well as workforce training provided by private employers. Tax expenditures for education are defined as those items that meet the definition of a tax expenditure for purposes of this report (see definition on page 1) that also affect the "fiscal environment of education."

The "fiscal environment of education," as used herein, is comprised of factors that affect both the real "cost" of providing educational services by all public and private educational institutions and the "price" paid by consumers in terms of payments to private providers or the "tax price" that must be paid to public sector providers.

Type of Impacts of Tax Expenditures for Education

Tax expenditures for education basically fall into two distinct groups based upon the type of impact they have on the fiscal environment of education.[1] The most obvious group is tax incentives that <u>directly</u> subsidize educational activities. Such items include tax incentives that reimburse parent and student taxpayers for educational expenses incurred. A second group of tax incentives <u>indirectly</u> affect education. Examples include itemized deductions for individuals for residential real property taxes paid. Through tax deductibility, the Federal government and some states allow taxpayers to export a considerable share of the cost of these taxes from the local level to state or Federal government (or both).

This methodology is employed by the National Center for Education Statistics (NCES) when they periodically estimate Federal tax expenditures for education.[2] Similarly, the U.S. Congress' Joint Committee on Taxation (JCT) at least partially endorses the concept of direct and indirect tax expenditures for education by including several such items in the education section of their annual tax expenditure report (JCT, 2005). Of course, at the State level, this methodology must be broadened to take into account the different types of taxes imposed compared to those at the national level.

New York's Tax Expenditures for Education

[1]There is also a third group of tax incentives that <u>incidentally</u> impact education. The cost of these items are not estimated for the purposes of this report as their impact on education is largely in the eye of the beholder, such as the itemized deduction for mortgage interest expense, where at least some of the impact of this tax expenditure is capitalized into residential real property values.

Like the JCT report, New York State tax expenditures for education include entries for the education-related portion of the Federal itemized deduction for charitable contributions and the dependent exemption for full-time students, ages 19-23. Moreover, additional direct and indirect tax expenditures for education are also presented for New York State in addition to the items typically presented as Federal tax expenditures for education. Additional direct tax expenditures for education are found under the different types of taxes imposed only at the State level such as the sales and use tax; corporation tax; bank tax; insurance tax; and petroleum business tax. Additional indirect tax expenditures for education are also included. These include the "education shares" of the itemized deduction for real property taxes paid and charitable contributions under the personal income tax.[3]

Shares of the sales tax exemption for the purchases and sales of New York State and its political subdivisions, as well as a share of the exemption for purchases by charitable organizations, are also included. Theoretically speaking, if the JCT/NCES consider a share of the Federal itemized deduction for charitable contributions as education-related, the same would hold true for the State sales tax exemption for the organizations to which taxpayers contribute.

Table 2 provides a list of New York State's tax expenditures for education in law as of January 1, 2006. The largest tax expenditures for education in New York State are indirect. The largest single item, in terms of base year share, is the State sales and use tax exemption for the purchases and sales of New York State and its political subdivisions. In the base year (2003), this tax expenditure is approximately $310.5 million. It is also important to note that this figure excludes the value of the exemption for the local share of the sales and use tax.[4] The second most substantial tax expenditure is also indirect. It is the itemized deduction for real property taxes paid which is $282.0 million (2003 base year).

The third largest tax expenditure for education is direct in nature. This is New York

[2]See U.S. Department of Education, National Center for Education Statistics. *Estimates of Federal Tax Expenditures for Education: FY 1980 to FY 2003*. Washington, D.C.: August 2004.

[3]In New York State, approximately 60 percent of the real property taxes paid outside of New York City are education-related. See the *Office of the State Comptroller: 2005 Annual Report*. Albany, NY.

Table 2: New York State Tax Expenditures for Education & Training as of January 1, 2006.

Item No.	Tax Expenditure	Base Year	Amount ($ Millions)
Personal Income Tax			
10	Exclusion for Contributions to New York State College Choice	2003	31.4
15c.	Itemized Deductions – Charitable Contributions Deduction***	2003	67.0
15e.	Itemized Deductions – Taxes Paid Deduction***	2003	282.0
16	Dependent Exemptions***	2003	29.3
30	College Tuition Credit	2003	129.6
43	Security Training Tax Credit	**	--
Corporation Franchise Tax			
4	Deduction of Receipts from School Bus Operations	2002	N/A
25	Security Training Tax Credit	**	--
Sales and Use Tax			
16	Food Sold at School Cafeterias	2003	70.0
102	College Textbooks	2003	21.0
106	New York State Agencies and Political Subdivisions***	2003	310.5
111	Charitable Organizations***	2003	28.9
Corporation Tax			
9	Security Training Tax Credit	**	--
25	Security Training Tax Credit	**	--
39	Security Training Tax Credit	**	--
Bank Tax			
24	Security Training Tax Credit	**	--
Insurance Tax			
24	Security Training Tax Credit	**	--
Petroleum Business Tax			
15	Non-Public School Operators	2004	*

Notes:
N/A Not applicable.
* Minimal
** Tax expenditure not in effect in base year.
*** The education shares for the above tax expenditures are as follows:

Personal Income Tax

Charitable contributions (14.03 percent). Imputed from 2005 data from *Joint Committee on Taxation Estimates of Federal Tax Expenditures for Fiscal Years 2005-2009*.

Real property taxes paid (60 percent). Outside New York City, approximately 60 percent of real property taxes are levied to support K-12 education, according to the *Office of the State Comptroller: 2005 Annual Report*.

Dependent exemptions (10.1 percent). This is share of the total population ages 0-24 represented by the full time undergraduate students. Data for 2002 population are taken from Table A-12, *2004 New York State Statistical Yearbook, 29th Edition.* and *New York State Department of Education, Final College and University Degree-Credit Enrollment, 2002.*

Sales & Use Tax

New York State Agencies and Political Subdivisions (35.0 percent). OTPA calculations.

Charitable Organizations (8.0 percent). OTPA calculations.

Note: The Qualified Emerging Technology Company Facilities, Operations, and Training credit contains an educational component, but is classified under General Science and Technology.

State's refundable credit or an itemized deduction for college tuition expenses. The base year (2003) value of this tax expenditure is $129.6 million. Other significant tax personal income tax expenditures for education include the share of the itemized deduction for charitable contributions ($67.0 million), the exclusion for contributions to the New York State College Choice savings plan ($31.4 million), and the share of the dependent exemption attributable to full-time students, ages 19-23 ($29.3 million). Other significant sales tax exemptions include the indirect education share of the exemption for purchases by charitable organizations ($28.9 million), and the direct tax expenditures (all exemptions) for college textbook sales ($21.0 million) and food sold at school cafeterias ($70.0 million).

[4]The State sales and use tax rate is 4 percent. Localities impose the tax at various rates. As of December 1, 2005, the maximum local rate is 5.5 percent.

RECENT LEGISLATION THAT HAS AFFECTED TAX EXPENDITURES

State legislation enacted in recent years has resulted in the addition, deletion, or modification of various provisions in the report this year. The changes are as follows:

Additions:

- A new personal income tax credit was created for Special Additional Mortgage Recording Tax (SAMRT) paid by taxpayers on mortgages other than those on residential real property located within the counties comprising the metropolitan commuter transportation district or Erie County. The credit is effective for taxable years beginning after 2003 and mortgages recorded on or after January 1, 2004.

- A new refundable credit was enacted which is equal to the assessment imposed on the gross receipts of residential health care facilities under Public Health Law 2807-d in cases where the assessment is paid by the taxpayer. The credit is effective for taxable years beginning on or after January 1, 2005.

- For tax years beginning on and after January 1, 2005, the maximum liability under the Article 9-A capital base is raised to $1 million except for manufacturers. Manufacturers remain subject to the $350,000 capital base cap.

- A new qualified emerging technology company (QETC) credit was created for Article 9-A and 22 taxpayers - the QETC facilities, operations, and training credit. The credit is available for tax years beginning on or after January 1, 2005.

- A new security training tax credit was enacted for taxpayers under Articles 9, 9-A, 22, 32, and 33 for tax years beginning on or after January 1, 2005.

- The tax credit for fuel cell electricity generating equipment available under Article 22 was extended to Articles 9, 9-A, 32, and 33. The Article 22 credit was modified to remove the principal residence limitation, extend the maximum credit to each unit purchased, and change the kilowatt requirements for qualified equipment. These changes are effective for years beginning on and after January 1, 2005.

- The Empire Zone investment tax credit, employment incentive credit, and wage tax credit, and the QEZE credit for real property taxes have been extended to agricultural co-operatives taxable under Article 9.

- Effective September 1, 2005 a State and local sales tax exemption applies to certain purchases used to outfit, furnish, and equip leased commercial office space in eligible areas in Lower Manhattan.

- Residential solar energy systems equipment and the service of installing such systems are exempt from State sales tax (with local option) effective September 1, 2005.

- Machinery and equipment used in loading, unloading, and handling cargo at large marine terminal facilities in New York City became exempt from State sales tax effective December 1, 2005.

- Waste removal services for a waste transfer station or construction and demolition debris processing facility became exempt from State and local sales tax effective December 1, 2005.

Deletions:

- The preferential tax rate on transfers of real property under the Real Estate Transfer Tax (RETT) sunset on September 1, 2005.

- The State and local sales tax exemption for alternative fuel vehicle refueling equipment, and the partial State and local sales tax exemption for the purchase of alternative fuel vehicles, including hybrid-electric vehicles, expired February 28, 2005.

Modifications:

- The solar electric generating equipment credit was expanded to include expenditures for material and installation costs relating to components utilizing solar radiation to produce energy designed to provide heating, cooling, hot water, or electricity for residential use. This new solar energy equipment credit is capped at $3,750 for equipment placed in service before September 1, 2006 and $5,000 for equipment placed in service after such date.

- The first year for which data is available for the long-term care insurance credit is 2002.

- The investment tax credit was extended to apply to property placed in service after January 1, 2005 by qualified film production facilities.

- The amount of aggregate credit available under the low-income housing credit was increased from $60 million to $80 million. The credit is taken at 10 percent per year over ten years.

- A second, $25 million allocation for the green building credit was enacted.

- The QETC employment credit was made fully refundable for all businesses. Previously, it was only refundable by new businesses.

- Data for the QETC employment credit and capital credit are reported separately for the first time. Previously, these two credits were reported together.

- The alternative fuels credit was amended to apply only to alternative fuel refueling property placed in service beginning on January 1, 2005. The credit was extended for three years under Article 9 and indefinitely under Article 9-A.

- The Empire Zone (EZ)/Qualified Empire Zone Enterprise (QEZE) program was significantly modified. Changes affecting the credits include an additional $500 for the EZ wage tax credit for employees paid over $40,000 in wages, the expiration of the EZ capital credit for investment in capital corporations, and a new credit calculation for the QEZE credit for real property taxes for QEZEs certified on or after April 1, 2005.

- For taxable years beginning on or after January 1, 2005, the income threshold used to determine a qualified small business is raised and a new small business tax rate is implemented.

- The combined statewide cap for the credit for investments in certified capital companies was increased from $28.0 million to $34.0 million for 2006-07.

- The following tax expenditure items were modified as a result of legislative changes:
  - Coin-Operated Car Wash Services
  - Clothing and Footwear Holiday
  - Clothing and Footwear
  - Amusement Park Admissions

PERSONAL INCOME TAX

This section provides revenue estimates of tax expenditures for 43 provisions of the 2006 New York State personal income tax. Tax expenditures are first estimated for the 2003 tax year (the latest year for which historical tax data are available) and then projected to the 2006 tax year. This section also provides historical estimates from 1999 through 2002 for comparison. Table 3 lists the income tax provisions for which estimates exist, and the estimates themselves. To provide some perspective, it also shows total personal income tax liability for the 2003 tax year. The data used to generate the estimates do not include late filed returns, audited returns or fiduciary returns because no contemporaneous data exist to make the estimates. On average, the sample used to make the estimates covers between 90 and 95 percent of total personal income tax liability.

Description of Tax

The computation of the New York State personal income tax starts with the Federal definition of adjusted gross income as included in the Internal Revenue Code (IRC). The IRC permits certain exclusions and adjustments in arriving at Federal adjusted gross income. New York allows several subtraction modifications and requires certain addition modifications in arriving at New York adjusted gross income (NYAGI). Taxpayers can then reduce their NYAGI by subtracting the higher of the New York standard deduction or New York itemized deductions. New York itemized deductions generally conform to Federal itemized deductions; however, certain modifications, such as an add-back for income taxes, apply. Federal law, to which New York conforms, requires certain high income taxpayers to further limit itemized deductions. In addition, an overall New York State deduction limitation applies to upper-income taxpayers. New York taxpayers may also subtract from NYAGI a $1,000 exemption for each dependent, not including the taxpayer and spouse.

The above computation determines taxable income. After computing taxable income, taxpayers apply a marginal tax rate schedule to compute their tax. For tax years 1997 through 2002, the top marginal rate was 6.85 percent, applying to taxable income in excess of $20,000 for single individuals, $30,000 for heads of households, and $40,000 for married couples filing jointly. For tax years 2003-2005, the top rate was 7.7 percent on taxable incomes above $500,000 for all filing statuses. In 2006, the top rate returned to the pre-2003 level of 6.85 percent. If New York adjusted gross income exceeds $100,000, then taxpayers must also compute a supplemental tax that recaptures the tax benefit that results from income being taxed at less than the top marginal rate. Taxpayers may then subtract certain credits in arriving at their actual tax liability. An add-on minimum tax then applies to certain Federal tax preference items.

Many of the effective dates for the income tax items occurred in 1960. The State personal income tax was originally enacted in 1919, but the present system of Federal conformity with respect to income and deductions did not begin until 1960. Therefore, the report uses 1960 as the effective date for the provisions existing since the reorganization of the State’s income tax. Many provisions have also been amended since their enactment; however, this report does not provide a detailed legislative history of each item covering the entire intervening time frame.

The descriptive paragraph on each income tax expenditure summarizes the provision as it appears in the Tax Law in effect as of January 1, 2006. It also includes any differences applicable between the 2003 and 2006 tax years. The listing does not include provisions repealed or sunsetted prior to 2006.

Data Sources

The major sources of data used in this section and the Appendix include:

C 2003 Personal Income Tax Study File - A data file based on a statistical sample of approximately 247,000 New York State personal income tax returns. The sample is weighted to be consistent with income and liability totals for the taxpayer population contained on the New York State Department of Taxation and Finance's master file. Double checking all sample data ensures accuracy and reliability. This data file is then used in conjunction with a personal income tax simulation model, a set of complex computer programs which simulate the various features of the Tax Law and variations thereof for the years being estimated.

C Personal Income Tax Clearing House (PITCH) - A data file containing income tax return information as data entered by bank sources, Tax Department data-entry staff, and taxpayers/preparers via electronic media and includes data from returns processed to date. These data do not undergo the rigorous control process and double-checking procedures like those used in the 2003 personal income tax study. The PITCH data are extrapolated to 2006 together with the personal income tax study.

C 2003 Federal Statistics of Income (SOI) - An annual statistical report produced by the U.S. Treasury Department. It contains Internal Revenue Service data collected from the Federal tax returns filed by New York residents. Verification of the data for accuracy ensures high data quality. The SOI sample of New York taxpayers contains 16,000 returns.

C Office of Management and Budget (OMB) Federal tax expenditure estimates - OMB's estimates of Federal tax expenditure items listed in this report came from the fiscal year 2006 Corporate and Individual Income Tax Revenue Loss Estimates for Tax Expenditures. Historical estimates were based on prior reports.

C U.S. Congressional Joint Committee on Taxation (JCT) Federal tax expenditure estimates - JCT's estimates of Federal tax expenditure items listed in this report came from "Estimates of Federal Tax Expenditures for Fiscal Years 2006-2010." The JCT publishes this pamphlet annually. Historical estimates are based on prior reports.

Methodology

For estimating tax expenditures in 2006, components of income, modifications, and itemized deductions on the 2003 sample return file are extrapolated to 2006 levels using growth assumptions based on the economic forecast provided by the Division of the Budget during December 2005. This data file is then used with the personal income tax model revised to simulate 2006 tax law.

The Federal Office of Management and Budget and U.S. Joint Committee on Taxation tax expenditure estimates of Federal tax expenditure items are prorated to New York using New York's share of total U.S. personal income and applying New York State effective tax rates.

Tax expenditures with values of less than $0.1 million are indicated with an asterisk.

Table 3
2006 New York State Personal Income Tax Expenditure Estimates
(2003 Total Personal Income Tax Liability = $22,485 Million)
(Millions of Dollars)

	Tax Item	History 1999	2000	2001	2002	2003	Forecast 2006	Reliability Level
New York Modifications								
1.	Pension/Annuity Exclusion	365.0	390.5	368.7	349.1	359.6	370.0	1
2.	Exclusion of Social Security and Tier I Railroad Retirement Benefits (Taxable Social Security for Federal Purposes but New York Exempt)	309.5	394.9	379.8	363.8	384.6	403.0	1
3.	Exclusion of Interest on U.S. Obligations	173.0	203.8	191.5	123.6	106.2	137.0	1
4.	Exclusion of Pensions, Annuities, Interest and Lump Sum Payments Received by New York State and Municipal Retirees	314.1	372.3	405.3	427.7	453.3	474.0	1
5.	Exclusion of Pensions, Annuities, Interest and Lump Sum Payments by Federal Retirement Systems	68.9	79.0	85.4	89.2	93.5	97.0	1
6.	Disability Income Exclusion	N/A	N/A	N/A	N/A	N/A	N/A	5
7.	Exclusion of Interest or Dividends on Obligations or Securities of a U.S. Agency	N/A	N/A	N/A	N/A	N/A	N/A	5
8.	Exclusion of Interest or Dividend Income on Obligations or Securities Taxable for Federal Purposes but Exempt for New York Tax Purposes	N/A	N/A	N/A	N/A	N/A	N/A	5
9.	Exclusion of Accelerated Death Benefits and Viatical Settlements	*	*	*	*	*	*	4
10.	Exclusion for Contributions to New York State College Choice Tuition Savings Program	12.0	17.0	15.6	23.4	31.4	38.0	1
11.	Deferral of Gain from Sale of Qualified Emerging Technology Investments	*	*	*	*	*	*	4
12.	Exclusion of Payments to Victims of Nazi Persecution	*	*	*	*	*	*	4
13.	Exclusion of Compensation for Members of an Organized Militia	--	--	--	--	--	*	4
New York Itemized Deductions and Exemptions								
14.	Value of Standard Deductions for Those Returns with Itemized Deductions in Excess of Standard Deduction	1,069.7	1,179.9	1,235.0	1,286.0	1,372.1	1,533.0	1
15.	Itemized Deductions							
	a. Medical/Dental Deduction	56.1	67.2	74.4	74.9	84.9	91.0	1
	b. Interest Deduction	615.2	724.1	753.0	732.0	783.6	936.0	1
	c. Charitable Contribution Deduction	379.7	447.9	438.5	424.1	477.8	616.0	1
	d. Casualty/Theft Deduction	3.6	3.9	4.1	3.6	3.5	4.1	1

		History					Forecast	Reliability
		1999	2000	2001	2002	2003	2006	Level
	e. Taxes Paid Deduction	375.2	416.7	430.2	444.0	470.0	535.0	1
	f. Miscellaneous Deductions Subject to 2 Percent of AGI Limitation	208.6	250.0	281.0	299.0	313.4	354.0	1
	g. Other Miscellaneous Deductions	21.8	21.3	22.8	26.3	26.0	31.0	1
16.	Dependent Exemptions	266.2	279.2	280.5	285.0	290.4	306.0	1
New York Credits								
17.	Household Credit	106.5	107.2	104.8	101.8	99.2	92.0	1
18.	Earned Income Credit	360.8	423.1	500.9	590.9	681.5	745.0	1
19.	Real Property Tax Credit (Circuit Breaker)	34.0	32.1	31.0	31.2	32.6	31.0	1
20.	Farmers' School Property Tax Credit	19.0	19.6	20.9	21.8	23.3	26.5	2
21.	Investment Credit	24.7	25.3	33.1	27.9	28.4	36.5	2
22.	Investment Credit for Financial Securities Industry	2.8	0.7	1.0	0.5	0.5	0.4	2
23.	Child and Dependent Care Credit	139.4	201.6	208.5	228.7	325.3	380.0	1
24.	Accumulation Distribution Credit	0.1	0.2	0.1	*	*	*	2
25.	Empire Zone and Zone Equivalent Areas Tax Credits	10.8	12.5	38.6	51.0	75.0	110.0	2
26.	Special Additional Mortgage Recording Tax Credit Carryforward	1.5	2.1	3.7	2.3	2.3	2.0	2
27.	Solar Energy System Equipment Credit	0.2	0.2	0.1	0.5	0.6	0.8	2
28.	Credit for Employment of Persons with Disabilities	0.2	0.2	0.1	0.1	0.1	0.1	2
29.	Qualified Emerging Technology Companies Credits							2
	a. QETC Capital Tax Credit	--	0.2	0.7	0.7	0.8	0.5	2
	b. QETC Emploment Credit	--	0.1	0.2	0.2	0.2	0.1	2
	c. QETC Facilities, Operations and Training Credit 1/	--	--	--	--	--	*	4
30.	College Tuition Credit 2/	--	--	18.3	61.7	129.6	250.0	1
31.	Credit for Purchase of an Automated External Defibrillator	--	--	*	*	*	*	2
32.	Green Building Credit	--	--	*	0.3	0.7	1.0	2
33.	Low Income Housing Credit	--	*	*	*	*	*	2
34.	Credit for Transportation Improvement Contributions	--	--	0.0	0.0	0.0	0.0	2
35.	Qualified Empire Zone Credits	--	--	16.9	30.1	62.6	145.0	2
36.	Industrial or Manufacturing Business Credit	--	1.3	2.7	2.5	1.5	1.0	2
37.	Long-Term Care Insurance Credit	--	--	--	18.9	28.6	100.0	2
38.	Fuel Cell Electricity Generating Equipment Credit	--	--	--	--	--	*	2
39.	Empire State Film Production Credit	--	--	--	--	--	20.0	4
40.	Brownfields Tax Credits	--	--	--	--	--	58.0	4
41.	Nursing Home Assessment Tax Credit 1/	--	--	--	--	--	40.0	4
42.	Special Additional Mortgage Recording Tax Credit 1/	--	--	--	--	--	1.0	4
43.	Security Training Tax Credit 1/	--	--	--	--	--	2.0	4

1/ A new tax expenditure item or a revision of the methodology or revisions in the data sources resulted in an estimate which better reflects the tax expenditure value.
2/ Estimate includes value of itemized deduction and credit.
* Less than $0.1 million.
-- The tax expenditure was not applicable for these years.
N/A No data available

New York Modifications

The NYAGI of a resident or nonresident individual is defined as Federal adjusted gross income with modifications as specified by New York Tax Law, Article 22, Section 612.

1. **Pension/Annuity Exclusion**
   Citation: Section 612(c)(3-a)
   Effective Date: Effective for taxable years beginning on or after January 1, 1982
   Description: Taxpayers aged 59 ½ and over may exclude from New York adjusted gross income pensions and annuities, to the extent included in Federal adjusted gross income, but not in excess of $20,000 ($20,000 each for two married pensioners or annuitants filing jointly).
   Estimates: 2003: $359.6 million - 2006: $370.0 million
   Data Source: PIT Simulation Model
   Reliability: Level 1

2. **Exclusion of Social Security and Tier 1 Railroad Retirement Benefits (Taxable Social Security for Federal Purposes but New York Exempt)**
   Citation: Section 612(c)(3-c)
   Effective Date: Effective for taxable years beginning after December 31, 1983
   Description: Taxpayers may exclude from New York adjusted gross income Social Security and Tier 1 railroad retirement benefits, to the extent included in Federal adjusted gross income.
   Estimates: 2003: $384.6 million - 2006: $403.0 million
   Data Source: PIT Simulation Model
   Reliability: Level 1

3. **Exclusion of Interest on U.S. Obligations**
   Citation: Section 612(c)(1)
   Effective Date: Effective for taxable years beginning on or after January 1, 1960
   Description: Taxpayers may exclude from New York adjusted gross income interest income on obligations of the United States and its possessions, to the extent included in FAGI. Federal law prohibits New York from taxing this item.
   Estimates: 2003: $106.2 million - 2006: $137.0 million
   Data Source: PIT Simulation Model
   Reliability: Level 1

4. **Exclusion of Pensions, Annuities, Interest and Lump Sum Payments Received by New York State and Municipal Retirees**
   Citation: Section 612(c)(3)(I)
   Effective Date: Effective for taxable years beginning on or after January 1, 1960
   Description: Retirement payments received by officers and employees (or their beneficiaries) of New York State and its municipalities (including corporations and authorities), to the extent includable in Federal adjusted gross income, may be subtracted in computing New York adjusted gross income. The State Constitution prohibits taxation of this income.

Estimates: 2003: $453.3 million - 2006: $474.0 million
Data Source: PIT Simulation Model
Reliability: Level 1

5. **Exclusion of Pensions, Annuities, Interest and Lump Sum Payments by Federal Retirement Systems**
Citation: Section 612(c)(3)(ii)
Effective Date: Effective for tax years beginning on or after January 1, 1989
Description: Payments received by officers and employees (and their beneficiaries) from Federal retirement systems, to the extent includable in Federal adjusted gross income, may be subtracted in determining New York adjusted gross income. A 1989 U.S. Supreme Court ruling (Davis v. Michigan Department of Treasury) mandated that states must provide equal tax treatment for Federal and state/local pensions.
Estimates: 2003: $93.5 million - 2006: $97.0 million
Data Source: PIT Simulation Model
Reliability: Level 1

6. **Disability Income Exclusion**
Citation: Section 612(c)(3-b)
Effective Date: Effective for taxable years beginning after December 31, 1983
Description: A taxpayer may subtract up to $5,200 of disability income included in Federal adjusted gross income, to the extent that such income would have been excluded from Federal gross income prior to January 1, 1984, under the repealed provisions of IRC Section 105(d). The total exclusion for disability and pension and annuity income may not exceed $20,000. The exclusion is reduced by the amount that the taxpayer's adjusted gross income exceeds $15,000.
Estimate: No data available. Included in "other" category for New York modifications in second pass data and, therefore, cannot be separately identified.
Reliability: Level 5

7. **Exclusion of Interest or Dividends on Obligations or Securities of a U.S. Agency**
Citation: Section 612(c)(2)
Effective Date: Effective for taxable years on or after January 1, 1960
Description: Taxpayers may subtract from Federal adjusted gross income, interest or dividend income on obligations or securities of a U.S. agency, to the extent that such income has been included in Federal adjusted gross income. Federal law prohibits New York from taxing this income.
Estimate: No data available. Included in "other" category for New York modifications in second pass data and, therefore, cannot be separately identified.
Reliability: Level 5

8. **Exclusion of Interest or Dividend Income on Obligations or Securities Taxable for Federal Purposes but Exempt for New York Tax Purposes**
Citation: Section 612(c)(6)
Effective Date: Effective for taxable years beginning on or after January 1, 1960
Description: The taxpayer may subtract from Federal adjusted gross income interest or

dividend income on obligations or securities, to the extent that such income is exempt for New York income tax purposes under New York law but is subject to Federal income tax.
Estimate: No data available. Included in "other" category for New York modifications in second pass data and, therefore, cannot be separately identified.
Reliability: Level 5

9. Exclusion of Accelerated Death Benefits and Viatical Settlements
Citation: Section 612(c)(30)
Effective Date: Effective for taxable years beginning on or after January 1, 1991 for death benefits and for payments received on or after July 27, 1994 on viatical settlements
Description: Taxpayers may subtract from Federal adjusted gross income accelerated payments of part or all of the death benefit or special surrender value of a life insurance policy as a result of certain diagnoses (i.e., terminal illnesses), specified in the Insurance Law. Also, taxpayers may subtract the amount received from a viatical settlement company from the sale of a life insurance policy. Persons with catastrophic or life threatening illnesses are eligible for this subtraction when they sell such policies to a viatical settlement company licensed by the State Insurance Department.
Estimates: 2003: Minimal - 2006: Minimal
Data Source: Federal Office of Management and Budget
Reliability: Level 4

10. Exclusion for Contributions to New York State College Choice Tuition Savings Program
Citation: Section 612(c)(32)
Effective Date: Effective for taxable years beginning after December 31, 1997
Description: Taxpayers may subtract from Federal adjusted gross income up to $5,000 per year ($10,000 for married couples filing jointly) of contributions to "family tuition accounts," as defined in Article 14-A of the Education Law, to the extent not deductible or eligible for credit for Federal tax purposes. The maximum account balance may not exceed $235,000 per beneficiary, and the State Comptroller has authority to increase this figure to reflect increases in higher education costs.
Estimates: 2003: $31.4 million - 2006: $38.0 million
Data Source: PIT Simulation Model
Reliability: Level 1

11. Deferral of Gain from Sale of Qualified Emerging Technology Investments
Citation: Section 612(c)(34)
Effective Date: Effective for qualified investments acquired on or after March 12, 1998
Description: Gain from the sale of qualified emerging technology investments may be subtracted from Federal adjusted gross income, if reinvested in another qualified emerging technology investment. The amount subtracted must be added to Federal adjusted gross income when the reinvestment is sold, if the gain is not reinvested in a qualified emerging technology investment.
Estimates: 2003: Minimal - 2006: Minimal
Data Source: Industry Data

Reliability: Level 4

12. **Exclusion of Payments to Victims of Nazi Persecution**
Citation: Sections 612(c)(35) and (36)
Effective Date: Effective for taxable years beginning on or after January 1, 1995
Description: Taxpayers may subtract certain distributions, to the extent included in FAGI, made based on their status as a victim of Nazi persecution as defined in Public Law 103-286. The subtraction also applies to distributions received by victims' spouses and needy descendants. In addition, a subtraction is allowed for items of income included in FAGI attributable to assets stolen or hidden from, or otherwise lost by victims of Nazi persecution immediately prior to, during, or after World War II.
Estimates: 2003: Minimal - 2006: Minimal
Data Source: New York State Banking Department
Reliability: Level 4

13. **Exclusion of Compensation for Members of an Organized Militia**
Citation: Section 612(c)(8-b)
Effective Date: Effective for taxable years beginning on or after January 1, 2004.
Description: An individual who is a member of a New York State Organized militia may subtract from Federal adjusted gross income compensation received for performing active service within New York State pursuant to active duty orders issued by the Governor.
Estimates: 2003: Not applicable - 2006: Minimal
Data Source: Estimates from Division of the Budget
Reliability: Level 4

New York Itemized Deductions and Exemptions

Individual taxpayers who elect not to use the standard deduction may reduce their New York adjusted gross income by their itemized deduction, and all taxpayers are allowed exemptions for dependents who qualify for the Federal exemption.

14. **Value of Standard Deductions for Those Returns with Itemized Deductions in Excess of Standard Deduction**
Citation: Section 614
Effective Date: Effective for taxable years beginning on or after January 1, 1960
Description: Because all taxpayers are entitled to a standard deduction as a minimum, itemizers have their standard deduction "built into" their total deduction.
Estimates: 2003: $1,372.1 million - 2006: $1,533.0 million
Data Source: PIT Simulation Model
Reliability: Level 1

15. **Itemized Deductions**
Taxpayers who itemize deductions on their Federal returns may also itemize on their New York State returns if the aggregate of such deductions, minus state and local income taxes and certain other modifications, exceeds the New York standard deduction.

New York itemized deductions flow through from Federal law. Thus, the citations below reference the Internal Revenue Code. They are authorized in New York Tax Law, Article 22, Section 615. New York limits the availability of itemized deductions for certain high income taxpayers. The maximum percentage of disallowed deductions equals 50 percent for all taxpayers with NYAGI above $525,000.

The Federal itemized deduction limitation further reduces the value of the deductions. This limitation, to which New York mostly conforms, requires taxpayers to reduce their itemized deductions (other than medical expenses, gambling losses, casualty and theft and investment interest) by three percent of the amount by which their 2006 FAGI exceeds $150,500 ($72,250 for married filing separately). This threshold is indexed annually for inflation. Deductions subject to the limitation cannot be reduced by more than 80 percent. Because the interaction of the different itemized deductions cannot be accurately captured in the estimation process, the effect of the Federal limitation cannot be itemized by deduction type.

a. Medical/Dental Deduction
Citation: IRC Section 213
Effective Date: Effective for taxable years beginning on or after January 1, 1960
Description: Medical and dental expenses paid during the taxable year by and on behalf of the individual or his/her spouse or dependent may be deducted from Federal adjusted gross income, as an itemized deduction, to the extent that the expenses (a) exceed 7.5 percent of adjusted gross income, and (b) are not compensated for by insurance or otherwise.
Estimates: 2003: $84.9 million - 2006: $91.0 million
Data Source: PIT Simulation Model
Reliability: Level 1

b. Interest Deduction
Citation: IRC Section 163
Effective Date: Effective for taxable years beginning on or after January 1, 1960
Description: A taxpayer may deduct mortgage and investment interest paid or accrued during the taxable year on debt owed by the taxpayer. However, interest incurred on loans made to purchase securities, the income from which is tax-exempt in New York, is not deductible for New York purposes. Generally, mortgage interest is totally deductible (certain limitations apply).
Estimates: 2003: $783.6 million - 2006: $936.0 million
Data Source: PIT Simulation Model
Reliability: Level 1

c. Charitable Contribution Deduction
Citation: IRC Section 170
Effective Date: Effective for taxable years beginning on or after January 1, 1960
Description: Taxpayers may subtract from Federal adjusted gross income contributions made to qualified organizations, up to a limit of 50 percent of their adjusted gross income. In certain cases, lower limits may apply.

Estimates: 2003: $477.8 million - 2006: $616.0 million
Data Source: PIT Simulation Model
Reliability: Level 1

d. **Casualty/Theft Deduction**
Citation: IRC Section 165
Effective Date: Effective for taxable years beginning on or after January 1, 1960
Description: Individuals may deduct casualty losses. Casualty losses mean uncompensated losses sustained as a result of the total or partial destruction of property, caused by a sudden, unexpected or unusual event. Losses incurred as a consequence of the theft or embezzlement of the taxpayer's property may also be deducted from Federal gross income. In both cases, a deduction is allowed only with respect to individual losses which exceed $100 and to the extent that total net losses exceed 10 percent of Federal adjusted gross income.
Estimates: 2003: $3.5 million - 2006: $4.1 million
Data Source: PIT Simulation Model
Reliability: Level 1

e. **Taxes Paid Deduction**
Citation: IRC Section 164, Section 615(c)(1)
Effective Date: Effective for taxable years beginning on or after January 1, 1960 for property taxes. Effective for taxable years beginning on or after January 1, 2004 and expiring at the end of tax year 2005 for sales and use taxes.
Description: Individuals may deduct from Federal adjusted gross income, real and personal property taxes which have been paid to any state, local or foreign government during the year. Taxpayers who elected to deduct State and local sales and use taxes for Federal tax purposes, in lieu of the deduction for State and local income taxes, may deduct those sales and use taxes paid during the year.
Estimates: 2003: $470.0 million - 2006: $535.0 million
Data Source: PIT Simulation Model
Reliability: Level 1

f. **Miscellaneous Deductions Subject to 2 Percent of AGI Limitation**
Citation: IRC Sections 67, 212, 280A
Effective Date: Effective for taxable years beginning after December 31, 1986 (Sec. 67); on or after January 1, 1960 (Sec. 212); after December 31, 1975 (Sec. 280A)
Description: Taxpayers may deduct certain miscellaneous expenses. Miscellaneous itemized deductions consist of three broad categories of personal expenses: deductible employee expenses, deductible expenses of producing income and other deductible expenses (essentially, tax counsel and assistance and appraisal fees). The first two categories include such items as work clothes and uniforms, union dues and expenses, safe deposit box rentals, and malpractice insurance premiums.
Estimates: 2003: $313.4 million - 2006: $354.0 million
Data Source: PIT Simulation Model

Reliability: Level 1

g. Other Miscellaneous Deductions
Citation: IRC Section 67
Effective Date: Effective for taxable years beginning on or after January 1, 1987
Description: Taxpayers may deduct miscellaneous expenses not subject to the 2 percent AGI limitation. These include gambling losses (up to the amount of gambling winnings), impairment-related work expenses and certain other expenses.
Estimates: 2003: $26.0 million - 2006: $31.0 million
Data Source: PIT Simulation Model
Reliability: Level 1

16. Dependent Exemptions
Citation: Section 616
Effective Date: Effective for taxable years beginning on or after January 1, 1960
Description: In computing taxable income, taxpayers may deduct $1,000 for each exemption for qualified dependents to which they are entitled a deduction for Federal income tax purposes.
Estimates: 2003: $290.4 million - 2006: $306.0 million
Data Source: PIT Simulation Model
Reliability: Level 1

New York Credits

Credits are amounts which may be subtracted from the individual's computed State tax liability.

17. Household Credit
Citation: Section 606(b)
Effective Date: Effective for taxable years beginning on or after January 1, 1978
Description: Taxpayers with certain incomes may claim a nonrefundable credit as shown in the table below:

Single Filing Status If Federal AGI is:			All Other Filing Statuses If Federal AGI is:			
Over	But Not Over	The Credit Is	Over	But Not Over	The Credit Is +	For Each Federal Exemption
$ 0	$ 5,000	$75	$ 0	$ 5,000	$75	$15
5,000	6,000	60	5,000	6,000	60	15
6,000	7,000	50	6,000	7,000	50	15
7,000	20,000	45	7,000	20,000	45	15
20,000	25,000	40	20,000	22,000	50	10
25,000	28,000	20	22,000	25,000	40	10
28,000	No Credit		25,000	28,000	35	5
			28,000	32,000	15	5
			32,000	No Credit		

Estimates: 2003: $99.2 million - 2006: $92.0 million
Data Source: PIT Simulation Model
Reliability: Level 1

18. Earned Income Credit
Citation: IRC Section 32, Tax Law Section 606(d)
Effective Date: Effective for taxable years beginning after 1993
Description: Taxpayers may claim a credit equal to 30 percent of their Federal earned income credit. In previous tax years, the credit equaled the following percentages of the Federal credit:

1994	1995	1996-1999	2000	2001	2002	2003+
7.5%	10%	20%	22.5%	25%	27.5%	30.0%

The credit is fully refundable to residents, nonrefundable to nonresidents, and partly refundable to part-year residents. The table below shows income eligibility parameters and maximum amounts for the 2006 tax year:

	Maximum Creditable Earnings	Federal Credit Rate	Maximum State Credit	Income for Start of Phase-out (MFJ)*	Others	Income Cut-off (MFJ)*	Others
Taxpayers With 1 Child	$8,080	34%	$824	$16,810	$14,810	$34,001	$32,001
Taxpayers With 2 or More Children	$11,340	40%	$1,361	$16,810	$14,810	$38,348	$36,348
Taxpayers Age 25-64 Without Children	$5,380	7.65%	$124	$8,740	$6,740	$14,120	$12,120

* Earned income or Federal adjusted gross income, whichever is greater.

Taxpayers must subtract from the earned income credit the amount of household credit used to reduce tax liability.
Estimates: 2003: $681.5 million - 2006: $745.0 million
Data Source: Earned Income Tax Credit Study
Reliability: Level 1

19. Real Property Tax Credit (Circuit Breaker)
Citation: Section 606(e)
Effective Date: Effective for taxable years beginning after December 31, 1977
Description: Qualified individuals may claim a credit in the amount of 50 percent of excess real property taxes, determined according to the level of household gross income, subject to certain specified conditions and limits. Eligibility for the credit depends on the size of household gross income ($18,000 or less), property use, the value of the property or the adjusted rent of a tenant. The credit claimant must be a New York resident for the entire taxable year. The maximum credit is $375 for taxpayers age 65 and over and $75 for taxpayers under age 65. The amount of the credit decreases as household gross

income increases. Only one credit is allowed per household. The credit is refundable.
Estimates: 2003: $32.6 million - 2006: $31.0 million
Data Source: Real Property Tax Credit Study
Reliability: Level 1

20. Farmers' School Property Tax Credit
Citation: Section 606(n)
Effective Date: Effective for taxable years beginning on or after January 1, 1997
Description: Taxpayers primarily engaged in farming may claim a refundable credit equal to 100 percent of total school property taxes paid on qualified New York agricultural property up to 250 acres, and 50 percent of the school taxes paid on acres in excess of 250. To be eligible, taxpayers must earn two-thirds of their Federal income from farming, with three-year income averaging allowed in determining this threshold. For purposes of this test, total gross income is reduced by the sum (not to exceed $30,000) of earned income, pensions, social security, interest, and dividends. The credit phases out for taxpayers with NYAGI in excess of $100,000, after subtracting principal on farm indebtedness. Recapture provisions apply if the taxpayer converts the property to a nonqualified use in the two years subsequent to first use of the credit.
Estimates: 2003: $23.3 million - 2006: $26.5 million
Data Source: Personal Income Tax Clearing House data file
Reliability: Level 2

21. Investment Credit
Citation: Sections 606(a), a-1
Effective Date: Effective for taxable years beginning on or after January 1, 1969
Description: Taxpayers may claim an investment tax credit (ITC) of 4 percent of the cost of tangible property including buildings and structural components of buildings which are depreciable, have a useful life of four years or more, are located within the state, and are used principally for the production of goods. Eligible costs also include those associated with retail enterprises' investments in qualified rehabilitated building, and research and development (R&D) property. The rate of credit for R&D property equals 7 percent.

Beginning in 1997, a credit applies for 25 percent of the taxpayer's qualified expenditure paid to rehabilitate historic barns and similar structures. Qualified expenditures do not qualify for the regular ITC.

Effective for tax years beginning after 1997, taxpayers who increase their number of employees may be eligible for the employment incentive tax credit (EIC) with respect to property acquired or constructed on or after January 1, 1997. This credit applies to property that is eligible for the investment tax credit.

The taxpayer is allowed the EIC for each of the two years next succeeding the taxable year for which the investment tax credit is allowed. The amount of the EIC is as follows:

1.5 percent of the investment tax credit base if employment is at least 101 percent but less than 102 percent of the employment base year,
or
2.0 percent of the investment tax credit base if employment is at least 102 percent

but less than 103 percent of the employment base year,
or
2.5 percent of the investment tax credit base if employment is at least 103 percent of the employment base year.

Where the allowable credit exceeds the taxpayer's liability for a given year, the taxpayer may carry forward the excess credit for 10 subsequent tax years. In the case of a new business, only excess credit may be received as a refund.

An 8 percent credit is allowed if qualified property is located within State-designated Empire Zones. The regular ITC cannot be claimed for property on which an Empire Zone credit is claimed.

Estimates: 2003: $28.4 million - 2006: $36.5 million
Data Source: Personal Income Tax Clearing House data file
Reliability: Level 2

22. Investment Credit for Financial Securities Industry

Citation: Section 606(a)(2)(A)
Effective Date: Effective for property placed in service on or after October 1, 1998, and before October 1, 2008
Description: An investment credit is allowed for qualified property used in the financial services industry. The rate of credit, maximum amounts, carryforward provisions, and recapture rules are generally the same as for the regular investment credit.

Qualified property includes property principally used in the ordinary course of the taxpayer's trade or business:

C as a broker or dealer in connection with the purchase or sale of stocks, bonds, or other securities as defined in Internal Revenue Code (IRC) Section 475(c)(2), or of commodities as defined in IRC Section 475(e), or in providing lending, loan arrangement or loan origination services to customers in connection with the purchase or sale of securities as defined in IRC Section 475(c)(2);

C of providing investment advisory services for a regulated investment company as described in IRC Section 851.

In addition, qualified property includes property principally used in the ordinary course of the taxpayer's business as an exchange registered as a national securities exchange (such as the New York stock exchange) or a board of trade defined under the New York Not-For-Profit Corporation Law, or an entity wholly owned by one or more national security exchanges or boards of trade that provides automation or technical services to the national security exchanges or boards of trade.

Property purchased by a taxpayer affiliated with a regulated broker, dealer, or national securities exchange or board of trade, or property leased by a taxpayer to an affiliated regulated broker, dealer, national securities exchange or board of trade is eligible for this credit if the property is used by the affiliate in an activity described above.

The credit is not allowed unless all or substantially all of the taxpayer's or affiliate's employees performing the administrative and support functions resulting from or relating to the qualifying uses of the property are located in New York State.

Estimates: 2003: $0.5 million - 2006: $0.4 million
Data Source: Personal Income Tax Clearing House data file

Reliability: Level 2

23. Child and Dependent Care Credit
Citation: Section 606(c)
Effective Date: Effective for taxable years beginning after December 31, 1976
Description: Taxpayers may claim a credit for a percentage of the Federal credit for household and dependent care expenses necessary to allow gainful employment. The Federal credit was significantly enhanced beginning in 2003 when allowable expenses increased from $2,400 per child ($4,800 maximum) to $3,000 per child ($6,000 maximum) and the credit rates schedule was enriched. A husband and wife filing a joint Federal return, but electing to file separate New York returns, may apply the credit only against the tax of the spouse with the lower taxable income.

The credit is refundable for New York State residents, and equals the following percentages of the Federal credit:

110 percent for NYAGI of $25,000 or less
110-100 percent for NYAGI between $25,000 and $40,000
100 percent for NYAGI between $40,000 and $50,000
100-20 percent for NYAGI between $50,000 and $65,000
20 percent for NYAGI greater than $65,000

For tax years before 2000, different credit percentages and incomes applied, as shown below:

	Tax Year					
	Before 1996	1996	1997	1998	1999	After 1999
Maximum Percentage	20%	30%	60%	100%	100%	110%
NYAGI Range of Phase-Down to 20%	NA	10,000 - 14,000	10,000 - 14,000	17,000 - 30,000	35,000 - 50,000	50,000 - 65,000
Refundability	No	Yes	Yes	Yes	Yes	Yes

Estimates: 2003: $325.3 million - 2006: $380.0 million
Data Source: PIT Simulation Model
Reliability: Level 1

24. Accumulation Distribution Credit
Citation: Sections 621 and 635
Effective Date: Effective for taxable years beginning on or after January 1, 1962
Description: Beneficiaries of trusts (residents and nonresidents) receiving an accumulation distribution can claim a credit for tax paid by the trust fiduciary on income included in the distribution.
Estimates: 2003: Minimal - 2006: Minimal
Data Source: Personal Income Tax Clearing House data file

Reliability: Level 2

25. Empire Zone and Zone Equivalent Areas Tax Credits

Citation: Sections 606(j), (j-1), (k), (l)

Effective Date: Effective for tax years beginning on or after January 1, 1986. ("Empire Zone" renamed from "Economic Development Zone" effective May 15, 2000.) However, the methods for computing the wage tax credit and the capital corporation credit were amended for tax years beginning on or after January 1, 1994. Amendments providing that taxpayers located in Zone Equivalent Areas (ZEAs) can take a modified Empire Zone wage tax credit were effective January 1, 1994.

Description: Taxpayers may qualify for credit for investments in zone capital corporations, direct equity investments in certified zone businesses and contributions to community development projects. The credit equals 25 percent of the sum of each type of investment. The maximum credit per taxpayer is $300,000 and cannot exceed one half of the taxpayer's pre-credit tax.

In addition, effective for property placed in service on or after January 1, 1997, an employment incentive credit applies. This credit applies in addition to the regular Empire Zone ITC, for taxpayers that increase their average number of employees by at least one percentage point over the preceding base year. This credit is 50 percent refundable to new businesses.

A taxpayer may also claim a wage tax credit for doing business and creating jobs in Empire Zones. The credit has two components. This credit equals the product of the average number of newly hired targeted Empire Zone employees receiving Empire Zone wages times $3,000. The corresponding credit amount for other employees equals the product of the average number of newly hired nontargeted Empire Zone employees receiving Empire Zone wages times $1,500. Taxpayers may claim an additional $500 for each employee paid over $40,000 in wages.

Taxpayers employing individuals in areas eligible to become Empire Zones but not so designated (Zone Equivalent Areas, or ZEAs) may take a credit for Empire Zone wages paid for full-time employment in jobs created in the ZEA. Taxpayers must take the credit during the five year period following designation as a ZEA. The credit equals $3,000 times the average number of targeted employees and $1,500 times the average number of nontargeted employees hired during the first year. The total wage tax credit cannot exceed 50 percent of tax due before credits.

Taxpayers may also qualify for an investment tax credit of 8 percent of the cost or other Federal basis of tangible personal property, including buildings and structural components of buildings located within a designated Empire Zone.

Qualifying new businesses may request a refund of 50 percent of the unused wage (both Empire Zone and ZEA) and investment credits in lieu of carrying those credits over to future tax years. Unused capital credits may be carried over to future tax years.

Estimates: 2003: $75.0 million - 2006: $110.0 million

Data Source: Personal Income Tax Clearing House data file

Reliability: Level 2

26. Special Additional Mortgage Recording Tax Credit Carryforward
Citation: Section 606(I)
Effective Date: The credit is effective for taxable years beginning after December 31, 1978. Carryforward applies for tax years beginning after December 31, 1993
Description: Prior to tax year 1994, S corporation shareholders may claim a credit equal to their prorata share of the special additional mortgage recording tax paid by the corporation pursuant to Section 253(1-a) of Article 11 of the New York Tax Law. The amount of any credit which exceeded tax liability could be carried forward and used in subsequent years. Beginning after 1993, the credit is available only to the S corporation, not at the shareholder level. However, shareholders may claim credits earned, but not used, before tax year 1994.
Estimates: 2003: $2.3 million - 2006: $2.0 million
Data Source: Personal Income Tax Clearing House data file
Reliability: Level 2

27. Solar Energy System Equipment Credit
Citation: Section 606(g-1)
Effective Date: Effective for property placed in service in taxable years beginning on or after January 1, 1998
Description: Taxpayers may claim a credit equal to 25 percent of qualified solar energy system equipment expenditures which are expenditures for the purchase and installation of solar energy system equipment used at a principal residence in New York. Qualified expenditures include material and installation costs relating to components utilizing solar radiation to produce energy designed to provide heating, cooling, hot water, or electricity for residential use. The credit is capped at $3,750 for equipment placed in service before September 1, 2006 and $5,000 for equipment placed in service after such date. If the credit exceeds tax liability, taxpayers may carry over the credit for five years.
Estimates: 2003: $0.6 million - 2006: $0.8 million
Data Source: Personal Income Tax Clearing House data file
Reliability: Level 2

28. Credit for Employment of Persons with Disabilities
Citation: Section 606(o)
Effective Date: Effective for taxable years beginning on or after January 1, 1998, applicable to individuals who begin work on or after January 1, 1997
Description: Employers may claim a credit equal to 35 percent of the first $6,000 of wages paid to workers with disabilities, as certified by the State Department of Education or other designated State agency. The credit applies for the second year of employment if a Federal work opportunity tax credit applies for the first year. Alternatively, taxpayers may claim the credit based on the first year of employment if no work opportunity tax credit applies. Taxpayers may carry over unused credit amounts to subsequent tax years.
Estimates: 2003: $0.1 million - 2006: $0.1 million
Data Source: Personal Income Tax Clearing House data file
Reliability: Level 2

29. Qualified Emerging Technology Companies Credits (QETC)

a. QETC Capital Tax Credit

Citation: Section 606(r)
Effective Date: Effective for tax years beginning on or after January 1, 1999
Description: Taxpayers who make a qualified investment in a certified QETC can receive a credit that varies depending upon how long the investment is held. Taxpayers claim the credit in the year the investment is made and certify the duration of the holding period. Investments held for four years from the close of the tax year in which the credit is first claimed qualify for a 10 percent credit. Investments held for nine years qualify for a 20 percent credit. If the property is sold, transferred, or disposed of prior to the end of the holding period, the taxpayer must recapture a portion of the credit. The aggregate limits for all years are $150,000 for the 10 percent credit, and $300,000 for the 20 percent credit. The amount of credit deducted may not exceed 50 percent of the tax due before any credits and any excess may be carried forward indefinitely.
Estimates: 2003: $0.8 million - 2006: $0.5 million
Data Source: Personal Income Tax Clearing House data file.
Reliability: Level 2

b. QETC Employment Credit

Citation: Section 606(q)
Effective Date: Effective for tax years beginning on or after January 1, 1999
Description: A QETC may receive a credit equaling $1,000 for each individual employed over a base year level and is allowed for three years. Excess credit may be carried forward indefinitely and is refundable to new businesses.
Estimates: 2003: $0.2 million - 2006: $0.1 million
Data Source: Personal Income Tax Clearing House data file
Reliability: Level 2

c. QETC Facilities, Operations, and Training Credit

Citation: Section 606(nn)
Effective Date: Effective for tax years beginning on or after January 1, 2005
Description: QETCs may receive this credit which consists of three components. The first is an 18 percent credit for qualified research and development property. The second is a 9 percent credit for qualified research expenses. The third is a 100 percent credit for employee training expenses, up to $4,000 per employee per year. The credit is available for four consecutive years, although a taxpayer relocating from an academic incubator facility is entitled to an additional year. The credit is capped at $250,000 per taxpayer per year and is fully refundable. The credit expires after December 31, 2011.
Estimates: 2003: Not Applicable - 2006: Minimal
Data Source: Personal Income Tax Clearing House data file.
Reliability: Level 4

30. College Tuition Credit

Citation: Sections 606(t), 615(d)(4)

Effective Date: Effective for tax years beginning on or after January 1, 2001

Description: A refundable credit is permitted for undergraduate college tuition expenses paid by New York residents on behalf of themselves, their spouses, or dependents to attend qualifying in-state or out-of-state institutions of higher education. The credit equals 4 percent of expenses, up to a maximum of $10,000 of expenses per student. The minimum credit equals the lesser of expenses or $200.

In lieu of the credit, both resident and nonresident taxpayers may elect to deduct qualifying expenses as an itemized deduction. The maximum deduction is a maximum of $10,000 of expenses per student.

Qualifying tuition expenses are defined as net of scholarships and financial aid. Qualifying institutions include colleges and business, trade, technical or other occupational schools recognized and approved by the Regents of the University of the State of New York, or by other nationally recognized accrediting agencies accepted by the Regents, which provide study leading to a post-secondary degree, certificate, or diploma. Tuition paid by a dependent student who is claimed on a parent's New York return is attributed to the parent and used by the parent to claim the credit or deduction.

Estimates: 2003: $129.6 million - 2006: $250.0 million

Data Source: PIT Simulation Model

Reliability: Level 1

31. Credit for Purchase of an Automated External Defibrillator

Citation: Section 606(s)

Effective Date: Effective for tax years beginning on or after January 1, 2001

Description: Taxpayers may claim a credit for the purchase of an automated external defibrillator, as defined in section 3000-b of the Public Health Law. The amount of credit equals the cost of such purchase, up to a maximum of $500 per defibrillator.

Estimates: 2003: Minimal - 2006: Minimal

Data Source: Personal Income Tax Clearing House data file

Reliability: Level 1

32. Green Buildings Credit

Citation: Section 19 and Section 606(y)

Effective Date: Effective for costs incurred on or after June 1, 1999 and certified by the Department of Environmental Conservation prior to 2004. The credit is allowable for tax years 2001 through 2009.

Description: Taxpayers may claim a credit for the purchase of recyclable building materials and other environmentally preferable tangible personal property. Credits may also be claimed for the purchase of fuel cells, photovoltaic modules, and environmentally sensitive non-ozone depleting refrigerants. Phase 1 of the program applied to costs incurred on or after June 1, 1999 for property placed in service or that received a final certificate of occupancy in tax years 2001 to 2004. Phase 2 of the program begins with the 2005 tax year. An additional $25 million in total credit may be issued under Phase 2 although the amount of any single credit certified is limited to $2 million.

Estimates: 2003: $0.7 million - 2006: $1.0 million

Data Source: Statutory limitation
Reliability: Level 4

33. Low Income Housing Credit
Citation: Sections 18, 606(x)
Effective Date: Effective for tax years beginning on or after January 1, 2000, with respect to commitments for construction of low-income housing agreed upon on or after May 15, 2000.
Description: Taxpayers may claim credits under the "New York State Low Income Housing Tax Credit Program." Based on the existing Federal program, the program requires an agreement between the taxpayer and the commissioner of the New York State Division of Housing and Community Renewal (DHCR) for a long-term commitment to low-income housing. The amount of the credit a taxpayer may claim is determined by the commissioner of the DHCR and depends on the applicable percentage of the qualified basis of each low-income building. The credit amount allocated is allowed as a credit against tax for 10 tax years. Unused credits may be carried forward indefinitely. The total amount of credit available is $80 million, or $8 million each year.
Estimates: 2003: Minimal - 2006: Minimal
Data Source: Personal Income Tax Clearing House data file
Reliability: Level 2

34. Credit for Transportation Improvement Contributions
Citation: Sections 20, 606(z)
Effective Date: Effective for tax years beginning on or after January 1, 2000
Description: Taxpayers may claim a credit for qualified transportation improvement contributions. The taxpayer must make a certified contribution of at least $10 million to a qualified transportation improvement project in a prior tax year. The projects must enhance a qualified business facility, and may include the construction or improvement of transportation infrastructure and related facilities and systems, including bridges, ramps, highways, and mass transit facilities. In addition, the taxpayer must create, by the third full tax year after the tax year during which the contribution was made, more than 1,000 jobs in connection with the qualified business facility. The credit equals 6 percent of the taxpayer's increased qualified business facility payroll for the tax year. Recapture applies if, after the third full tax year after the contribution is made, the employment increase test is not met.
Estimates: 2003: $0.0 million - 2006: $0.0 million
Data Source: Personal Income Tax Clearing House data file
Reliability: Level 2

35. Qualified Empire Zone Credits
Citation: Sections 15, 16, 606(bb), (cc)
Effective Date: Effective for tax years beginning on or after January 1, 2001
Description: Taxpayers may claim credits under the "The Empire Zones Program Act." These include Qualified Empire Zone Enterprise (QEZE) tax credits for real property taxes and tax reduction credits. Qualified empire zone enterprises include business enterprises certified as EZ businesses prior to July 1, 2005. Allowances of credit are for

taxpayers that are sole proprietors of a QEZE, or a member of a partnership which is a QEZE. The QEZE credit for real property taxes and the QEZE tax reduction credit may be claimed for 15 years by taxpayers first certified prior to April 1, 2005 and for 10 years by taxpayers first certified on or after April 1, 2005. The credit for real property taxes is refundable.
Estimates: 2003: $62.6 million - 2006: $145.0 million
Data Source: Personal Income Tax Clearing House data file
Reliability: Level 2

36. Industrial or Manufacturing Business Credit
Citation: Sections 14-a, 606(t-1)
Effective Date: Effective for tax years ending after January 1, 2000 and prior to January 1, 2007
Description: Industrial or manufacturing businesses (IMBs), sole proprietors of IMBs, and partners in an IMB are allowed a credit for taxes paid or passed through to the IMB under the provisions of Tax Law Sections 186-a, 186-c, 189 and 189-a of Article 9 for gas, electricity, steam, water or refrigeration, or the services of providing such, where they are used or consumed in New York.

Businesses qualifying for the IMB credit include any that meet the definition of such businesses under the ITC. That is, any business which during the taxable year is principally engaged in: manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture, commercial fishing or research and development; or is an industrial waste treatment facility or an air pollution control facility; or is principally engaged in a combination of such activities.
Estimates: 2003: $1.5 million - 2006: $1.0 million
Data Source: Personal Income Tax Clearing House data file
Reliability: Level 2

37. Long-Term Care Insurance Credit
Citation: Section 606(aa)
Effective Date: Effective for tax years beginning on or after January 1, 2002
Description: Taxpayers may claim a credit equal to 20 percent of the premiums paid for long-term care insurance policies approved by the New York State Department of Insurance. Unused credit may be carried forward to future tax years.
Estimates: 2003: $28.6 million - 2006: $100.0 million
Data Source: Personal Income Tax Clearing House data file
Reliability: Level 2

38. Fuel Cell Electricity Generating Equipment Credit
Citation: Section 606 (g-2)
Effective Date: Effective for costs incurred on or after July 1, 2005.
Description: Taxpayers may claim a credit equal to 20 percent of qualified fuel cell electric generating equipment expenditures for the tax year in which the equipment is placed in service. Qualified expenditures are associated with the purchase of on-site electricity generation systems utilizing proton exchange membrane fuel cells up to 100 kilowatts of rated capacity. The maximum credit is $1,500 per generating unit and the

taxpayer may carry over any unused credit for five years.
Estimates: 2003: Not Applicable - 2006: Minimal
Data Source: Industry Data
Reliability: Level 2

39. Empire State Film Production Credit
Citation: Sections 24, 606(gg)
Effective Date: Effective for taxable years beginning on or after January 1, 2004. Expires on August 20, 2008.
Description: Taxpayers may claim a tax credit for film production activity in New York State. If the taxpayer satisfies certain criteria regarding a threshold level of film production activity in the State, then the credit equals ten percent of qualified production costs incurred in the production of films and certain television shows. Fifty percent of excess credit is refundable, and any credit carried forward is fully refundable in the following year. The aggregate amount of credit available in any year equals $25 million. Credit is awarded on a first come - first served basis with application made to the New York State Governor's Office for Motion Picture and Television Development. Applications received after the full allocation of credit will be treated as having applied first in the following year.
Estimates: 2003: Not applicable - 2006: $20.0 million
Data Sources: Empire State Development Corporation, Industry Data
Reliability: Level 4

40. Brownfields Tax Credits
Citation: Sections 21, 22, 23, and 606(dd)(ee)(ff)
Effective Date: Effective for tax years beginning on or after April 1, 2005
Description: Three refundable tax credits are available to taxpayers who remediate a site under the Brownfield Cleanup Program.

The brownfield redevelopment tax credit consists of three credit components relating to costs associated with: site preparation; tangible property; and on-site groundwater remediation. The credit equals 10 percent of costs associated with each component. The credit increases by two percent if the site is remediated to a Track 1 cleanup level (determined by the Department of Environmental Conservation), and by another eight percent if at least one half of the site is located in an Environmental Zone (En-Zone). An En-Zone is an area designated by the Commissioner of Economic Development and, as of the 2000 census, has a poverty rate of at least 20 percent and an unemployment rate of at least 1 1/4 times the statewide unemployment rate, or areas that have a poverty rate of at least two times the poverty rate for the county in which the data relate provided the site was subject to a cleanup agreement before September 1, 2006.

The remediated brownfield credit for real property taxes equals 25 percent of the product of the taxpayer's employment factor (a percentage based on the number of persons employed by the taxpayer on a qualified site) and the taxpayer's eligible real property taxes. If the site is located in an En-Zone the credit increases to 100 percent. There is a credit limitation equal to the product of the number of full time employees at the qualified site multiplied by $10,000.

The environmental remediation insurance credit is allowed for premiums paid

for environmental remediation insurance up to the lesser of $30,000 or 50 percent of the cost of the premiums.
Estimates: 2003: Not Applicable - 2006: $58.0 million
Data Source: New York State Department of Environmental Conservation
Reliability: Level 4

41. Nursing Home Assessment Tax Credit
Citation: Section 606 (hh)
Effective Date : Effective for taxable years beginning on or after January 1, 2005.
Description : Taxpayers may claim a refundable nursing home assessment tax credit equal to the assessment imposed on the gross receipts of residential health care facilities under Public Health Law §2807-d. The credit is allowed in cases where the assessment is paid by the taxpayer and is not covered under Medicaid or private insurance.
Estimates: 2003: Not Applicable - 2006: $40.0 million
Data Source: New York State Division of the Budget
Reliability: Level 4

42. Special Additional Mortgage Recording Tax Credit
Citation: Section 606(f)(3)
Effective Date: The credit is effective for taxable years beginning after 2003.
Description: Taxpayers may claim a credit for special additional mortgage recording tax paid for certain mortgages recorded on or after January 1, 2004. The credit is not available for special additional tax paid on mortgages of real property principally improved by one or more structures containing in the aggregate not more than six residential dwelling units, each dwelling unit having its own separate cooking facilities, where the real property is located in one or more of the counties comprising the metropolitan commuter transportation district or Erie County. If the amount of the credit exceeds tax liability for the year, the taxpayer may carry over the amount of credit exceeding tax to the following year or years, or can elect to treat the unused amount of credit as an overpayment of tax to be credited or refunded, without interest.
Estimates: 2003: Not Applicable – 2006: $1.0 million
Data Source: New York State Division of the Budget
Reliability: Level 2

43. Security Training Tax Credit
Citation: Section 606(ii)
Description: Owners of commercial buildings over 500,000 square feet can receive a refundable credit of $3,000 for each security guard employed who has undergone training certified by the New York State Office of Homeland Security (OHS) and is paid a certain minimum wage. The credit is administered by OHS and is effective for tax years beginning on or after January 1, 2005
Estimates: 2003: Not Applicable - 2006: $2.0 million
Data Source: New York State Office of Homeland Security
Reliability: Level 4

CORPORATION FRANCHISE TAX

This section of the report provides tax expenditure estimates for 33 separate provisions of the corporation franchise tax on general business corporations. It contains estimates of the tax expenditures for tax years 1998 through 2002 (2002 is the latest year for which Article 9-A tax return data are available). The list of tax expenditures is based on the Tax Law as of January 1, 2006. The estimates are also extrapolated to the 2006 tax year. The tax year refers to both the 2006 calendar year and fiscal years ending in 2007. Table 4 summarizes the tax expenditure estimates. It also includes total Article 9-A corporate franchise tax liability for the 2002 tax year.

Description of Tax

Article 9-A imposes a corporate franchise tax on general business corporations for the privilege of conducting business in New York. Certain other corporations (public utilities, banks and insurance companies), pay tax under other articles of the Tax Law. The corporation franchise tax has four separate bases: allocated entire net income; allocated business and investment capital; allocated minimum taxable income; and a fixed dollar minimum. Corporations pay the highest tax computed on these bases less applicable credits, but generally not less than the higher of the minimum tax or fixed dollar amount. The Tax Law imposes an additional tax on allocated subsidiary capital. Because of the similarities between the entire net income and alternative minimum taxable income computations, the tax expenditure provisions and estimates discussed in this section pertain only to the allocated entire net income and allocated business and investment capital bases.

The computation of corporation franchise tax on the allocated entire net income and allocated minimum taxable income bases generally starts with Federal taxable income. Taxpayers then make several state-specific modifications to arrive at New York entire net income and alternative minimum taxable income. Both income bases consist of both business and investment income. Taxpayers allocate each type of income to New York by its respective allocation percentage. The sum of these allocated incomes equals the taxable income bases. The tax rates are:

C 7.5 percent of allocated entire net income; or

C 2.5 percent of alternative minimum taxable income.

The tax on allocated business and investment capital starts with the taxpayer’s total assets. Taxpayers reduce their assets by both long- and short-term liabilities to arrive at total capital. Total capital minus subsidiary capital and investment capital equals business capital. Taxpayers then multiply each type of capital by its respective allocation percentage. Total allocated business and investment capital forms the allocated capital base. (A separate tax applies to allocated subsidiary capital.) A 0.178 percent tax rate applies to allocated capital, and the maximum tax under this base is capped at $350,000 for manufacturers and $1 million for all other taxpayers.

The fixed dollar minimum ranges from $100 to $1,500 depending on the gross payroll for the taxable year. However, for tax years beginning in 2004 and 2005, the $1,500 amount has been replaced by two amounts, $5,000 and $10,000, depending on the gross payroll. Taxpayers with gross payroll of $500,000 or less pay $100. Prior to the law change, taxpayers with gross payroll between $500,000 and $250,001 paid $225.

Data Sources

The major sources of data used to compute the tax expenditure estimates include:

C 2002 Article 9-A Corporation Franchise Tax Study File - This file, compiled by the Department of Taxation and Finance, includes all corporations filing under Article 9-A except the fixed minimum tax filers and S corporations. It includes selected data items from the tax returns for each corporation. Simulations of the file generate the base case tax expenditures.

C Congressional Joint Committee on Taxation (JCT) Estimates of Federal Tax Expenditures - Because no data for Federal exclusion items which are listed in the Appendix exist at the State level, the estimates of the Federal tax expenditure items come from prorations of JCT estimates to New York.

Methodology

The projections of the tax expenditures from 2002 to 2006 use a variety of economic forecast variables. Projections of items under Federal exclusions from income in the Appendix were taken from the JCT estimates of Federal tax expenditures and prorated to New York.

Tax expenditures whose values are less than $0.1 million are considered minimal and are designated by an asterisk.

A significant change was made to the Article 9-A study file definition this year. The file is now comprised of taxpayers whose filing period beginning date is 2002. Previous data files were comprised of taxpayers whose file period end date was between December of one year and November of the following year. This change was made for two reasons. First, the definition is more straightforward and treats all taxpayers in a particular year in the same way. Second, and more importantly, the previous year's definition allowed for the inclusion of a short period return when a full year return was already in the file.

Table 4
2006 New York State Article 9-A Tax Expenditure Estimates
(2002 Total Corporate Franchise Tax Liability = $1,084.7 Million)
(Millions of Dollars)

Tax Law	History					Forecast	Reliability
	1998	1999	2000	2001	2002	2006	Level
New York Modifications to Federal Taxable Income							
1. Exclusion of Interest, Dividends and Capital Gains from Subsidiary Capital	1,423.3	1,560.0	2,585.7	2,290.0	1,410.3	1,396.3	1
2. Deduction of Fifty Percent of Dividends from Non-Subsidiary Corporations	21.9	45.5	53.6	36.4	61.9	61.0	1
3. New Small Business Exemption (Capital Base only)	N/A	N/A	N/A	N/A	N/A	N/A	5
4. Deduction of Receipts from School Bus Operation	N/A	N/A	N/A	N/A	N/A	N/A	5
5. Exclusion of Income for Foreign Airlines	*	*	*	*	*	*	2
Allocation Percentages							
6. Optional Treatment of Cash	3.9	4.9	6.3	5.0	5.4	8.9	1
7. Exclusion of Wages of Executive Officers in Allocation Percentage	N/A	N/A	N/A	N/A	N/A	N/A	5
Credits							
8. Investment and Retail Enterprise Tax Credit, Employment Incentive Credit and Rehabilitation Credit for Historic Barns	119.5	101.5	110.8	94.9	76.3	73.6	1
9. Investment Tax Credit for the Financial Services Industry	6.3	56.7	30.8	17.4	33.3	31.6	1
10. Special Additional Mortgage Recording Tax Credit	0.7	0.7	0.8	0.8	4.6	1.6	1
11. Empire Zone and QEZE Credits							
a. Empire Zone and Zone Equivalent Areas Tax Credits	36.5	50.9	14.2	79.6	62.0	40.0	1
b. Qualified Empire Zone Enterprise Tax Credits	--	--	--	45.1	63.6	154.1	1
12. Credit for Servicing SONYMA Mortgages	*	*	0.0	0.0	*	*	1
13. Farmers' School Property Tax Credit	*	*	*	0.1	0.8	*	1
14. Credit for Employment of Persons with Disabilities	*	0.2	0.2	0.2	0.2	0.2	1
15. Qualified Emerging Technology Company (QETC) Credits							
a. QETC Capital Tax Credit	--	0.0	0.0	*	*	*	1
b. QETC Employment Credit	--	0.1	0.4	0.5	0.3	1.6	1
c. QETC Facilities, Operations and Training Credits	--	--	--	--	--	10.0	5
16. Industrial or Manufacturing Business Credit (IMB)	--	0.4	5.4	4.2	14.9	14.9	1
17. Credit for Transportation Improvement Contributions	--	--	0.0	0.0	0.0	0.0	1
18. Low Income Housing Credit	--	--	0.0	*	*	*	1

		History					Forecast	Reliability
		1998	1999	2000	2001	2002	2006	Level
19.	Credit for Purchase of an Automated External Defibrillator	--	--	--	*	*	*	1
20.	Green Building Credit	--	--	--	0.0	0.0	2.0	1
21.	Long-Term Care Insurance Credit	--	--	--	--	*	*	1
22.	Brownfields Tax Credits 1/	--	--	--	--	--	58.0	4
23.	Empire State Film Production Credit 1/	--	--	--	--	--	5.0	4
24.	Alternative Fuels Credit	0.0	0.1	2.0	0.2	0.5	*	1
25.	Security Training Tax Credit 1/	--	--	--	--	--	3.0	5
26.	Fuel Cell Electricity Generating Equipment Credit 1/	--	--	--	--	--	2.0	5
Corporate Exemptions								
27.	Exempt Companies	N/A	N/A	N/A	N/A	N/A	N/A	5
28.	Companies Whose Income "Passes Through" to Shareholders							
	a. Real Estate Investment Trusts (REITs)	N/A	N/A	N/A	N/A	N/A	N/A	5
	b. Regulated Investment Companies (RICs)	N/A	N/A	N/A	N/A	N/A	N/A	5
29.	Businesses Using Fulfillment Services	N/A	N/A	N/A	N/A	N/A	N/A	5
30.	Corporate Parent with Bank and Insurance Subsidiaries and Gas and Electric Subsidiaries	--	--	10.1	3.2	5.1	5.1	2
31.	Homeowners Association Exemption from Fixed Dollar Minimum Tax	--	--	*	*	*	*	2
Preferential Tax Rates								
32.	Qualifying Small Business Corporations	12.3	13.2	12.1	4.5	0.0	1.2	1
33.	Capital Base Liability Cap Reduction for Manufacturers	--	--	--	--	--	0.8	2

1/ A new tax expenditure item, a revision of the methodology or revisions in the data sources resulting in an estimate which better reflects the tax expenditure value.

* Less than $0.1 million.

-- The tax expenditure was not applicable for these years.
N/A No data available

New York Modifications to Federal Taxable Income

In computing New York entire net income (ENI), Article 9-A of the New York Tax Law allows modifications to Federal taxable income.

1. Exclusion of Interest, Dividends and Capital Gains from Subsidiary Capital
Citation: Section 208(9)(a)(1)
Effective Date: Effective for tax years beginning on or after January 1, 1944
Description: Taxpayers may subtract dividends, interest, and gains derived from subsidiary corporations from Federal taxable income in the computation of New York entire net income.
Estimates: 2002: $1,410.3 million - 2006: $1,396.3 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

2. Deduction of Fifty Percent of Dividends from Non-Subsidiary Corporations
Citation: Section 208(9)(a)(2)
Effective Date: Effective for tax years beginning on or after January 1, 1944
Description: A New York corporation may deduct from Federal taxable income 50 percent of dividend income received from non-subsidiary corporations (other than DISCs). For tax years beginning on or after January 1, 1989, New York conforms with IRC Section 246(c); stock must be held for 45 days or more to qualify for the deduction.
Estimates: 2002: $61.9 million - 2006: $61.0 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

3. New Small Business Exemption (Capital Base only)
Citation: Section 210(1-c)
Effective Date: Effective for tax years beginning on or after January 1, 1981
Description: The law exempts new small businesses from the alternative tax based on allocated business and investment capital. This exemption applies to the first two years of operation of a business which:

- C operates as a small business corporation as defined under the Internal Revenue Code;
- C has at least 90 percent of its assets and 80 percent of its employees located and employed within New York State;
- C is not a subsidiary of a taxable New York corporation; and
- C is not a corporation which is substantially similar in operation and in ownership to a business entity (or entities) previously taxable under Article 9-A.

Estimate: No data available
Reliability: Level 5

4. Deduction of Receipts from School Bus Operation
Citation: Section 208(9)(a)(4)
Effective Date: Effective for tax years beginning on or after January 1, 1962
Description: A taxpayer may exclude income and deductions with respect to amounts

received from school districts and nonprofit religious, charitable or educational organizations for the operation of school buses in determining a corporation's taxable entire net income.
Estimate: No data available
Reliability: Level 5

5. **Exclusion of Income for Foreign Airlines**
Citation: Section 208(9)(c-1)
Effective Date: The law applies income provisions retroactive to January 1, 1989. The allocation of foreign airlines' business capital became effective for taxable years beginning on or after January 1, 1994.
Description: Foreign airlines may exclude from entire net income all income from international operations of aircraft effectively connected to the United States, foreign passive income and income earned overseas from overseas operations of aircraft. Certain foreign airlines may exclude from the capital based tax business and investment assets connected with such exempt income. These tax benefits apply provided the "home country" provides similar treatment to United States airlines.
Estimates: 2002: Minimal - 2006: Minimal
Data Source: Research File
Reliability: Level 2

Allocation Percentages

The law subjects business corporations to tax only on the portion of their income and capital attributable to New York activities. Consequently, formulas have been devised (called allocation percentages) for the purpose of determining that portion of a corporation's business income and capital, investment income and capital, and subsidiary capital taxable in New York. The tax provisions listed in this section are the consequence of preferences given through the calculation of the allocation percentages as described in New York Tax Law, Article 9-A.

6. **Optional Treatment of Cash**
Citation: Section 208(7)
Effective Date: Effective for tax years beginning on or after January 1, 1944
Description: Taxpayers with investment capital may elect to report cash as entirely investment or business capital. Taxpayers reporting cash as investment capital allocate using the generally lower investment allocation percentage.
Estimates: 2002: $5.4 million - 2006: $8.9 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

7. **Exclusion of Wages of Executive Officers in Allocation Percentage**
Citation: Section 210(3)(a)(3)
Effective Date: Effective for tax years beginning on or after January 1, 1944
Description: The payroll factor portion of a corporation's business allocation percentage does not include wages, salaries and other personal service compensation paid to general executive officers. As a consequence of this exclusion, a taxpayer's

proportion of total income or capital allocated to New York for State tax purposes could be reduced or increased, depending on the particular corporate circumstances.
Estimate: No data available
Reliability: Level 5

Credits

Credits include amounts, stipulated by Article 9-A, Section 210 of the New York State Tax Law, which the taxpayer may subtract in calculating New York tax liability.

Description of Credits

The following summary table presents total credit amounts for Article 9-A tax credits and their various components.

- Credit earned - the amount of credit generated in the current tax year.
- Unused credit from the prior year - amounts carried forward from the previous tax year.
- Recaptured credit - amounts that taxpayers had to subtract from credit available because the basis for the credit was no longer qualified.
- Credit claimed - credit available less recaptured credit.
- Credit used - amounts of credit actually applied by the taxpayer to reduce liability.
- Refundable credit - the amount of excess credit, where applicable, requested as a refund by the taxpayer.
- Credit carried forward - unused, unrefunded amounts of credit allowed to offset tax liability in future years.

The amount of credit used plus refunded is the tax expenditure for the year. For additional detail on credits, see the Office of Tax Policy Analysis' publication "Analysis of Article 9-A General Business Corporation Franchise Tax Credits for 2002."

Article 9-A Tax Credits in 2002
($ in millions)

	Total Credit Earned	Unused Credit from the Prior Year	Total Credit Available	Recaptured Credit	Credit Claimed	Credit Used	Refundable Credit[1]	Credit Carried Forward
Investment Tax Credit	$153.1	$1,532.9	$1,686.0	$15.7	$1,670.3	$57.8	$18.5	$1,594.0
Investment Tax Credit for the Financial Services Industry	87.5	156.4	243.9	2.2	241.6	29.6	3.7	208.3
Special Additional Mortgage	4.9	1.8	6.7	0.0	6.7	1.6	3.0	2.0
Empire Zone Credits	343.5	325.1	668.6	10.0	658.6	59.9	65.8	532.8
Alternative Minimum Tax Credit	3.7	38.9	38.9	0.0	38.9	0.6	0.0	38.3
Mortgage Servicing Tax Credit	d/	d/	d/	d/	d/	d/	d/	d/
Farmers' School Tax Credit	0.8	0.0	0.9	0.0	0.9	0.0	0.8	0.1
Credit for Employment of Persons with Disabilities	0.2	0.2	0.4	0.0	0.4	0.2	0.0	0.2
Alternative Fuels Credit[2]	0.6	0.4	1.0	0.0	1.0	0.5	0.0	0.5
QETC Employment Credit	0.4	1.2	1.6	0.0	1.6	0.1	0.2	1.3
QETC Capital Tax Credit[3]	d/	d/	d/	d/	d/	d/	d/	d/
IMB Credit	14.9	--	14.9	0.0	14.9	1.9	12.9	--
Credit for Purchase of an Automated External Defibrillator	0.0	--	0.0	0.0	0.0	0.0	0.0	--
Green Building Credit[4]	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Low-Income Housing Credit[3]	d/	d/	d/	d/	d/	d/	d/	d/
Long-Term Care Insurance	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total[5]	$609.8	$2,056.9	$2,662.8	$28.0	$2,634.9	$152.3	$104.9	$2,377.5

[1] Credit refunded includes amounts eligible for refund, but instead claimed as an overpayment applied against next year's tax liability at the discretion of the taxpayer.

[2] The provisions of this credit allow for the transfer of excess credit to affiliates of the taxpayer. However, in 2001 and 2002, no corporations transferred credit to affiliates.

[3] In 2001 and 2002, this credit was claimed, but disclosure provisions prohibit listing the number of taxpayers or any amounts.

[4] No credit was claimed in 2001 or 2002.

[5] Total row reflects the vertical summation of the individual credit components. Horizontal calculations within the column are not valid.

Totals may not add due to rounding.

8. Investment Tax Credit, Retail Enterprise Tax Credit, Additional Investment Tax Credit, Employment Incentive Credit, and Rehabilitation Credit for Historic Barns

a. Investment Tax Credit (ITC)

Citation: Section 210(12)
Effective Date: Effective for tax years beginning on or after January 1, 1969. The sections of this credit covering research and development (R&D) property and pollution control facilities represent a consolidation of previously separate tax benefits and are effective for tax years beginning on or after January 1, 1987.

Description: The law allows a credit, based on the cost or other basis for Federal tax purposes, for depreciable tangible personal property acquired, constructed, reconstructed or erected after December 31, 1968; having a useful life of four years or more; located within the State of New York; and used primarily for the production of goods by a variety of processes. The claiming of a depreciation or expense deduction for such property under certain other tax provisions, or the leasing of the property to another individual or corporation disqualifies the taxpayer from exercising a claim under this provision. A taxpayer may carry forward any unused credit and apply it against the tax for subsequent years or, in the case of a qualified new business, claim it as a refund.

Taxpayers who provide three or more services, such as a studio lighting grid, lighting and grip equipment , or industrial scale electrical capacity, to qualified film productions are eligible to claim the ITC on property used in qualified film production facility.

The law allows a credit for expenditures paid or incurred during the tax year for the construction, reconstruction, erection or improvement of pollution control, waste treatment and acid rain control facilities. To qualify for the credit, facilities must be located within the State, used by the corporation as part of its regular business activities and certified by the State Commissioner of Environmental Conservation or a representative.

The law allows a credit with respect to tangible property, including buildings and structural components of buildings, which: has been constructed, reconstructed, acquired or erected after June 30, 1982; is depreciable under Federal tax law; has a useful life of four years or more; is located within New York State; and used for the purpose of research and development in the laboratory or experimental sense. This credit is not allowed with respect to property which has been leased to another individual or corporation, or which has been the basis of a claim for an elective expense deduction or a regular investment tax credit.

For credits generated on or after 1987, the allowable carryforward of the investment tax credit is 15 years. The cut-off of pre-1987 investment tax credit carryforwards was 2002. Companies who have lost ITC credits due to mergers or acquisitions could file amended returns beginning on April 1, 2001. Credits could be claimed retroactively to tax years beginning on or after January 1, 1997.

For taxable years beginning after 1990, the rate equals 5 percent of the first $350 million of the investment credit base. A 4 percent rate applies to amounts above $350 million. The taxpayer may take ITC credit on R&D property at an optional rate of 9 percent of the cost or other basis for Federal tax purposes of qualified property. Taxpayers earned $153.1 million of ITC in 2002.

NOTE: ITC recapture refers to the difference between credit taken and credit allowed for actual use when qualified ITC property is disposed of or ceases to be in qualified use prior to the end of its useful life. Any ITC recapture may be added to the tax otherwise due in the year of disposition or disqualification.

An ITC refund is available to new businesses which are eligible to claim the ITC. They may elect to receive a refund of their unused ITC instead of carrying the credit forward.

b. Retail Enterprise Tax Credit
Citation: Section 210(12)(k)
Effective Date: Effective for investments made on or after June 1, 1981
Description: A retail enterprise, not eligible for the investment tax credit, may receive a credit based on expenditures incurred or paid, with respect to a qualified rehabilitated building used in the corporation's retail sales activities. The amount of the credit is the applicable investment tax credit percentages for the amount of qualified rehabilitation expenditures. The qualified rehabilitated building must be located in New York State.

c. Employment Incentive Credit (EIC)
Citation: Section 210(12-D)
Effective Date: Effective for tax years beginning on or after January 1, 1987
Description: Taxpayers who increase their number of employees may be eligible for the employment incentive tax credit with respect to property acquired or constructed on or after January 1, 1987. This credit applies to property that is eligible for the investment tax credit.

The taxpayer is allowed a credit for each of the two years next succeeding the taxable year in which the investment tax credit is earned. The credit may be carried forward 15 years. Where an investment tax credit was allowed for a taxable year, the amount of the credit is as follows:

- 1.5 percent of the investment tax credit base if employment is at least 101 percent but less than 102 percent of the employment base year,
- 2.0 percent of the investment tax credit base if employment is at least 102 percent but less than 103 percent of the employment base year,
- 2.5 percent of the investment tax credit base if employment is at least 103 percent of the employment base year.

d. Rehabilitation Credit for Historic Barns
Citation: Section 210(12)(L)
Effective Date: Effective for taxable years beginning on or after January 1, 1997
Description: Taxpayers may claim a corporate franchise tax credit for the rehabilitation of historic barns in New York State. The credit equals 25 percent of qualified rehabilitation expenditures. The definition of a qualified rehabilitated barn has the same meaning as a "qualified rehabilitated building" for purposes of the Federal rehabilitation credit under Section 47 of the Internal Revenue Code. In accordance with Federal law for rehabilitation of historic buildings, the barn must be first placed in service before 1936 and would only qualify for the credit based on substantial rehabilitation. Generally, a building will have been considered substantially rehabilitated only if the expenditures exceed the greater of the adjusted basis of the barn or $5,000. A taxpayer may not claim both the regular investment tax credit on manufacturing property and the investment tax credit for rehabilitation of historic barns on the same property.

Estimates: 2002: $76.3 million - 2006: $73.6 million; Information on the ITC and EIC credits used in any year is not separately available
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

9. Investment Tax Credit for the Financial Services Industry
Citation: Section 210(12)
Effective Date: Effective for property placed in service on or after October 1, 1998 and before October 1, 2008
Description: An investment tax credit is allowed for qualified property used in the financial services industry. The rate of credit, maximum amounts, carryforward provisions, and recapture rules are generally the same as for the regular investment credit.

Qualified property includes property principally used in the ordinary course of the taxpayer's trade or business:

- as a broker or dealer in connection with the purchase or sale of stocks, bonds, or other securities (as defined in Internal Revenue Code (IRC) Section 475(c)(2)), or of commodities (as defined in IRC Section 475(e)), or in providing lending, loan arrangement or loan origination services to customers in connection with the purchase or sale of securities (as defined in IRC Section 475(c)(2));
- of providing investment advisory services for a regulated investment company (as described in IRC Section 851).

In addition, qualified property includes property principally used in the ordinary course of the taxpayer's business as an exchange registered as a national securities exchange (such as the New York stock exchange) or a board of trade defined under the New York Not-For-Profit Corporation Law, or an entity wholly owned by one or more national security exchanges or boards of trade that provides automation or technical services to the national security exchanges or boards of trade.

Property purchased by a taxpayer affiliated with a regulated broker, dealer, or national securities exchange or board of trade, or property leased by a taxpayer to an affiliated regulated broker, dealer, national securities exchange or board of trade is eligible for this credit if the property is used by the affiliate in an activity described above.

The credit is not allowed unless all or substantially all of the taxpayer's or affiliate's employees performing the administrative and support functions resulting from or relating to the qualifying uses of the property are located in New York State.
Estimates: 2002: $33.3 million - 2006: $31.6 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

10. Special Additional Mortgage Recording Tax Credit
Citation: Section 210(17), (21)
Effective Date: Effective for tax years beginning after December 31, 1978
Description: A corporation may claim a credit equal in amount to the special additional recording tax paid on mortgages recorded on or after January 1, 1979, on property located within New York. A taxpayer may carry forward any unused mortgage recording

tax credit for use in subsequent years.

Effective for special additional mortgage recording tax paid in tax years beginning after January 1, 1994, the S corporation, not the shareholder, may elect to treat the unused portion of the credit as either a refund or carryforward. S corporations may also elect to take a refund, regardless of whether the credit is carried from a New York C year or a New York S year.

Certain mortgages on property in the metropolitan commuter transportation district, recorded on or after May 1, 1987, are ineligible for the credit. The same restriction applies to mortgages on real property in Erie County.

Estimates: 2002: $4.6 million - 2006: $1.6 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

11. Empire Zone and Qualified Empire Zone Enterprise Credits

a. Empire Zone and Zone Equivalent Areas Tax Credits

Citation: Section 210(12-B), (12-C), (19), (20)
Effective Date: Effective for tax years beginning on or after January 1, 1986.
Description: Taxpayers may qualify for an enhanced investment tax credit (EZ-ITC) of 10 percent applied towards the cost or other Federal basis of tangible personal property, including buildings and structural components of buildings located within a designated EZ. The provisions of the EZ-ITC are generally the same as those for the regular ITC.

Taxpayers may also claim an EZ employment incentive credit (EZ-EIC) similar to the regular EIC, based upon EZ-ITC claimed and employment increased within an EZ. The amount of the EZ-EIC allowed is 30 percent of the EZ-ITC for each of the three years following the year for which the original EZ-ITC was allowed. However, the credit is allowed only for those years during which your average number of employees (except general executive officers) in the EZ, is at least 101 percent of the average number of employees (except general executive officers) in the EZ, during the tax year immediately preceding the tax year for which the original EZ-ITC was allowed.

A taxpayer may claim a wage tax credit for doing business and creating jobs in Empire Zones (EZ-WTC). The wage tax credit has two components. The credit equals the product of the average number of newly hired targeted EZ employees receiving EZ wages multiplied by $3,000. The corresponding credit amount for other employees equals the product of the average number of newly hired nontargeted EZ employees receiving EZ wages multiplied by $1,500. Taxpayers claim an additional $500 for each employee paid over $40,000 in wages. Taxpayers employing individuals in areas that met EZs eligibility criteria but were not so designated - Zone Equivalent Areas (ZEAs) - may take a credit for ZEA wages paid for full-time employment in jobs created in the ZEA. The ZEA credit expired in 2004, but taxpayers are still allowed to use the full term of the credit if claimed prior to expiration. The credit equals $3,000 multiplied by the average number of targeted employees and $1,500 multiplied by the average number of nontargeted employees. The total wage tax credit in any tax year cannot exceed 50 percent of tax due (before credits). The EZ-WTC and the ZEA-WTC are available to the taxpayer for five years.

Finally, taxpayers may qualify for a credit for direct equity investments in certified zone businesses and contributions to community development projects (EZ capital tax credit). The credit equals 25 percent of the sum of each type of investment. The maximum credit per taxpayer is $100,000 for each investment type for an aggregate limit of $200,000 and cannot exceed one half of the taxpayer's pre-credit tax.

Taxpayers may carry unused credits forward indefinitely. Taxpayers who previously claimed the credit based on investments in zone capital corporations may also continue to carry forward unused amounts. "New business" taxpayers may elect to have 50 percent of their unused EZ-WTC or ZEA-WTC or their EZ-ITC for the tax year refunded, in lieu of carryover. The EZ-EIC may be taken against the alternative minimum tax for tax years beginning on or after January 1, 2001.

Estimates: 2002: $62.0 million - 2006: $40.0 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

b. Qualified Empire Zone Enterprise (QEZE) Credits
Citation: Section 210(27), (28)
Effective Date: Effective for tax years beginning on or after January 1, 2001
Description: The Empire Zones Program Act created a tax credit for real property taxes and a tax reduction credit for Qualified Empire Zone Enterprises (QEZEs). QEZEs include business enterprises certified as EZ businesses that meet an annual employment test. The QEZE tax credit for real property taxes and the tax reduction credit may be claimed for 15 years by taxpayers first certified prior to April 1, 2005, and for 10 years by taxpayers first certified on or after April 1, 2005. The credit for real property taxes is refundable. The tax reduction credit can be applied against the alternative minimum tax and the fixed dollar minimum, potentially reducing a taxpayer's liability to zero.
Estimates: 2002: $63.6 million - 2006: $154.1 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

12. Credit for Servicing SONYMA Mortgages
Citation: Section 210(21-a)
Effective Date: Effective for tax years beginning on or after January 1, 1995
Description: Mortgage bankers, registered under Article 12-D of the Banking Law and that meet certain regulatory requirements established by the State of New York Mortgage Agency (SONYMA), may claim a credit against their franchise tax. The credit equals 2.93 percent of the total principal and interest collected by the bank for each SONYMA mortgage secured by a one-to-four family residence. In addition, mortgage bankers may receive an amount equal to the interest collected during their taxable year on each SONYMA mortgage, secured by a five or more family residence, multiplied by a fraction. The fraction depends on the types of properties which secure the serviced

mortgage loans.

The credit may be applied against the mortgage banker's liability to reduce their liability to zero. There is no carryforward of any excess credit.

Estimates: 2002: Minimal - 2006: Minimal
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

13. Farmers' School Property Tax Credit

Citation: Section 210(22)
Effective Date: Effective for taxable years beginning on or after January 1, 1997
Description: Eligible farmers may claim a real property tax credit against the corporate franchise tax. The credit is available to an eligible farmer defined as a taxpayer whose gross income from farming is at least 2/3 of total gross income. Eligible farmers also include those who paid school district property taxes on qualified agricultural property pursuant to a land contract. The credit equals the total school property taxes paid on qualified agricultural property in the State up to the 250 acre limitation, and 50 percent of the school taxes paid on acres in excess of the limitation. The credit is phased out for taxpayers with New York adjusted gross income (entire net income) in excess of $100,000. Recapture provisions provide for an add back of the credit if the taxpayer converts the property to a nonqualified use in the two years subsequent to the first year of the credit.
Estimates: 2002: $0.8 million - 2006: Minimal
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

14. Credit for Employment of Persons with Disabilities

Citation: Section 210(23)
Effective Date: Effective for tax years beginning on or after January 1, 1998, with respect to employees who begin work on or after January 1, 1997
Description: Employers who employ individuals with disabilities may claim a credit for a portion of wages paid to such individuals. The credit equals 35 percent of the first $6,000 of first year wages paid to the disabled employee (a maximum of $2,100 per employee). However, if the first year's wages qualify for the Federal work opportunity tax credit, the New York credit will apply to second year wages. Unused credits are not refundable but they may be carried forward indefinitely.

To become eligible for the State credit, the disabled employee must work for the employer on a full time basis for at least 180 days or 400 hours, and must be certified as disabled by the State Education Department. Visually handicapped individuals may receive certification from the appropriate agency responsible for vocational rehabilitation of the blind and visually impaired.
Estimates: 2002: $0.2 million - 2006: $0.2 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

15. Qualified Emerging Technology Company (QETC) Credits

a. QETC Capital Tax Credit

Citation: Section 210(12-F)

Effective Date: Effective for tax years beginning on or after January 1, 1999

Description: Taxpayers who make a qualified investment in a certified QETC can receive a credit that varies depending upon how long the investment is held. Taxpayers claim the credit in the year the investment is made and certify the duration of the holding period. Investments held for four years from the close of the tax year in which the credit is first claimed qualify for a 10 percent credit. Investments held for nine years qualify for a 20 percent credit. If the property is sold, transferred, or disposed of prior to the end of the holding period, the taxpayer must recapture a portion of the credit. The aggregate limits for all years are $150,000 for the 10 percent credit, and $300,000 for the 20 percent credit. The amount of credit deducted may not exceed fifty percent of the tax due before any credits and any excess may be carried forward indefinitely.

Estimates: 2002: Minimal - 2006: Minimal

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

b. QETC Employment Credit

Citation: Section 210(12-E)

Effective Date: Effective for tax years beginning on or after January 1, 1999

Description: The credit equals $1,000 for each individual employed over a base year level and is allowed for three years. Excess credit is refundable.

Estimates: 2002: $0.3 million - 2006: $1.6 million

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

c. QETC Facilities, Operations, and Training Credit

Citation: Section 210(12-G)

Effective Date: Effective for tax years beginning on or after January 1, 2005

Description: This credit consists of three components. The first is an 18 percent credit for qualified research and development property. The second is a 9 percent credit for qualified research expenses. The third is a 100 percent credit for employee training expenses, up to $4,000 per employee per year. The credit is available for four consecutive years, although a taxpayer relocating from an academic incubator facility is entitled to an additional year. The credit is capped at $250,000 per taxpayer per year and is fully refundable. The credit expires after December 31, 2011.

Estimates: 2002: Not Applicable - 2006: $10.0 million

Data Source: Research File

Reliability: Level 5

16. Industrial or Manufacturing Business Credit (IMB)
Citation: Section 210(26-a)
Effective Date: Effective for tax years ending after January 1, 2000
Description: Industrial or manufacturing businesses (IMBs) are allowed a credit to be taken against taxes due under Article 9-A. The credit is the sum of taxes paid during the taxable year, due under the provisions of Tax Law Sections 186-a, 186-c, 189 and 189-a of Article 9 for gas, electricity, steam, water or refrigeration; or the services of providing such, where they are used or consumed in New York. Energy providers will provide taxpayers, on request, information on the amounts due and paid for these taxes during the taxpayer's liability year.

Businesses qualifying for the IMB include those that meet the definition of such businesses under the ITC. That is, any business which during the taxable year is principally engaged in: manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture, commercial fishing or research and development; or is an industrial waste treatment facility or an air pollution control facility; or is principally engaged in a combination of such activities.
Estimates: 2002: $14.9 million - 2006: $14.9 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

17. Credit for Transportation Improvement Contributions
Citation: Section 210(32)
Effective Date: Effective for tax years beginning on or after January 1, 2000
Description: The taxpayer must make a certified contribution of at least $10 million to a qualified transportation improvement project in a prior tax year. The projects must enhance a qualified business facility, and may include the construction or improvement of transportation infrastructure and related facilities and systems, including bridges, ramps, highways, and mass transit facilities. In addition, the taxpayer must create, by the third full tax year after the tax year during which the contribution was made, more than 1,000 jobs in connection with the qualified business facility. The credit is equal to 6 percent of a taxpayer's payroll at the facility in excess of the average base year payroll. After the third full tax year after the contribution is made the employment increase test is not met, then there is a recapture of the credit. The new law applies to contributions made on or after January 1, 2000. In addition to taxpayers under the corporate franchise tax, taxpayers under the personal income tax, the utilities tax, the bank tax and the insurance tax are also eligible for this credit.
Estimates: 2002: $0.0 million - 2006: $0.0 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 2

18. Low-Income Housing Credit
Citation: Section 210(30)
Effective Date: Effective for tax years beginning on or after January 1, 2000, with respect to commitments for construction of low-income housing agreed upon on or after May 15, 2000.
Description: The "New York State Low-Income Housing Tax Credit Program," based

on the existing Federal program, requires an agreement between the taxpayer and the commissioner of the New York State Division of Housing and Community Renewal for a long-term commitment to low-income housing. The amount of the credit depends on the applicable percentage of the qualified basis of each low-income building. The credit amount allocated is allowed as a credit against tax for 10 tax years. Unused credits may be carried forward indefinitely. Legislation enacted with the SFY 2005-06 budget increased the aggregate credit to $80 million, or $8 million each year.
Estimates: 2002: Minimal - 2006: Minimal
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

19. Credit for Purchase of an Automated External Defibrillator
Citation: Section 210(25)
Effective Date: Effective for tax years beginning on or after January 1, 2001
Description: Taxpayers who purchase an automated external defibrillator can receive a credit equal to the cost of each unit not exceeding $500 for each purchase.
Estimates: 2002: Minimal - 2006: Minimal
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

20. Green Building Credit
Citation: Section 210(31)
Effective Date: Effective for tax years beginning on or after January 1, 2001
Description: The green building credit consists of several incentives for the purchase of recyclable building materials and other environmentally preferable tangible personal property. It also contains tax credits for the purchase of fuel cells, photovoltaic modules, and environmentally sensitive non-ozone depleting refrigerants. Phase I of the credit applies to costs incurred on or after June 1, 1999, for property placed in service or that has received a final certificate of occupancy in tax years from 2001 to 2004. Phase II of the program begins in the 2005 tax year. An additional $25 million in total credit may be issued, but the amount on any one credit certificate is limited to $2 million.
Estimates: 2002: $0.0 million - 2006: $2.0 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

21. Long-Term Care Insurance Credit
Citation: Section 210(25-a)
Effective Date: Effective for tax years beginning on or after January 1, 2002
Description: A taxpayer may take a credit equal to a percentage of the premiums paid for the purchase of, or continuing coverage under, a long-term care insurance policy, as defined in the Insurance Law. When enacted, the credit percentage was 10 percent. Subsequent legislation increased the credit to 20 percent for tax years beginning after 2003. Any unused credit may be carried forward.
Estimates: 2002: Minimal - 2006: Minimal
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

22. Brownfields Tax Credit

Citation: Sections 21, 22, 23, 210 (33) (34) (35)

Effective Date: Effective for tax years beginning on or after April 1, 2005

Description: Three refundable tax credits are available to taxpayers who remediate a site under the Brownfield Cleanup Program.

The brownfield redevelopment tax credit consists of three credit components relating to costs associated with: site preparation; tangible property; and on-site ground water remediation. The credit equals 12 percent of costs associated with each component. The credit increases by two percent if the site is remediated to a Track 1 cleanup level (determined by the Department of Environmental Conservation), and by another eight percent if at least one half of the site is located in an Environmental Zone (En-Zone). An En-Zone is an area designated by the Commissioner of Economic Development, and as of the 2000 census, has a poverty rate of at least 20 percent and an unemployment rate of at least 1 1/4 times the statewide unemployment rate, or areas that have a poverty rate of at least two times the poverty rate for the county in which the data relate provided the site was subject to a cleanup agreement before September 1, 2006.

The remediated brownfield credit for real property taxes equals 25 percent of the product of the taxpayer's employment factor (a percentage based on the number of persons employed by the taxpayer on a qualified site) and the taxpayer's eligible real property taxes. If the site is located in an En-Zone the credit increases to 100 percent. There is a credit limitation equal to the product of the number of full time employees at the qualified site multiplied by $10,000.

The environmental remediation insurance credit is allowed for premiums paid for environmental remediation insurance up to the lesser of $30,000 or 50 percent of the cost of the premiums.

Estimates: 2002: Not Applicable - 2006: $58.0 million

Data Source: New York State Department of Environmental Conservation

Reliability: Level 4

23. Empire State Film Production Tax Credit

Citation: Section 210 (36)

Effective Date: Effective for tax years beginning on or after January 1, 2004, and expires on August 20, 2008.

Description:: Taxpayers may claim a tax credit for film production activity in NewYork State. If the taxpayer satisfies certain criteria regarding a threshold level of film production activity in the State, then the credit equals ten percent of qualified production costs incurred in the production of films and certain television shows. Fifty percent of excess credit is refundable, and any credit carried forward is fully refundable in the following year. The aggregate amount of credit available in any year equals $25 million. Credit is awarded on a first come - first served basis with application made to the New York State Governor's Office for Motion Picture and Television Development. Applications received after the full allocation of credit will be treated as having applied first in the following year

Estimates: 2002: Not Applicable - 2006: $5.0 million

Data Source: Empire State Development Corporation, Industry Representatives

Reliability: Level 3

24. Alternative Fuels Credit
Citation: Section 210(24)
Effective Date: Effective for tax years beginning on or after January 1, 2005
Description: A credit is available for 50 percent of the cost of clean-fuel vehicle refueling property located in New York State. Clean fuels are natural gas, liquefied petroleum gas, hydrogen, electricity, and any other fuel at least 85 percent methanol, ethanol, and any ether alcohol, or ether. Taxpayers may also assign the credit to affiliates.
Estimates: 2002: $0.5 million - 2006: Minimal
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

25. Security Training Tax Credit
Citation: Section 26
Effective Date: Effective for tax years beginning on or after January 1, 2005
Description: Owners of commercial buildings over 500,000 square feet can receive a $3,000 credit for each security guard employed who has undergone training certified by the New York State Office of Homeland Security (OHS) and is paid a certain minimum wage. The credit is administered by OHS and is refundable.
Estimates: 2002: Not Applicable - 2006: $3.0 million
Data Source: New York State Office of Homeland Security
Reliability: Level 5

26. Fuel Cell Electricity Generating Equipment Credit
Citation: Section 210(37)
Effective Date: Effective for costs incurred on or after July 1, 2005
Description: Taxpayers may claim a credit equal to qualified fuel cell electric generating equipment expenditures for the tax year in which the equipment is placed in service. Qualified expenditures are associated with the purchase of on-site electricity generation systems utilizing proton exchange membrane fuel cells up to 100 kilowatts of rated capacity. The maximum credit is $1,500 per generating unit and the taxpayer may carryforward any unused credit indefinitely.
Estimates: 2002: Not Applicable - 2006: $2.0 million
Data Source: Research File
Reliability: Level 5

Corporate Exemptions

Certain entities are exempt from the Article 9-A corporate franchise tax.

27. Exempt Companies
Citation: Sections 3 and 209(4)(5)(6)(7) and (9)
Effective Date: Certain companies have been exempt from tax since Article 9-A was enacted in 1944. Other exemptions have been added over the years as new entities have been granted an exemption legislatively or in accordance with Federal exemption language. The approximate effective date of each of the following types of companies or

organizations are noted in parenthesis after each item.
Description: The following companies or organizations are exempt from taxation under Article 9-A:

- C Limited Profit Housing Companies (6/7/74)
- C Limited Dividend Housing Companies (1/1/74)
- C Trust Companies organized under a law of New York, all of the stock of which is owned by not less than 20 savings banks organized under a law of New York (3/31/44)
- C Urban Development Corporation and its subsidiaries (1/1/69)
- C Domestic corporations exclusively engaged in the operation of one or more vessels in foreign commerce (3/31/44)
- C Domestic International Sales Corporations (DISCs), to the extent a DISC is required to have its income imputed to its shareholders (1/1/71)
- C Passive Trusts (3/31/44)
- C Certain corporations organized other than for profit and those corporations which are generally exempt from Federal tax by the Internal Revenue Code (3/31/44)
- C Corporations exempt pursuant to Federal Public Law 86-272 wherein a foreign corporation has limited its activities in New York to the mere solicitation of orders by its employees or representative (9/14/59)
- C Real Estate Mortgage Investment Conduits (REMICs) (1/1/87)
- C Industrial Development Agencies (1/1/69)
- C Housing Development Fund Companies (7/24/86)
- C Corporations exempt from tax under IRC Sections 501(c)(2) and (25) (1/1/87)
- C Beginning January 1, 1995, certain cooperative heating and cooling service companies that are organized without capital stock and that are exempt from tax pursuant to IRC Section 501(c)12. Such corporations pay an annual fee of $10 to the Commissioner of Taxation and Finance in lieu of all corporation franchise taxes.

Estimate: No data available
Reliability: Level 5

28. Companies Whose Income "Passes Through" to Shareholders
Citation: Sections 209(5), (7), (8); 210(1)
Effective Date: Effective for tax years beginning after December 31, 1972 (Section 209 (5)); after December 31, 1980 (Section 209(7)); after December 31, 1982 (Section 209 (8)); after December 31, 1989 (Section 210(1))
Article 9-A provides special treatment for the following companies:

a. Real Estate Investment Trusts (REITs)
Citation: Section 209(5)
Effective Date: Effective for tax years beginning after December 31, 1972
Description: To the extent that the REIT passes through its income to the shareholders, the REIT is exempt from the franchise tax. The shareholders have their dividend or distributed gain taxed at their own rate of tax, usually under the personal income tax. Any undistributed income by the REIT would be subject to

the franchise tax.
Estimate: No data available
Reliability: Level 5

b. Regulated Investment Companies (RICs)
Citation: Section 209(7)
Effective Date: Effective for tax years beginning after December 31, 1980
Description: To the extent that the RIC passes through its income to the shareholders, the RIC is exempt from the franchise tax. The shareholders have their dividend or distributed gain taxed at their own rate of tax, usually under the personal income tax. Any undistributed income by the RIC would be subject to the franchise tax.
Estimate: No data available
Reliability: Level 5

29. Businesses Using Fulfillment Services
Citation: Sections 208(19) and 209(2)
Effective Date: September 1, 1997
Description: A corporation shall not be deemed to be doing business, employing capital, owning or leasing property, or maintaining an office in this State for the purposes of the corporation franchise tax by reason of the use of fulfillment services of an entity other than an affiliated entity and the ownership of property stored on the premises of such entity in conjunction with such services. Fulfillment services are defined as the: acceptance of orders; responses to consumers inquiries; billing collection activities; and shipment of orders from an inventory of products regularly offered for sale by the purchaser of such services.
Estimate: No data available
Reliability: Level 5

30. Corporate Parent with Bank and Insurance Subsidiaries or with Gas and Electric Subsidiaries
Citation: Section 210(2)
Effective Date: Effective for tax years beginning after December 31, 1999 for corporate parents with bank and insurance subsidiaries. For corporate parents with gas and electric subsidiaries, the 30 percent exclusion is effective for tax years beginning on or after January 1, 2000. The 100 percent exclusion applies to tax years beginning on or after January 1, 2001.
Description: Allows the corporate parent to exclude from its subsidiary capital tax base, capital attributable to subsidiaries taxable under Article 32 (bank) or 33 (insurance) taxes. Also allows the corporate parent to exclude from its subsidiary capital tax base, capital attributable to gas and electric subsidiaries taxable under Section 186 of the Tax Law. The provision is phased in by allowing a 30 percent exclusion of this subsidiary capital for tax years beginning on or after January 1, 2000 and a 100 percent exclusion for tax years beginning on or after January 1, 2001.
Estimate: 2002 $5.1 million—2006: $5.1 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

31. Homeowners Association Exemption from Fixed Dollar Minimum Tax
Citation: Section 210(1)
Effective Date: Effective for tax years beginning on or after January 1, 2000
Description: Article 9-A is amended to exempt qualified homeowners associations which have no homeowner's taxable income from payment of the fixed dollar minimum tax. The associations would still be subject of the other taxable bases under Article 9-A, if applicable. This provision applies to tax years beginning on or after January 1, 2000.
Estimates: 2002: Minimal - 2006: Minimal
Data Source: Research File
Reliability: Level 2

Preferential Tax Rates

32. Qualifying Small Business Corporations
Citation: Section 210(1)(a)
Effective Date: Effective for taxable years beginning after December 31, 1986
Description: Special tax rates apply to corporations which qualify as small business taxpayers. The law defines a small business taxpayer as a taxpayer which meets the federal definition of small business (IRC Section 1244(c)(3)) and which has worldwide entire net income (ENI) of not more than $290,000 for the taxable year. Small business taxpayers with an ENI base of $200,000 or less pay a 6.85 percent rate. Taxpayers with an ENI base of more than $200,000 but not more than $290,000 pay $13,700 plus 7.5 percent of the amount over $200,000, plus 3.25 percent of the amount over $250,000. For taxable years beginning on or after January 1, 2005, the ENI threshold is raised to $390,000. Taxpayers with an ENI base of $290,000 or less pay a 6.5 percent rate. Taxpayers with an ENI base of more than $290,000 but not more than $390,000 pay $18,850 plus 7.5 percent of the amount over $290,000, plus 7.25 percent of the amount over $350,000.
Estimates: 2002: $0.0 million - 2006: $1.2 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

33. Capital Base Liability Cap Reduction for Manufacturers
Citation: Section 210(1)(6)
Effective Date: Effective for taxable years beginning on or after January 1, 2005
Description: The maximum liability under the capital base is $1 million except taxpayers who are manufacturers are subject to a lower cap of $350,000.
Estimates: 2002: Not Applicable - 2006: $0.8 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 2

BANK TAX

This section of the report provides tax expenditure estimates for 27 separate provisions of the franchise tax on banking corporations. The list of expenditures contained in Table 5 is based on the Tax Law as of January 1, 2006. The estimates are based on data from the 2002 tax year, the latest year for which Article 32 tax return data are available. They are also extrapolated to the 2006 tax year. Total bank tax liability has been included to provide a benchmark for the tax expenditure estimates. The tax years refer to both the 2002 and 2006 calendar tax years and fiscal tax years ending in 2003 and 2007.

Description of Tax

Article 32 imposes a franchise tax on banking corporations for the privilege of doing business in New York. Under Article 32 a bank's tax liability equals the larger of:

- 7.5 percent of allocated entire net income; or
- 0.1 mill on each dollar of allocated assets (reduced rates of 1/25 or 1/50 of a mill apply to a bank that meets certain criteria based on its net worth to asset ratio and the percentage of mortgages included in its total assets); or
- 3 percent of allocated alternative entire net income; or
- A fixed dollar minimum tax of $250.

Corporations doing business within and without the State use formula apportionment to determine the portion of the tax base (i.e., entire net income, alternative entire net income or assets) attributable to New York. Taxpayers determine the base allocable to New York by multiplying the unallocated base by an allocation percentage based on the ratio of receipts, deposits and payroll earned or paid in New York to those everywhere.

Calculation of the taxes on allocated entire net income or allocated alternative entire net income starts with Federal taxable income, which includes certain exclusions and deductions. Taxpayers then make several New York modifications and allocate the income to arrive at New York entire net income, which is multiplied by the tax rate. Alternative entire net income is the same as entire net income, except that the deductions for subsidiary interest, subsidiary dividends and interest on government obligations are not allowed. In addition, the factors of the alternative income allocation percentage are single weighted. A 3 percent tax rate applies to allocated alternative income.

The tax on allocated taxable assets starts with the taxpayer's total assets. Taxable assets equal total assets minus assets attributable to the Federal Deposit Insurance Corporation (FDIC) and Federal Savings and Loan Insurance Corporation (FSLIC). Taxpayers multiply the total by their allocation percentage. The normal tax rate imposed on this amount (one tenth, one twenty-fifth or one fiftieth of a mill), is determined by the taxpayer's net-worth-to-assets ratio and the percentage of its loans secured by mortgages.

Taxpayers apply certain credits against the highest tax liability to determine their after-credit tax liability.

Many of the exclusions, deductions, modifications, allocation percentages and credits discussed above give rise to the tax expenditures listed and estimated in this section.

Data Sources

The major data sources used to compute the tax expenditure estimates for Article 32 Bank Tax include:

- 2002 Bank Tax Study File - This file, compiled by the Department of Taxation and Finance, includes all banks filing under Article 32. The file is used to simulate the tax expenditure items.

- Congressional Joint Committee on Taxation (JCT) Estimates of Federal Tax Expenditures - Since no data for Federal exclusion items are available at the State level, Federal tax expenditure items estimated by the JCT are prorated to New York.

Methodology

The projections of the tax expenditure from 2002 to 2006 use a variety of forecast variables. Projections of items under Federal exclusions from income in the Appendix were taken from JCT estimates of Federal tax expenditures and prorated to New York. Projections were computed using historical trends.

Tax expenditures whose values are less than $0.1 million are considered minimal and are designated by an asterisk.

Table 5
2006 New York State Bank Tax Expenditure Estimates
(2002 Total Bank Tax Liability = $410.2 Million)
(Millions of Dollars)

	History					Forecast	Reliability
Tax Item	1998	1999	2000	2001	2002	2006	Level
New York Modifications to Federal Taxable Income							
1. Bad Debt Deduction for Commercial Banks	N/A	N/A	N/A	N/A	N/A	N/A	5
2. Bad Debt Deduction for Thrift Institutions	N/A	N/A	N/A	N/A	N/A	N/A	5
3. Deduction of Money Received from the FDIC and FSLIC	0.0	0.2	0.0	0.0	0.0	*	1
4. Deduction for Eligible Net Income of IBFs	25.5	20.8	26.0	8.0	1.6	1.2	1
5. Deduction of 17 Percent of Interest Income from Subsidiary Capital	23.6	24.6	35.5	31.3	11.6	10.5	1
6. Deduction of 60 Percent of Dividend Income and Excess Gains from Subsidiary Capital	120.7	86.4	106.1	118.1	83.1	78.5	1
7. Deduction of 22.5 Percent of Interest Income from Government Obligations	32.4	28.2	29.2	21.4	8.9	6.9	1
Alternative Bases							
8. Reduced Rate of Asset-Based Tax for Banks Meeting Net Worth and Mortgage Holdings Criteria	*	*	*	*	*	*	1
9. Exclusion of Money Received from FDIC and FSLIC from Asset Based Tax	0.0	*	0.0	0.0	0.0	*	1
Allocation Percentages							
10. Discounting of the Wage Factor in the Calculation of Entire Net Income and Taxable Assets Allocation Percentages	21.4	18.6	19.1	18.5	17.1	15.8	1
11. Exclusion of Wages of Executive Officers in the Calculation of Entire Net Income, Alternative Entire Net Income and Taxable Assets Allocation Percentages	N/A	N/A	N/A	N/A	N/A	N/A	5
12. IBF Formula Allocation Election	32.2	29.7	33.6	19.5	6.6	6.1	1

Tax Item	History					Forecast	Reliability
	1998	1999	2000	2001	2002	2006	Level
Credits							
13. Mortgage Servicing Tax Credit	6.2	8.0	8.3	9.9	11.1	10.3	1
14. Special Additional Mortgage Recording Tax Credit	15.2	12.0	12.5	17.3	19.9	15.5	1
15. Empire Zone and Zone Equivalent Areas Tax Credits							
a. Empire Zone and Zone Equivalent Areas Tax Credits	1.1	2.2	3.0	5.5	6.0	6.6	1
b. Qualified Empire Zone Enterprise Tax Credits	--	--	--	3.8	2.7	3.5	1
16. Credit for Employment of Persons with Disabilities	0.0	0.0	*	0.0	*	*	1
17. Investment Credit for Financial Services Industry	0.6	2.4	5.3	6.1	5.0	10.0	1
18. Credit for Transportation Improvement Contributions	--	--	0.0	0.0	0.0	0.0	1
19. Low Income Housing Credit	--	--	0.0	0.0	0.0	*	1
20. Credit for Purchase of Automated External Defibrillator	--	--	--	0.0	*	*	1
21. Green Buildings Credit	--	--	--	0.0	0.0	*	1
22. Long-Term Care Insurance Credit	--	--	--	--	*	*	1
23. Brownfields Tax Credits	--	--	--	--	--	*	4
24. Security Training Tax Credit 1/	--	--	--	--	--	*	5
25. Fuel Cell Electricity Generating Equipment Credit 1/	--	--	--	--	--	*	5
Corporate Exemptions							
26. Exemption of Trust Companies Whose Capital Stock is Owned by Twenty or More New York Savings Banks	*	*	*	*	*	*	*
27. Exemption of Federal and State Chartered Credit Unions	16.1	18.1	16.1	14.0	18.1	28.1	4

1/ A new tax expenditure item.
* Less than $0.1 million.
-- The tax expenditure was not applicable for these years.
N/A No data available

New York Modifications to Federal Taxable Income

In computing New York entire net income, Article 32 permits modifications to Federal taxable income.

1. Bad Debt Deduction for Commercial Banks
Citation: Section 1453(I)
Effective Date: Tax years beginning after December 31, 1986
Description: The Federal Tax Reform Act of 1987 required "large banks" (those with more than $500 million in assets) to use the specific charge off method in calculating the bad debt deduction. Commercial banks with less than $500 million in assets may use the reserve method in calculating the bad debt deduction. Effective for tax years beginning after December 31, 1986, New York State decoupled from the Federal calculation of the bad debt deduction by continuing to allow large commercial banks to calculate the bad debt deduction based on the reserve method. For both large and small commercial banks the difference between the bad debt deduction under the reserve method and the direct write-off method is a tax expenditure item.
Estimate: No data available
Reliability: Level 5

2. Bad Debt Deduction for Thrift Institutions
Citation: Section 1453(h)
Effective Date: Tax years beginning after December 31, 1986
Description: Thrift institutions may use the reserve method in calculating their deduction for bad debts on certain qualifying property. The difference between the bad debt deduction under the reserve method and the actual amount of direct write-offs is a tax expenditure item.
Estimate: No data available
Reliability: Level 5

3. Deduction of Money Received from the Federal Deposit Insurance Corporation (FDIC) and Federal Savings and Loan Insurance Corporation (FSLIC)
Citation: Section 1453(e)(9)-(10)
Effective Date: Effective for taxable years beginning on or after January 1, 1985
Description: A taxpayer may deduct certain money or other property received from the FDIC or FSLIC to the extent not deductible in determining Federal taxable income.
Estimates: 2002: $0.0 million - 2006: Minimal
Data Source: Bank Tax Study File
Reliability: Level 1

4. Deduction for Eligible Net Income of International Banking Facilities (IBF)
Citation: Section 1453(f)
Effective Date: Effective for taxable years ending on or after December 3, 1981
Description: An International Banking Facility is a separate set of asset and liability accounts established for the purpose of receiving deposits from, and extending credit to,

foreign individuals or businesses. IBFs are free from domestic reserve requirements and limitations on interest rates and may be established by United States banks as well as agencies of foreign banks. A financial institution which establishes an IBF, within New York, may deduct, in computing its entire net income, the adjusted eligible net income of the IBF.
Estimates: 2002: $1.6 million - 2006: $1.2 million
Data Source: Bank Tax Study File
Reliability: Level 1

5. Deduction of 17 Percent of Interest Income from Subsidiary Capital
Citation: Section 1453(e)(11)(I)
Effective Date: Effective for taxable years beginning on or after January 1, 1985
Description: In computing New York entire net income banks may deduct 17 percent of interest income from subsidiary capital. For purposes of calculating the amount of the deduction, interest income from subsidiary capital is not reduced by expenses directly or indirectly attributable to subsidiary capital.
Estimates: 2002: $ 11.6 million - 2006: $10.5 million
Data Source: Bank Tax Study File
Reliability: Level 1

6. Deduction of 60 Percent of Dividend Income and Excess Gains from Subsidiary Capital
Citation: Section 1453(e)(11)(ii) and (iii)
Effective Date: Effective for taxable years beginning on or after January 1, 1985
Description: In computing New York entire net income, banks may deduct 60 percent of dividend income, gains and losses from subsidiary capital. For purposes of calculating the amount of the deduction, dividend income from subsidiary capital is not reduced by expenses directly or indirectly attributable to subsidiary capital. Effective for taxable years beginning after January 1, 1994, taxpayers may deduct 60 percent of the excess of gains over losses from subsidiary capital. If losses exceed gains, taxpayers are not required to add back to entire net income 60 percent of net losses.
Estimates: 2002: $83.1 million - 2006: $78.5 million
Data Source: Bank Tax Study File
Reliability: Level 1

7. Deduction of 22.5 Percent of Interest Income from Government Obligations
Citation: Section 1453(e)(12)
Effective Date: Effective for taxable years beginning on or after January 1, 1985
Description: Taxpayers may deduct 22.5 percent of interest income on New York or U.S. obligations, other than obligations held for resale in connection with regular trading activities. For purposes of calculating the amount of the deduction, income from New York and U.S. obligations is not reduced by expenses directly or indirectly attributable to that capital.
Estimates: 2002: $8.9 million - 2006: $6.9 million
Data Source: Bank Tax Study File
Reliability: Level 1

Alternative Bases

Article 32 of the Tax Law provides that the franchise tax paid by a banking corporation is to be determined by an asset-based tax if it results in a tax that is greater than that determined under the income or alternative income bases or the $250 minimum tax. Two tax expenditure items are provided for under the asset-based tax.

8. Reduced Rate of Asset-Based Tax for Banks Meeting Net Worth and Mortgage Holdings Criteria

Citation: Section 1455(b)(1)(i)-(iv)
Effective Date: Effective for taxable years beginning on or after January 1, 1985
Description: Under the asset-based alternative tax, banks with a net worth below 5 percent of total assets and whose assets are comprised of at least 33 percent mortgages are subject to reduced rates of 0.00002 or 0.00004. The regular rate of the asset based tax equals 0.0001.
Estimates: 2002: Minimal - 2006: Minimal
Data Source: Bank Tax Study File
Reliability: Level 1

9. Exclusion of Money Received from Federal Deposit Insurance Corporation (FDIC) and Federal Savings and Loan Insurance Corporation (FSLIC) from Asset Based Tax

Citation: Section 1455(b)(1)(v)(A)
Effective Date: Effective for tax years beginning on or after January 1, 1985
Description: Under the asset based alternative tax, taxable assets do not include certain monies or other property received from the FDIC or the FSLIC.
Estimates: 2002: $0.0 million - 2006: Minimal
Data Source: Bank Tax Study File
Reliability: Level 1

Allocation Percentages

Banking corporations are taxed on the portion of their income and assets attributable to New York activities. Consequently, formulas have been devised (called allocation percentages) for the purpose of determining that portion of a banking corporation's income and assets which are taxable in New York. The tax expenditures listed result from preferences given through the calculation of the allocation percentages.

10. Discounting of the Wage Factor in the Calculation of Entire Net Income and Taxable Assets Allocation Percentages

Citation: Section 1454(a), (b) and (d)
Effective Date: Effective for taxable years beginning on or after January 1, 1985
Description: In computing both the entire net income and taxable assets allocation percentages, the numerator of the wage factor is discounted to 80 percent of the taxpayer's wages, salaries and other personal service compensation, during the taxable year. As a consequence of the discounting of the wage factor, it is possible that the

proportion of entire net income or taxable assets which is allocated to New York State for tax purposes could be reduced, depending on the particular corporation's circumstances.
Estimates: 2002: $17.1 million - 2006: $15.8 million
Data Source: Bank Tax Study File
Reliability: Level 1

11. Exclusion of Wages of Executive Officers in the Calculation of Entire Net Income, Alternative Entire Net Income and Taxable Assets Allocation Percentages
Citation: Section 1454(a), (b), (c) and (d)
Effective Date: Effective for taxable years beginning on or after January 1, 1985
Description: The wages, salaries and other personal service compensation paid to general executive officers are not included in the computation of a banking corporation's entire net income, alternative entire net income and taxable asset allocation percentages. As a consequence of this exclusion, it is possible that the proportion of such income or assets which is allocated to New York State for tax purposes could be reduced, depending on the particular corporation's circumstances.
Estimate: No data available
Reliability: Level 5

12. International Banking Facility (IBF) Formula Allocation Election
Citation: Section 1454(b)(2)(A)
Effective Date: Effective for taxable years beginning on or after January 1, 1985
Description: A banking corporation which establishes an IBF within New York may deduct, in computing its entire net income, the adjusted eligible net income of the IBF. In lieu of this deduction such banking corporation may elect to modify its entire net income and alternative entire net income allocation percentages by reducing payroll, receipts and deposits (from foreign persons) which are attributable to the gross income of an IBF. This change in allocation reduces the proportion of entire net income or total alternative income allocated to New York for State tax purposes.
Estimates: 2002: $6.6 million - 2006: $6.1 million
Data Source: Bank Tax Study File.
Reliability: Level 1

Credits

Credits are amounts, stipulated by Article 32, which banking corporations may subtract from their calculated New York tax liability.

13. Mortgage Servicing Tax Credit
Citation: Section 1456(a)
Effective Date: Effective for taxable years beginning on or after April 25, 1972
Description: A corporation may claim a credit for servicing mortgages acquired by the New York State Mortgage Agency. The credit varies according to both dwelling size and size of the mortgage.
Estimates: 2002: $11.1 million - 2006: $10.3 million

Data Source: Bank Tax Study File
Reliability: Level 1

14. Special Additional Mortgage Recording Tax Credit
Citation: Section 1456(c)
Effective Date: Effective for taxable years beginning after December 31, 1978
Description: A corporation may claim a credit which is equal in amount to the special additional recording tax paid on mortgages which have been recorded on or after January 1, 1979, on property which is located within New York. The amount of any unused mortgage recording tax credit may be carried forward and used in subsequent years. Certain mortgages on property in the Metropolitan Commuter Transportation District recorded on or after May 1, 1987, are ineligible for the credit. The same restriction applies to mortgages on real property in Erie County.
Estimates: 2002: $19.9 million - 2006: $15.5 million
Data Source: Bank Tax Study File
Reliability: Level 1

15. Empire Zone and Zone Equivalent Areas Tax Credits

a. Empire Zone and Zone Equivalent Areas Tax Credits
Citation: Section 1456(d)-(e)
Effective Date: Effective for tax years beginning on or after January 1, 1986.
Description: A taxpayer may claim a wage tax credit for doing business and creating jobs in EZs (EZ-WTC). The wage tax credit has two components. This credit equals the product of the average number of newly hired targeted EZ employees receiving EZ wages multiplied by $3,000. The corresponding credit amount for other employees equals the product of the average number of newly hired nontargeted EZ employees receiving EZ wages multiplied by $1,500. Taxpayers may claim an additional $500 for each employee paid over $40,000 in wages.

Taxpayers employing individuals in areas that met EZs eligibility criteria but were not so designated - Zone Equivalent Areas (ZEAs) - may take a credit for ZEA wages paid for full-time employment in jobs created in the ZEA. The ZEA Credit expired in 2004, but taxpayers are still allowed to use the full term of the credit if claimed prior to expiration. The credit equals $3,000 multiplied by the average number of targeted employees and $1,500 multiplied by the average number of nontargeted employees. The total wage tax credit in any tax year cannot exceed 50 percent of tax due (before credits). The EZ-WTC and the ZEA-WTC are available to the taxpayer for five years.

Finally, taxpayers may qualify for a credit for direct equity investments in certified zone businesses and contributions to community development projects (EZ capital corporation credit). The credit equals 25 percent of the sum of each type of investment. The maximum credit per taxpayer is $100,000 for each investment type for an aggregate limit of $200,000 and cannot exceed one half of the taxpayer's pre-credit tax. Taxpayers that previously claimed the credit based on investments in zone capital corporations may also continue to carry forward unused amounts.

Taxpayers may carry unused credits forward indefinitely. "New business" taxpayers may elect to have 50 percent of their unused ZEA-WTC or EZ-WTC refunded, in lieu of carryover.

Estimates: 2002: $6.0 million - 2006: $6.6 million
Data Source: Bank Tax Study File
Reliability: Level 1

b. Qualified Empire Zone Enterprise Tax Credits
Citation: Section 1456 (o)(p)
Effective Date: Effective for tax years beginning on or after January 1, 2001
Description: The Empire Zones Program Act created a tax credit for real property taxes and a tax reduction credit for Qualified Empire Zone Enterprises (QEZEs). Qualified Empire Zone Enterprises include business enterprises certified as EZ businesses that meet an annual employment test. The QEZE tax credit for real property taxes and the tax reduction credit may be claimed for 15 years by taxpayers first certified prior to April 1, 2005, and for 10 years by taxpayers first certified on or after April 1, 2005. The credit for real property taxes is refundable. The tax reduction credit can be applied against the alternative minimum tax and the fixed dollar minimum, potentially reducing a taxpayer's liability to zero.
Estimates: 2002: $2.7 million - 2006: $3.5 million
Data Source: Bank Tax Study File
Reliability: Level 1

16. Credit for Employment of Persons with Disabilities
Citation: Section 1456(f)
Effective Date: Effective for tax years beginning on or after January 1, 1998, with respect to employees who begin work on or after January 1, 1997
Description: Employers who employ individuals with disabilities may claim a credit for a portion of wages paid to such individuals. The credit equals 35 percent of the first $6,000 of first year wages paid to the disabled employee (a maximum of $2,100 per employee). However, if the first year's wages qualify for the Federal work opportunity tax credit, the New York credit will apply to second year wages.

To become eligible for the State credit, the disabled employee must work for the employer on a full time basis for at least 180 days or 400 hours, and must be certified as disabled by the State Education Department. Visually handicapped individuals may receive certification from the appropriate agency responsible for vocational rehabilitation of the blind and visually impaired.

Estimates: 2002: Minimal - 2006: Minimal
Data Source: Bank Tax Study File
Reliability: Level 1

17. Investment Credit for Financial Services Industry
Citation: Section 1456(i)
Effective Date: Effective for property placed in service on or after October 1, 1998 and

before October 1, 2008

Description: An investment credit is allowed for qualified property used in the financial services industry. The rate of credit, maximum amounts, carryforward provisions, and recapture rules are generally the same as for the regular investment credit allowed under the corporate franchise tax (Article 9-A).

Qualified property includes property principally used in the ordinary course of the taxpayer's trade or business:

- C as a broker or dealer in connection with the purchase or sale of stocks, bonds, or other securities (as defined in Internal Revenue Code (IRC) Section 475(c)(2)), or of commodities (as defined in IRC Section 475(e)), or in providing lending, loan arrangement or loan origination services to customers in connection with the purchase or sale of securities (as defined in IRC Section 475(c)(2));
- C of providing investment advisory services for a regulated investment company (as described in IRC Section 851).

In addition, qualified property includes property principally used in the ordinary course of the taxpayer's business as an exchange registered as a national securities exchange (such as the New York stock exchange) or a board of trade defined under the New York Not-For-Profit Corporation Law, or an entity wholly owned by one or more national security exchanges or boards of trade that provides automation or technical services to the national security exchanges or boards of trade.

Property purchased by a taxpayer affiliated with a regulated broker, dealer, or national securities exchange or board of trade, or property leased by a taxpayer to an affiliated regulated broker, dealer, national securities exchange or board of trade is eligible for this credit if the property is used by the affiliate in an activity described above.

The credit is not allowed unless all or substantially all of the taxpayer's or affiliate's employees performing the administrative and support functions resulting from or relating to the qualifying uses of the property are located in New York State.

Estimates: 2002: $5.0 million - 2006: $10.0 million

Data Source: Bank Tax Study File

Reliability: Level 1

18. Credit for Transportation Improvement Contributions

Citation: Section 1456(n)

Effective Date: Effective for tax years beginning on or after January 1, 2000

Description: The taxpayer must make a certified contribution of at least $10 million to a qualified transportation improvement project in a prior tax year. The projects must enhance a qualified business facility, and may include the construction or improvement of transportation infrastructure and related facilities and systems, including bridges, ramps, highways, and mass transit facilities. In addition, the taxpayer must create, by the third full tax year after the tax year during which the contribution was made, more than 1,000 jobs in connection with the qualified business facility. The credit equals 6 percent of the taxpayer's increased qualified business facility payroll for the tax year. After the third full tax year after the contribution is made the employment increase test is not met, then there is a recapture of the credit. The new law applies to contributions made on or after January 1, 2000.

Estimates: 2002: $0.0 million - 2006: $0.0 million
Data Source: Bank Tax Study File
Reliability: Level 1

19. Low Income Housing Credit
Citation: Section 1456(l)
Effective Date: Effective for tax years beginning on or after January 1, 2000, with respect to commitments for construction of low-income housing agreed upon on or after May 15, 2000.
Description: The "New York State Low Income Housing Tax Credit Program," based on the existing Federal program, requires an agreement between the taxpayer and the commissioner of the New York State Division of Housing and Community Renewal for a long-term commitment to low-income housing. The amount of the credit depends on the applicable percentage of the qualified basis of each low-income building. The credit amount allocated is allowed as a credit against tax for 10 tax years. Unused credits may be carried forward indefinitely. The total amount of credit available is $80 million, or $8 million each year.
Estimates: 2002: $0.0 million- 2006: Minimal
Data Source: Bank Tax Study File
Reliability: Level 1

20. Credit for Purchase of Automated External Defibrillator
Citation: Section 456(j)
Effective Date: Effective for tax years beginning on or after January 1, 2001
Description: Taxpayers who purchase an automated external defibrillator can receive a credit equal to the cost of each unit not exceeding $500 for each purchase.
Estimates: 2002: Minimal - 2006: Minimal
Data Source: Bank Tax Study File
Reliability: Level 1

21. Green Building Credit
Citation: Section 1456(m)
Effective Date: Effective for tax years beginning on or after January 1, 2001
Description: The credit consists of several components which provide incentives for the purchase of recyclable building materials and other environmentally preferable tangible personal property. Other components apply to the purchase of fuel cells, photovoltaic modules, and environmentally sensitive non-ozone depleting refrigerants. Phase one of the credit applies to costs incurred on or after June 1, 1999, for property placed in service or that has received a final certificate of occupancy in tax years from January 1, 2001 to 2004. Phase two of the program begins in 2005 tax year. An additional $25 million in total credit may be issued, but the amount on any one credit certificate is limited to $2 million.
Estimates: 2002: $0.0 million - 2006: Minimal
Data Source: Bank Tax Study File
Reliability: Level 1

22. Long-Term Care Insurance Credit

Citation: Section 1456(k)
Effective Date: Effective for tax years beginning on or after January 1, 2002
Description: A taxpayer may take a credit equal to 20 percent of the premiums paid for a long-term care insurance policy, as defined in the Insurance Law. Any unused credit may be carried forward.
Estimates: 2002: Minimal - 2006: Minimal
Data Source: Bank Tax Study File
Reliability: Level 1

23. Brownfields Tax Credit

Citation: Sections 21, 22, 23, 1456 (q)(r)(s)
Effective Date: Effective for tax years beginning on or after April 1, 2005
Description: Three refundable tax credits are available to taxpayers who remediate a site under the Brownfield Cleanup Program.

The brownfield redevelopment tax credit consists of three credit components relating to costs associated with: site preparation; tangible property; and on-site groundwater remediation. The credit equals 12 percent of costs associated with each component. The credit increases by two percent if the site is remediated to a Track 1 cleanup level (determined by the Department of Environmental Conservation), and by another eight percent if at least one half of the site is located in an Environmental Zone (En-Zone). An En-Zone is an area designated by the Commissioner of Economic Development and, as of the 2000 census, has a poverty rate of at least 20 percent and an unemployment rate of at least 1 ¼ times the statewide unemployment rate, or areas that have a poverty rate of at least two times the poverty rate for the county in which the data relate provided the site was subject to a cleanup agreement before September 1, 2006.

The remediated brownfield credit for real property taxes equals 25 percent of the product of the taxpayer's employment factor (a percentage based on the number of persons employed by the taxpayer on a qualified site) and the taxpayer's eligible real property taxes. If the site is located in an En-Zone the credit increases to 100 percent. There is a credit limitation equal to the product of the number of full time employees at the qualified site multiplied by $10,000.

The environmental remediation insurance credit is allowed for premiums paid for environmental remediation insurance up to the lesser of $30,000 or 50 percent of the cost of the premiums.

Estimates: 2002: Not Applicable - 2006: Minimal
Data Source: New York State Department of Environmental Conservation
Reliability: Level 4

24. Security Training Tax Credit

Citation: Section 26 and Section 1456(t)
Effective Date: Effective for tax years beginning on or after January 1, 2005
Description: Owners of commercial buildings over 500,000 square feet can receive a $3,000 credit for each security guard employed who has undergone training certified by the New York Sate Office of Homeland Security (OHS) and is paid a certain minimum wage. The credit is administered by OHS and is refundable.

Estimates: 2002: Not Applicable - 2006: Minimal
Data Sources: New York State Office of Homeland Security
Reliability: Level 5

25. Fuel Cell Electricity Generating Equipment Credit
Citation: Section 1456(t)
Effective Date: Effective for costs incurred on or after July 1, 2005
Description: Taxpayers may claim a credit equal to qualified fuel cell electric generating equipment expenditures for the tax year in which the equipment is placed in service. Qualified expenditures are associated with the purchase of on-site electricity generation systems utilizing proton exchange membrane fuel cells up to 100 kilowatts of rated capacity. The maximum credit is $1,500 per generating unit and the taxpayer may carryforward any unused credit indefinitely.
Estimates: 2002: Not Applicable - 2006: Minimal
Data Source: Research File
Reliability: Level 5

Corporate Exemptions

Certain banks are exempt from taxation under Article 32 of the Tax Law.

26. Exemption of Trust Companies Whose Capital Stock is Owned by Twenty or More New York Savings Banks
Citation: Section 1452(c)
Effective Date: Effective for taxable years beginning on or after January 1, 1973
Description: Trust companies, all of whose capital stock is owned by 20 or more savings banks organized under New York law, are exempt from the corporation franchise tax on banking corporations.
Estimates: 2002: Minimal - 2006: Minimal
Data Source: Industry Data
Reliability: Level 4

27. Exemption of Federal and State Chartered Credit Unions
Citation: State Banking Law, Article 11 Section 474; 12 U.S. Code Section 474
Effective Date: Effective March 13, 1945
Description: Pursuant to Federal law and the State Banking Law, federal and State chartered credit unions cannot be subject to tax under Article 32.
Estimates: 2002: $18.1 million - 2006: $28.1 million
Data Source: JCT estimates prorated to New York
Reliability: Level 4

INSURANCE TAX

This section of the report provides tax expenditure estimates for 27 separate provisions of the corporation franchise tax on insurance companies. The list of tax expenditures contained in Table 6 is based on the Tax Law as of January 1, 2006. The estimates are based on data from the 2002 tax year, the latest year for which Article 33 tax return data is available. They are also extrapolated to the 2006 tax year. The tax years refer to both the 2002 and 2006 calendar years and fiscal tax years ending in 2003 and 2007. Total insurance tax liability for the 2002 tax year has been included to provide some perspective to the tax expenditure estimates.

It should be noted that 2006 projections may differ from the pattern of historical estimates shown for 1998-2002. This is due to major revisions in the Article 33 tax enacted as part of the 2003-04 State Budget. For tax years beginning on or after January 1, 2003, non-life insurance corporations are no longer subject to the income tax component of the insurance franchise tax. In addition, a new "floor tax" amount has been added for life insurance corporations. Historical estimates are based on the structure of Article 33 in 2002, while 2006 projections are based on the current structure of the tax.

Description of Tax

Article 33 imposes a franchise tax on insurance companies. There are two components of the tax: (1) an income tax based on the higher of four bases plus a tax on subsidiary capital; and (2) a tax based on gross direct premiums written on State-located risks or residents in the State. Life insurance corporations are subject to both the income tax component and the premiums tax. Non-life insurance corporations are subject only to the tax on premiums.

The income tax component is based on one of four alternative bases. A life insurance corporation's tax liability for this component is based on the alternative that results in the largest tax, plus an additional 0.08 percent tax on subsidiary capital allocated to New York. The four bases are:

- 7.5 percent of allocated entire net income; or
- 1.6 mill on allocated business and investment capital; or
- 9 percent of entire net income plus officers' salaries less specified deductions; or
- A fixed dollar minimum tax of $250.

The second component of the Article 33 tax is a tax on gross premiums, less return premiums thereon, written on risks located or resident in New York. The rate of the tax on premiums varies according to the type of insurance risk covered by a premium. However, accident and health premiums are taxed at different rates dependent on the type of insurer. A 0.7 percent tax rate applies to premiums received by corporations licensed as life and health insurers, including premiums on accident and health contracts. A 2.0 percent tax rate applies to premiums written by corporations licensed as property and casualty insurers. However, a

1.75 percent tax rate applies to premiums on accident and health contracts written by property and casualty insurers.

Life insurance corporations doing business within and without the State allocate entire net income, business and investment capital and entire net income plus officer's salaries bases to New York based on weighted ratios of premiums and wages, earned or paid in New York to those earned or paid everywhere.

In computing the Article 33 tax, life insurance corporations add the tax on gross premiums to the highest of the four alternative taxes. The total tax liability of the two components, less Empire Zone (EZ) credits, cannot be greater than 2 percent or less than 1.5 percent of taxable premiums. Taxpayers may then claim credits other than EZ credits against the total tax liability. The Article 33 tax for non-life insurance corporations is solely the tax on gross premiums, although a fixed dollar minimum tax of $250 still applies.

Many of the exclusions, deductions, modifications, allocation percentages, and credits discussed above give rise to the tax expenditures listed and estimated in this section.

Data Sources

The major sources of data used to compute the tax expenditure estimates under Article 33 Insurance Tax include:

- 2002 Article 33 Insurance Tax Study File - This file, compiled by the Department of Taxation and Finance, includes the tax returns of all insurance companies filing under Article 33. The file is used to simulate all tax expenditures with the exception of Federal exclusion items.

- Congressional Joint Committee on Taxation Estimates of Federal Tax Expenditures - No data is available for Federal items at the State level. Federal tax expenditure items estimated by the JCT are prorated to New York.

- Annual Statistical Tables, New York State Insurance Department.

Methodology

The projections of the tax expenditures from 2002 to 2006 use a variety of economic forecast variables. Projections of items under Federal exclusions from income in the Appendix were taken from JCT estimates of Federal tax expenditures and prorated to New York.

Tax expenditures whose values are less than $0.1 million are considered minimal and are designated by an asterisk.

Table 6
2006 New York State Insurance Tax Expenditure Estimates
(2002 Total Insurance Tax Liability = $600.2 Million)
(Millions of Dollars)

Tax Item	History 1998	1999	2000	2001	2002	Forecast 2006	Reliability Level
New York Modifications to Federal Taxable Income							
1. Exclusion of Interest, Dividends and Capital Gains from Subsidiary Capital 2/	11.4	18.6	11.3	4.7	14.8	2.5	1
2. Deduction of 50 Percent of Dividends from Non-Subsidiary Corporations 2/	5.3	3.2	5.8	4.7	4.7	1.4	1
Alternative Bases							
3. Exclusion of Assets Held as Reserves Under NYS Insurance Law Sections 1303, 1304 and 1305 2/	*	*	*	*	*	*	5
Exclusions from Premiums Based Tax							
4. Exclusion of Annuities from the Tax on Premiums 2/	20.6	6.0	5.4	11.7	26.1	22.5	1
5. Exclusion from the Premiums Tax of Premiums Written on Certain Joint Underwriting Policies 2/	5.2	1.5	1.4	2.9	6.5	5.6	1
6. Exclusion from the Premiums Tax of Premiums Written on Marine Vessels	2.1	1.9	2.5	3.5	4.1	7.4	1
7. Exclusion from the Premiums Tax of Premiums Written on Certain Reinsurance Policies	N/L	N/L	36.7	50.8	58.8	235.1	1
8. Exclusion from the Premiums Tax for Certain Non-New York Property or Individuals	N/A	N/A	N/A	N/A	N/A	N/A	5
Limitation on Tax							
9. Limitation on Tax Liability 2/	230.2	171.8	227.5	134.7	143.5	38.3	1
Credits							
10. Fire Insurance Tax Credits - Credit for Taxes on Certain Fire Insurance Premiums	27.8	29.3	31.8	37.4	37.1	49.2	1
11. Retaliatory Tax Credit	33.2	30.6	27.3	19.1	20.0	58.4	1

		History					Forecast	Reliability
		1998	1999	2000	2001	2002	2006	Level
12.	Special Additional Mortgage Recording Tax Credit	*	*	0.0	0.0	0.0	*	1
13.	Credit for Assessments Paid to the Life Insurance Company Guaranty Corporation 2/	0.0	0.0	0.0	0.0	0.0	0.0	4
14.	Empire Zone Tax Credits							
	a. Empire Zone and Zone Equivalent Areas Tax Credits	0.0	0.1	0.1	0.0	0.6	0.9	1
	b. Qualified Empire Zone Enterprise Tax Credits	--	--	--	0.0	0.3	0.3	1
15.	Credit for Employment of Persons with Disabilities	0.0	*	0.0	0.0	*	*	1
16.	Credit for Investment in Certified Capital Companies	--	4.4	8.6	12.4	23.0	34.0	1
17.	Credit for Transportation Improvement Contributions	--	--	0.0	0.0	0.0	0.0	1
18.	Low Income Housing Credit	--	--	0.0	0.0	0.0	*	1
19.	Credit for Purchase of Automated External Defibrillator	--	--	--	0.0	*	*	1
20.	Green Buildings Credit	--	--	--	0.0	0.0	*	1
21.	Investment Tax Credit for Insurers	--	--	--	--	*	10.0	1
22.	Long-Term Care Insurance Credit	--	--	--	--	0.0	*	1
23.	Brownfields Tax Credits	--	--	--	--	--	*	4
24.	Security Training Tax Credit 1/	--	--	--	--	--	*	5
25.	Fuel Cell Electricity Generating Equipment Credit 1/	--	--	--	--	--	*	5
Corporate Exemptions								
26.	Exemption from Article 33 for Specific Types of Entities Engaged in an Insurance Business	244.9	271.2	277.2	262.5	246.5	251.3	4
Preferential Tax Rates								
27.	Preferential Tax Treatment for Captive Insurance Companies	*	*	*	*	0.9	7.0	2

1/ A new tax expenditure item, a revision of the methodology or revisions in the data sources resulting in an estimate which better reflects the tax expenditure value.
2/ Tax expendtiture item applies only to life insurance corporations.
* Less than $0.1 million.
-- The tax expenditure was not applicable for these years.
N/A No data available
N/L Not previously listed as a tax expediture

New York Modifications to Federal Taxable Income

In computing New York entire net income modifications to Federal taxable income are provided for under Article 33 of the Tax Law. These modifications apply only to life insurance corporations.

1. Exclusion of Interest, Dividends and Capital Gains from Subsidiary Capital
Citation: Section 1503(b)(1)(A)
Effective Date: Effective for taxable years beginning on or after January 1, 1974
Description: In computing New York entire net income, taxpayers may subtract from Federal taxable income dividends, interest and gains derived from subsidiary corporations that are not part of the combined filing entity.
Estimates: 2002: $14.8 million - 2006: $2.5 million
Data Source: Insurance Tax Study File
Reliability: Level 1

2. Deduction of 50 Percent of Dividends from Non-Subsidiary Corporations
Citation: Section 1503(b)(1)(B)
Effective Date: Effective for taxable years beginning on or after January 1, 1974
Description: Insurance corporations may deduct from federal taxable income, before Federal exclusion, 50 percent of the company's share of dividend income received from non-subsidiary corporations.
Estimates: 2002: $4.7 million - 2006: $1.4 million
Data Source: Insurance Tax Study File
Reliability: Level 1

Alternative Bases

Under Section 1502 of Article 33 of the Tax Law, life insurance corporations must calculate the following alternative franchise taxes and the greatest one must be paid:

1) 7.5 percent of allocated entire net income;

2) 0.0016 of allocated business and investment capital;

3) 9 percent on 30 percent of allocated entire net income plus salaries of certain officers and shareholders; and

4) fixed dollar minimum tax of $250.

One tax expenditure item is provided for under the alternative tax on business and investment capital.

3. Exclusion of Assets Held as Reserves Under NYS Insurance Law Sections 1303, 1304 and 1305
Citation: State Insurance Law Sections 1303, 1304 and 1305;

Tax Law Section 1500(I)(j)
Effective Date: Effective for taxable years beginning on or after January 1, 1974
Description: Insurance corporations may deduct loss or claim reserves and unearned premium reserves (as specified in the Insurance Law) from the definition of business capital and investment capital for purposes of computing tax liability under the capital based tax.
Estimates: 2002: Minimal - 2006: Minimal
Data Source: Insurance Tax Study File, Industry Data
Reliability: Level 4

Exclusions from Premiums Based Tax

The premiums based tax excludes premiums from several types of insurance.

4. **Exclusion of Annuities from the Tax on Premiums**
Citation: Section 1510(c)(1)
Effective Date: Effective for taxable years beginning on or after January 1, 1974
Description: The premiums tax base excludes annuities.
Estimates: 2002: $26.1 million - 2006: $22.5 million
Data Source: Insurance Study File
Reliability: Level 1

5. **Exclusion from the Premiums Tax of Premiums Written on Certain Joint Underwriting Policies**
Citation: Section 1510(c)(2)
Effective Date: Effective for taxable years beginning on or after January 1, 1974
Description: The premiums-based tax does not include premiums on joint underwriting of group health insurance for persons aged 65 and over.
Estimates: 2002: $6.5 million - 2006: $5.6 million
Data Source: Insurance Study File
Reliability: Level 1

6. **Exclusion from the Premiums Tax of Premiums Written on Marine Vessels**
Citation: Section 1510(c)(2)
Effective Date: Effective for taxable years beginning on or after January 1, 1974
Description: The base of the premiums-based tax does not include premiums for insurance upon marine vessels, freights or disbursements or upon personal property therein.
Estimates: 2002: $4.1 million - 2006: $7.4 million
Data Source: Insurance Study File
Reliability: Level 1

7. **Exclusion from the Premiums Tax of Premiums Written on Certain Reinsurance Policies**
Citation: Section 1510(c)(3)(A-B)
Effective Date: Effective for taxable years beginning on or after January 1, 1974

Description: The premiums-based tax does not include premiums received by way of reinsurance from corporations or other insurers authorized to transact business in this state. It also does not include premiums received by way of reinsurance from corporations or other insurers not authorized to transact business in this state if such premiums are subject to the Excess Line Tax imposed under the Insurance Law.
Estimates: 2002: $58.8 million - 2006: $235.1 million
Data Source: Insurance Study File
Reliability: Level 1

8. Exclusion from the Premiums Tax for Certain Non-New York Property or Individuals
Citation: Section 1512(b)(1)-(3)
Effective Date: Effective for taxable years beginning on or after January 1, 1974 (Section 1512(b)(3) effective for taxable years beginning on or after January 1, 1978)
Description: The tax imposed on premiums does not apply to premiums from:
- Property, risks or residents located outside of New York written by nonprofit life or fire insurance companies.
- Insurance risks on residents outside of the State of New York written by federally exempt life insurance companies organized by nonprofit voluntary employees' beneficiary associations.

Estimate: No data available
Reliability: Level 5

Limitation on Tax

Article 33 provides for a maximum tax liability or "cap" of 2 percent for life insurance corporations. The total tax before credits may not exceed this amount. Taxpayers may apply all insurance corporation tax credits, except the empire zone wage tax credit and the empire zone capital corporation credit, to reduce the tax as determined by the "cap."

9. Limitation on Tax Liability
Citation: Section 1505
Effective Date: Effective for taxable years beginning on or after January 1, 1977
Description: Article 33 limits the total tax liability of a life insurance corporation. Effective for taxable years beginning on or after January 1, 1998, the limitation, or "cap," equals 2.0 percent of gross premiums for life insurers. An insurance corporation's tax liability equals the lower of (1) the tax determined under the cap, or (2) the tax determined on the highest of four alternative bases, plus the taxes on subsidiary capital and premiums bases. Special rules apply to taxpayers claiming Empire Zone (EZ) or Zone Equivalent Area (ZEA) credits.
Estimates: 2002: $143.5 million - 2006: $38.3 million
Data Source: Insurance Tax Study File
Reliability: Level 1

Credits

Credits are amounts, enumerated by Article 33 of the New York State Tax Law, which insurance corporations may subtract from their calculated New York tax liability. The Empire Zone Wage Tax Credit and the Empire Zone Capital Corporation Credit may not be utilized by life insurance corporations to reduce the tax in instances where the tax is based on the limitation (or cap). Article 33 credits are available to both life and non-life insurance corporations unless otherwise noted.

10. Fire Insurance Tax Credits - Credit for Taxes on Certain Fire Insurance Premiums
Citation: Section 1511(a)
Effective Date: Effective for taxable years beginning on or after January 1, 1974
Description: A credit is allowed for additional taxes on premiums written by foreign or alien corporations for any insurance against loss or damage by fire, paid by foreign and alien fire insurance companies and foreign mutual fire insurance companies. Such taxes are imposed under the Insurance Law and under the charters of the cities of Buffalo and New York. Taxpayers must have paid or accrued the taxes during the tax year covered by the return. Insurance corporations may not carry forward unused credits to any other year.
Estimates: 2002: $37.1 million - 2006: $49.2 million
Data Source: Insurance Tax Study File
Reliability: Level 1

11. Retaliatory Tax Credit
Citation: Section 1511(c)
Effective Date: Effective for taxable years beginning on or after January 1, 1974
Description: Taxpayers may claim a credit for up to 90 percent of any retaliatory taxes paid to other states by New York domiciled or organized insurers as a result of New York State imposed taxes on insurers domiciled or organized in those other states.
Estimates: 2002: $20.0 million - 2006: $58.4 million
Data Source: Insurance Tax Study File
Reliability: Level 1

12. Special Additional Mortgage Recording Tax Credit
Citation: Section 1511(e)
Effective Date: Effective for taxable years beginning after December 31, 1978
Description: An insurance corporation may claim a credit which is equal in amount to the special additional mortgage recording tax paid on mortgages recorded on or after January 1, 1979, on property which is located within New York. Taxpayers may carry forward the amount of any unused mortgage recording tax credit. Certain mortgages on property in a Metropolitan Commuter Transportation District or Erie County are ineligible for the credit.
Estimates: 2002: $0.0 million - 2006: Minimal
Data Source: Insurance Tax Study File
Reliability: Level 1

13. Credit for Assessments Paid to the Life Insurance Company Guaranty Corporation
Citation: Insurance Law Section 7712(a)(b); Tax Law Section 1511(f)
Effective Date: Effective for taxable years beginning after December 31, 1986
Description: Life insurance corporations may claim a tax credit for a portion of the cost of assessments paid to the life insurance company guaranty corporation in prior years. The maximum credit allowed to all life insurance companies for a particular year is limited to $40 million or 40 percent of the total tax liability of all such companies. Taxpayers may carry forward the amount of unused credits.
Estimates: 2002: $0.0 million - 2006: $0.0 million
Data Source: State Insurance Department
Reliability: Level 4

14. Empire Zone Tax Credits

a. Empire Zone Tax Credits
Citation: Section 1511(g)(h)
Effective Date: Effective for tax years beginning on or after January 1, 1986.
Description: A taxpayer may claim a wage tax credit for doing business and creating jobs in EZs (EZ-WTC). The wage tax credit has two components. This credit equals the product of the average number of newly hired targeted EZ employees receiving EZ wages multiplied by $3,000. The corresponding credit amount for other employees equals the product of the average number of newly hired nontargeted EZ employees receiving EZ wages multiplied by $1,500. Taxpayers may claim an additional $500 for each employee paid over $40,000 in wages.

Taxpayers employing individuals in areas that met EZs eligibility criteria but were not so designated - Zone Equivalent Areas (ZEAs) - may take a credit for ZEA wages paid for full-time employment in jobs created in the ZEA. The ZEA Credit expired in 2004, but taxpayers are still allowed to use the full term of the credit if claimed prior to expiration. The credit equals $3,000 multiplied by the average number of targeted employees and $1,500 multiplied by the average number of nontargeted employees. The total wage tax credit in any tax year cannot exceed 50 percent of tax due (before credits). The EZ-WTC and the ZEA-WTC are available to the taxpayer for five years.

Finally, taxpayers may qualify for a credit for direct equity investments in certified zone businesses and contributions to community development projects (EZ capital corporation credit). The credit equals 25 percent of the sum of each type of investment. The maximum credit per taxpayer is $100,000 for each investment type for an aggregate limit of $200,000 and cannot exceed one half of the taxpayer's pre-credit tax. Taxpayers that previously claimed the credit based on investments in zone capital corporations may also continue to carry forward unused amounts.

Taxpayers may carry unused credits forward indefinitely. "New business" taxpayers may elect to have 50 percent of their unused ZEA-WTC or EZ-WTC refunded, in lieu of carryover.
Estimates: 2002: $0.6 million - 2006: $0.9 million

Data Source: Insurance Tax Study File
Reliability: Level 1

b. **Qualified Empire Zone Enterprise Tax Credits**
Citation: Section 1511(r), (s)
Effective Date: Effective for tax years beginning on or after January 1, 2001
Description: The Empire Zones Program Act created a tax credit for real property taxes and a tax reduction credit for Qualified Empire Zone Enterprises (QEZEs). Qualified Empire Zone Enterprises include business enterprises certified as EZ businesses that meet an annual employment test. The QEZE tax credit for real property taxes and the tax reduction credit may be claimed for 15 years by taxpayers first certified prior to April 1, 2005, and for 10 years by taxpayers first certified on or after April 1, 2005. The credit for real property taxes is refundable. The tax reduction credit can be applied against the alternative minimum tax and the fixed dollar minimum, potentially reducing a taxpayer's liability to zero.
Estimates: 2002: $0.3 million - 2006: $0.3 million
Data Source: Insurance Tax Study File
Reliability: Level 1

15. **Credit for Employment of Persons with Disabilities**
Citation: Section 1511(j)
Effective Date: Effective for tax years beginning on or after January 1, 1998, with respect to employees who begin work on or after January 1, 1997
Description: Employers who employ individuals with disabilities may claim a credit for a portion of wages paid to such individuals. The credit equals 35 percent of the first $6,000 of first year wages paid to the disabled employee (a maximum of $2,100 per employee). However, if the first year's wages qualify for the Federal work opportunity tax credit, the New York credit will apply to second year wages.

To become eligible for the State credit, the disabled employee must work for the employer on a full time basis for at least 180 days or 400 hours, and must be certified as disabled by the State Education Department. Visually handicapped individuals may receive certification from the appropriate agency responsible for vocational rehabilitation of the blind and visually impaired.
Estimates: 2002: Minimal - 2006: Minimal
Data Source: Insurance Tax Study File
Reliability: Level 1

16. **Credit for Investment in Certified Capital Companies**
Citation: Section 1511(k)
Effective Date: Effective for tax years beginning after 1998, although the credit may be earned before 1999. The credit has been expanded three times since its enactment, to a combined statewide cap for all four programs of $340 million, effective January 1, 2006.
Description: Under the three programs, taxpayers may claim a credit for 100 percent of the amount invested in certified capital companies (CAPCOs). The credit can be claimed over 10 years, at a rate of 10 percent per year. The combined statewide cap is

$340 million on the total amount of investments for which credits may be claimed. The total for all four programs may not exceed $34 million in any year.
Estimates: 2002: $23.0 million- 2006: $34.0 million
Data Source: Insurance Tax Study File
Reliability: Level 1

17. Credit for Transportation Improvement Contributions
Citation: Section 1511(p)
Effective Date: Effective for tax years beginning on or after January 1, 2000
Description: The taxpayer must make a certified contribution of at least $10 million to a qualified transportation improvement project in a prior tax year. The projects must enhance a qualified business facility, and may include the construction or improvement of transportation infrastructure and related facilities and systems, including bridges, ramps, highways, and mass transit facilities. In addition, the taxpayer must create, by the third full tax year after the tax year during which the contribution was made, more than 1,000 jobs in connection with the qualified business facility. The credit equals 6 percent of the taxpayer's increased qualified business facility payroll for the tax year. After the third full tax year after the contribution is made the employment increase test is not met, then there is a recapture of the credit. The new law applies to contributions made on or after January 1, 2000.
Estimates: 2002: $0.0 million - 2006: $0.0 million
Data Source: Insurance Tax Study File
Reliability: Level 1

18. Low Income Housing Credit
Citation: Section 1511(n)
Effective Date: Effective for tax years beginning on or after January 1, 2000, with respect to commitments for construction of low-income housing agreed upon on or after May 15, 2000.
Description: The "New York State Low Income Housing Tax Credit Program," based on the existing Federal program, requires an agreement between the taxpayer and the commissioner of the New York State Division of Housing and Community Renewal for a long-term commitment to low-income housing. The amount of the credit depends on the applicable percentage of the qualified basis of each low-income building. The credit amount allocated is allowed as a credit against tax for 10 tax years. Unused credits may be carried forward indefinitely. The total amount of credit available is $80 million, or $8 million each year.
Estimates: 2002: $0.0 million- 2006: Minimal
Data Source: Insurance Tax Study File
Reliability: Level 1

19. Credit for Purchase of Automated External Defibrillator
Citation: Section 1511(l)
Effective Date: Effective for tax years beginning on or after January 1, 2001
Description: Taxpayers who purchase an automated external defibrillator can receive a credit equal to the cost of each unit, not exceeding $500 for each purchase.

Estimates: 2002: Minimal - 2006: Minimal
Data Source: Insurance Tax Study File
Reliability: Level 1

20. Green Building Credit
Citation: Section 1511(o)
Effective Date: Effective for tax years beginning on or after January 1, 2001
Description: The credit consists of several components which provide incentives for the purchase of recyclable building materials and other environmentally preferable tangible personal property. Other components apply to the purchase of fuel cells, photovoltaic modules, and environmentally sensitive non-ozone depleting refrigerants. Phase one of the credit applies to costs incurred on or after June 1, 1999, for property placed in service or that has received a final certificate of occupancy in tax years from January 1, 2001 to 2004. Phase two of the program begins in 2005 tax year. An additional $25 million in total credit may be issued, but the amount on any one credit certificate is limited to $2 million.
Estimates: 2002: $0.0 million - 2006: Minimal
Data Source: Insurance Tax Study File
Reliability: Level 1

21. Investment Tax Credit for Insurers
Citation: Section 1511(q)
Effective Date: Available for property placed in service between January 1, 2002 and October 1, 2008
Description: An insurance company which is a securities and commodities broker can claim an investment tax credit (ITC) for tangible personal property used in the course of its broker/dealer activities. The credit also extends to taxpayers that lease property to an affiliated broker/dealer. The property must be depreciable and have a useful life of four years or more. The taxpayer must have substantially all of the employees using the qualified property located in New York. The credit may be claimed at 5 percent for the first $350 million of qualified investment expenditures, and 4 percent for expenditures over $350 million. The credit applies to property placed in service between January 1, 2002 and September 30, 2008.
Estimates: 2002: Minimal - 2006: $10.0 million
Data Source: Insurance Tax Study File
Reliability: Level 1

22. Long-Term Care Insurance Credit
Citation: Section 1511(m)
Effective Date: Effective for taxable years beginning on or after January 1, 2002
Description: Taxpayers may claim a credit for 20 percent of the premiums paid for a long-term care insurance policy during the taxable year. To qualify for the credit, the long-term care insurance policy purchased by the taxpayer must be one approved by the Superintendent of Insurance. Amounts in excess of tax liability may be carried over to future tax years.
Estimates: 2002: $0.0 million - 2006: Minimal

Data Source: Insurance Tax Study File
Reliability: Level 1

23. Brownfields Tax Credit
Citation: Sections 21, 22, 23, 1511 (u)(v)(w)
Effective Date: Effective for tax years beginning on or after April 1, 2005
Description: Three refundable tax credits are available to taxpayers who remediate a site under the Brownfield Cleanup Program.

The brownfield redevelopment tax credit consists of three credit components relating to costs associated with: site preparation; tangible property; and on-site groundwater remediation. The credit equals 12 percent of costs associated with each component. The credit increases by two percent if the site is remediated to a Track 1 cleanup level (determined by the Department of Environmental Conservation), and by another eight percent if at least one half of the site is located in an Environmental Zone (En-Zone). An En-Zone is an area designated by the Commissioner of Economic Development and, as of the 2000 census, has a poverty rate of at least 20 percent and an unemployment rate of at least 1 ¼ times the statewide unemployment rate, or areas that have a poverty rate of at least two times the poverty rate for the county in which the data relate provided the site was subject to a cleanup agreement before September 1, 2006.

The remediated brownfield credit for real property taxes equals 25 percent of the product of the taxpayer's employment factor (a percentage based on the number of persons employed by the taxpayer on a qualified site) and the taxpayer's eligible real property taxes. If the site is located in an En-Zone the credit increases to 100 percent. There is a credit limitation equal to the product of the number of full time employees at the qualified site multiplied by $10,000.

The environmental remediation insurance credit is allowed for premiums paid for environmental remediation insurance up to the lesser of $30,000 or 50 percent of the cost of the premiums.
Estimates: 2002: Not Applicable - 2006: Minimal
Data Source: New York State Department of Environmental Conservation
Reliability: Level 4

24. Security Training Tax Credit
Citation: Section 26 and Section 1511(x)
Effective Date: Effective for tax years beginning on or after January 1, 2005
Description: Owners of commercial buildings over 500,000 square feet can receive a $3,000 credit for each security guard employed who has undergone training certified by the New York State Office of Homeland Security (OHS) and is paid a certain minimum wage. The Credit is administered by OHS and is refundable.
Estimates: 2002: Not Applicable - 2006: Minimal
Data Sources: New York State Office of Homeland Security
Reliability: Level 5

25. Fuel Cell Electricity Generating Equipment Credit
Citation: Section 1511(x)
Effective Date: Effective for costs incurred on or after July 1, 2005

Description: Taxpayers may claim a credit equal to qualified fuel cell electric generating equipment expenditures for the tax year in which the equipment is placed in service. Qualified expenditures are associated with the purchase of on-site electricity generation systems utilizing proton exchange membrane fuel cells up to 100 kilowatts of rated capacity. The maximum credit is $1,500 per generating unit and the taxpayer may carryforward any unused credit indefinitely.
Estimates: 2002: Not Applicable - 2006: Minimal
Data Source: Research File
Reliability: Level 5

Corporate Exemptions

Article 33 of the Tax Law does not apply to several types of entities which may be engaged in an insurance business. Several additional types of entities are exempt only from the premiums tax.

26. Exemption from Article 33 for Specific Types of Entities Engaged in an Insurance Business

Citation: Section 1512(a)(1)-(8), (c)
Effective Date: Effective for taxable years beginning on or after January 1, 1974 (Sections 1512(a)(8) and 1512 (c) effective for taxable years beginning on or after January 1, 1978)
Description: The corporation franchise tax on insurance does not apply to several types of entities which may be engaged in an insurance business. Among the exempt entities are:

- Charitable, religious, missionary, educational and philanthropic non-stock corporations. (1512(a)(2))
- Retirement systems or pension funds engaged solely in an annuity business. (1512(a)(3))
- Nonprofit medical expense indemnity or hospital service corporations. (This exemption applies to health service corporations such as Blue Cross and Blue Shield.) (1512(a)(4))
- Incorporated or unincorporated fraternal benefit societies. (1512(a)(5))
- Corporations for the insurance of domestic animals on a cooperative plan. (1512 (a)(6))
- Not-for-profit voluntary employees' beneficiary associations exempted from Federal income tax the members of which are employees (or beneficiaries or dependent of employees) of a single employer. (1512(a)(8))
- Entities conducting insurance business as a member of the New York Insurance Exchange. (1512 (c))

Estimates: 2002: $246.5 million - 2006: $251.3 million
Data Source: New York State Insurance Department Aggregate Data.
Reliability: Level 4

Preferential Tax Rates

27. Preferential Tax Treatment for Captive Insurance Companies
Citation: Section 1502-b
Effective Date: Effective for tax years beginning on or after January 1, 1998
Description: Captive insurers are subject to a special premiums tax in lieu of the premiums and "income-based" taxes that apply to other insurers. The tax imposed on captives equals the greater of the sum of the tax imposed on gross direct premiums and the tax imposed on assumed reinsurance premiums, or $5,000. The tax rates that apply to gross direct premiums and assumed reinsurance premiums will decrease as the amount of premiums subject to tax increases, with the highest rate equaling 0.4 percent.
Estimates: 2002: $0.9 million - 2006: $7.0 million
Data Source: Captive Tax Return Data
Reliability: Level 2

CORPORATION TAX

This section of the report provides descriptions of 54 separate tax expenditure provisions of the Article 9 tax. The list of tax expenditures is based on the Tax Law as of January 1, 2006. Total tax liability of Article 9 has been included to provide perspective.

Description of Tax

Article 9 of the Tax Law imposes initial taxes and annual fees on domestic and foreign corporations. It also imposes gross receipts-based taxes on a variety of specialized businesses. The temporary Metropolitan Transit Authority business surcharge applies, based on the taxpayer's business activities in the Metropolitan Commuter Transportation District (MCTD).

Section 180 imposes an organization tax, at a rate of 1/20th of 1 percent, on the total amount of the par value of stock authorized to be issued by domestic corporations. The tax rate on shares without par value is five cents per share. The tax also applies to any subsequent change in authorized stock or capital structure.

Section 181.1 imposes a license fee on foreign (out-of-state) corporations (but not most insurance corporations or corporations taxed under separate Articles). The rate is the same as for the organization tax but only applies to registered out-of-state corporations exercising a franchise or carrying on business in New York State.

Section 181.2 of the Tax Law requires an additional annual maintenance fee of $300 from all foreign corporations, including S corporations (but not most insurance corporations or certain banking corporations). Foreign corporations may credit the maintenance fee against any tax due under Articles 9 or 9-A and against taxes paid under other Articles.

Section 183 of the Tax Law imposes a franchise tax on transportation and transmission companies and associations (excluding aviation companies which are taxable under Article 9-A) at the highest of three alternatives. Businesses must pay 1.5 mills on each dollar of net value of their issued capital stock in New York State. However, if the dividends paid on their capital stock are 6 percent or more, the tax rate is 0.375 mills per dollar of par value for each 1 percent of dividends paid. The third alternative is a fixed minimum of $75. Effective January 1998, trucking and railroad companies previously taxable under Section 183 became taxable under Article 9-A unless an election had been made to remain under Article 9. Effective January 2000, gas pipelines became taxable under Article 9-A.

Section 184 imposes an additional franchise tax on transportation and transmission corporations and associations. The rate was 0.6 percent on gross earnings for trucking companies and railroads and 0.75 percent on gross earnings from all sources within New York for other such corporations. The rate for all companies subject to Section 184 dropped to 3/8 percent as of July 1, 2000.

Beginning in 1995, Section 184 applies only to those telecommunications corporations or associations principally engaged in a local telephone business. Companies principally engaged in long distance services are excluded from the tax. In addition, the law provided two exclusions to equalize the tax treatment of telecommunications services provided by local carriers, which remain subject to the Section 184 tax, and long distance carriers. Excluded from Section 184 are receipts from sales for ultimate consumption from interLATA, interstate, or international services (effective January 1, 1995), and 30 percent of intraLATA toll services, including interregion regional calling plan services (effective January 1, 1996). In January 1998, trucking and railroad companies formerly taxable under Section 184 became taxable under Article 9-A unless they elected to remain under Article 9. In January 2000, gas pipelines became taxable under Article 9-A.

The franchise tax on agricultural cooperatives imposed by Section 185 is the highest of three alternatives. The first is a tax at 1 mill per dollar on the value of issued capital stock allocated to New York. The second alternative is a tax at a rate based on dividends of 6 percent or more, paid on the value of issued capital stock allocated to New York. A $10 minimum tax is the other alternative.

Section 186, which was repealed effective January 1, 2000, provided for a franchise tax on waterworks companies, gas companies, electric or steam heating, lighting and power companies. The tax was imposed at a rate of 3/4 of 1 percent on gross earnings and 4 ½ percent on the amount of dividends paid which exceeded 4 percent of the amount of the taxpayer's paid-in capital employed in New York State. The minimum tax alternative of $125 applied, but only in case and to the extent that the tax computed under the primary method was less than $125. Energy and water companies formerly taxable under this Section are now taxable under Article 9-A. However, a company may elect to remain a continuing Section 186 taxpayer, and be subject to the tax as it existed in 1999, if certain conditions apply.

Section 186-a provides for a gross receipts tax on the furnishing of utility services. A utility is defined as any seller of gas, electricity, steam, water, or refrigeration. The tax is imposed on receipts from transportation, transmission, distribution or delivery of energy for residential customers at a rate of 2.0 percent. Utilities that provide telephone or telegraph services which are subject to the supervision of the Public Service Commission pay the tax on their gross receipts not derived from the sale of telecommunications services at a rate of 2.5 percent. Telecommunications service receipts are taxable under Section 186-e.

For tax years covered in the History portion of the following Table 4, the tax rate was reduced effective October 1, 1998 from 3.5 percent to 3.25 percent and further reduced to 2.5 percent effective January 1, 2000. The tax is imposed on receipts from transportation, transmissions, distribution or delivery of energy for residential customers at a rate of 2.0 percent. For taxable years beginning on or after January 1, 2000 separate additional rate reduction schedules are applied to receipts from the sale of an energy commodity and to receipts from charges for the transportation, transmission, distribution or delivery of energy, as follows:

Calendar Year	2000	2001	2002	2003	2004	2005 and After
Commodity Rate	2.1%	2.0%	1.9%	0.85%	0.4%	0%
T&D Rate	2.5%	2.45%	2.4%	2.25%	2.125%	2.0%

Section 186-e provides for an excise tax on telecommunications services at a rate of 2.5 percent on the gross receipts of all providers of telecommunications services. The tax applies to gross receipts from all intrastate services and interstate and international services that either originate or terminate in New York and are billed to a service address in the State. Providers of mobile telecommunication services source gross receipts to their customer's place of primary use.

Most of the revenue from the Article 9 tax resulted from the gross receipts-based taxes (Sections 184, 186, 186-a and 186-e). Section 186 was repealed effective January 1, 2000. The tax expenditures are minor relative to the revenue base but include the allowance of credits against the tax. In addition, tax expenditures result from the exemption of some businesses from the gross receipts taxes.

Data Sources

The major source of data used to compute the tax expenditure estimates under Article 9 is the 2001-2002 Business Tax Files. This is an unverified file of all taxpayers filing a return under Article 9.

Methodology

The projections of the tax expenditures from 2002 to 2006 use a variety of economic forecast variables. The expenditure estimates were computed using historical trends.

Tax expenditures whose values are less than $0.1 million are considered minimal and are designated by an asterisk.

Table 7
2006 New York State Corporation and Utilities (Article 9) Tax Expenditure Estimates
(2002 Corporation and Utilities Tax Liability = $808.5 Million)
(Millions of Dollars)

Tax Item	History 1998	1999	2000	2001	2002	Forecast 2006	Reliability Level
Section 181 - License and Maintenance Fees on Foreign Corporations							
Corporate Exemptions							
1. Certain Banking and Insurance Companies	N/A	N/A	N/A	N/A	N/A	N/A	5
Section 183 - Franchise Tax on Transportation and Transmission Corporations and Associations							
Credits							
2. Special Additional Mortgage Recording Tax	*	*	*	0.0	0.0	*	2
3. Credit for Employment of Persons with	0.0	*	*	0.0	0.0	*	4
4. Green Building Credit	--	--	--	0.0	0.0	*	4
5. Credit for Transportation Improvement	--	--	0.0	0.0	0.0	*	2
6. Long-Term Care Insurance Credit	--	--	--	--	0.0	*	4
7 Brownfields Tax Credits 1/	--	--	--	--	--	*	4
8. Alternative Fuels Credit	--	--	--	--	--	*	5
9. Fuel Cell Electricity Generating Equipment	--	--	--	--	--	*	5
10. Security Training Credit	--	--	--	--	--	*	5
Corporate Exemptions							
11. Ferry Companies	N/A	N/A	N/A	N/A	N/A	N/A	5
12. Taxicabs and Omnibuses	*	*	*	*	*	*	2
13. Railroads and Vessels Engaged in Interstate or Commerce	N/A	N/A	N/A	N/A	N/A	N/A	5
14. Corporations Principally Engaged in Providing Telecommunications for Air Safety and	N/A	N/A	N/A	N/A	N/A	N/A	5
Section 184 - Additional Franchise Tax on Transportation and Transmission Corporations and Associations							
New York Modifications to Gross Income							
15. Exclusion of Interstate and Foreign Income	N/A	N/A	N/A	N/A	N/A	N/A	5
16. Exclusion of Receipts from InterLATA, International Telephone Services	2.7	2.3	1.1	7.8	2.8	6.0	2
17. Exclusion of Thirty Percent of Receipts from Toll Telephone Services	2.5	2.5	2.0	2.3	2.6	2.5	2

Tax Item	History 1998	1999	2000	2001	2002	Forecast 2006	Reliability Level
Credits							
18. Special Additional Mortgage Recording Tax Credit	*	0.0	0.0	0.0	0.0	*	2
19. Credit for Employment of Persons with Disabilities	0.0	0.0	0.0	*	*	*	4
20. Green Building Credit	--	--	--	0.0	0.0	*	4
21. Credit for Transportation Improvement Contributions	--	--	0.0	0.0	0.0	*	2
22. Long-Term Care Insurance Credit	--	--	--	--	--	*	4
23. Brownfields Tax Credits 1/	--	--	--	--	--	*	4
24. Alternative Fuels Credit	--	--	--	--	--	*	5
25. Fuel Cell Electricity Generating Credit	--	--	--	--	--	*	5
26. Security Training Credit	--	--	--	--	--	*	5
Corporate Exemptions							
27. Foreign Commerce	N/A	N/A	N/A	N/A	N/A	N/A	5
28. Ferry Companies	N/A	N/A	N/A	N/A	N/A	N/A	5
29. Railroad Leasing	N/A	N/A	N/A	N/A	N/A	N/A	5
30. Foreign Taxicabs and Omnibuses	*	*	*	*	*	*	3
31. Corporations Principally Engaged in Providing Telecommunications for Air Safety and Navigation	N/A	N/A	N/A	N/A	N/A	N/A	5
Section 185 - Franchise Tax on Farmers, Fruit Growers, and Other Like Agricultural Corporations Organized and Operated on a Cooperative Basis							
Credits							
32. Special Additional Mortgage Recording Tax Credit	*	*	*	0.0	0.0	*	2
33. Credit for Employment of Persons with Disabilities	0.0	0.0	0.0	0.0	0.0	*	4
34. Green Building Credit	--	--	--	0.0	0.0	*	4
35. Credit for Transportation Improvement Contributions	--	--	0.0	0.0	0.0	*	2
36. Long-Term Care Insurance Credit	--	--	--	--	--	*	4
37. Brownfields Tax Credits 1/	--	--	--	--	--	*	4
38. Alternative Fuels Credit	--	--	--	--	--	*	5
39. Fuel Cell Electricity Generating Credit	--	--	--	--	--	*	5
40. Security raining Credit	--	--	--	--	--	*	5
Section 186 - Franchise Tax on Water-Works Companies, Gas Companies and Electric or Steam Heating, Lighting and Power Companies							
Credits							
41. Special Additional Mortgage Recording Tax Credit	1.3	1.3	0.0	0.0	0.0	0.0	2
42. Credit for Employment of Persons with Disabilities	0.0	0.0	0.0	0.0	0.0	0.0	2
Corporate Exemptions							
43. Water Pollution Facilities	N/A	N/A	--	--	--	--	5
Section 186-a - Ta2 on the Furnishing of Utility Services							
Credits							
44. Power for Jobs Tax Credit 1/	18.7	65.8	90.1	79.9	59.1	35.0	4
45. Long-Term Care Insurance Credit	--	--	--	--	--	*	4

	Tax Item	History 1998	1999	2000	2001	2002	Forecast 2006	Reliability Level
Exemptions								
46.	Exempt Companies	N/A	N/A	N/A	N/A	N/A	N/A	5
47.	Exempt Organizations	N/A	N/A	N/A	N/A	N/A	N/A	5
48.	Water Pollution Facilities	N/A	N/A	N/A	N/A	N/A	N/A	5
49.	Commercial, Industrial, and Not-For-Profit Relief	--	--	--	--	--	--	4
Section 186-e - Excise Tax on Telecommunications Services								
New York Modifications to Gross Income								
50.	Exclusion of Cable Television Service	72.2	79.4	65.4	72.5	82.1	85.0	3
51.	Exclusion of Receipts from Certain Services for Air Safety and Navigation Purposes	N/A	N/A	N/A	N/A	N/A	N/A	5
Credits								
52.	Credit for Tax Paid in Another Jurisdiction	*	*	*	*	*	*	2
53.	Long-Term Care Insurance Credit	--	--	--	--	--	*	4
Exemptions								
54.	Exempt Organizations	N/A	N/A	N/A	N/A	N/A	N/A	5

1/ A new tax expenditure item, a revision of the methodology or revisions in the data sources resulting in an estimate which better reflects the tax expenditure value.

* Less than $0.1 million.

-- The tax expenditure was not applicable for these years.

N/A No data available

Article 9
Section 181
License and Maintenance Fees on Foreign Corporations

Corporate Exemptions

Certain entities are exempt from the license fee and banking and insurance annual maintenance fee.

1. **Banking and Insurance Companies**
Citation: Section 181.1 (license fee); 181.2 (annual maintenance fee)
Effective Date: April 4, 1895, September 1, 1976
Description: Certain banking corporations, fire, marine, casualty and life insurance companies, cooperative fraternal insurance companies, and building and loan associations are not subject to the license fee or the annual maintenance fee.
Estimate: No data available
Reliability: Level 5

Section 183
Franchise Tax on Transportation and Transmission Corporations and Associations

Section 183 taxes transportation and transmission corporations and associations on the basis of allocated capital stock. Generally a corporation's stock is allocated to New York in the ratio that the corporation's gross assets (exclusive of U.S. obligations and cash on hand and on deposit) employed in business in the State bear to gross assets (exclusive of U.S. obligations, cash on hand and on deposit) employed in business everywhere. Effective January 1, 2000, gas pipelines became taxable under Article 9-A.

Credits

2. **Special Additional Mortgage Recording Tax Credit**
Citation: Section 187
Effective Date: December 8, 1978
Description: The credit is permitted against all taxes except Sections 180, 181, 186-a, 186-e and 189 taxes and fees. It is based on the amount of special additional mortgage recording taxes paid by the taxpayer, with certain restrictions. No credit is allowed for special additional mortgage recording taxes paid on certain mortgages recorded in the Metropolitan Community Transportation District or Erie County.
Estimates: 2002: $0.0 million - 2006: Minimal
Data Source: Business Tax Files
Reliability: Level 2

3. **Credit for Employment of Persons with Disabilities**
Citation: Section 187-a
Effective Date: Effective for taxable years beginning on or after January 1, 1998,

applicable to individuals who begin work on or after January 1, 1997
Description: Employers may claim a credit equal to 35 percent of the first $6,000 of wages paid to workers with disabilities, as certified by the State Department of Education or other designated State agency. The credit applies for the second year of employment if a Federal work opportunity tax credit applies for the first year. Alternatively, taxpayers may claim the credit based on the first year of employment if no work opportunity tax credit applies. Taxpayers may carry over unused credit amounts to subsequent tax years.
Estimates: 2002: $0.0 million - 2006: Minimal
Data Source: Research File
Reliability: Level 4

4. **Green Building Credit**
Citation: Section 187-d
Effective Date: Effective for tax years beginning on or after January 1, 2001
Description: The credits would provide incentives for the purchase of recyclable building materials and other environmentally preferable tangible personal property. It also contains tax credits for the purchase of fuel cells, photovoltaic modules, and environmentally sensitive non-ozone depleting refrigerants. The credits apply to costs incurred on or after June 1, 1999, for property placed in service or that has received a final certificate of occupancy in tax years beginning on or after January 1, 2001.
Estimates: 2002: $0.0 million - 2006: Minimal
Data Source: Statutory limitation
Reliability: Level 4

5. **Credit for Transportation Improvement Contributions**
Citation: Section 187-e
Effective Date: Effective for tax years beginning on or after January 1, 2000
Description: The taxpayer must make a certified contribution of at least $10 million to a qualified transportation improvement project in a prior tax year. The projects must enhance a qualified business facility, and may include the construction or improvement of transportation infrastructure and related facilities and systems, including bridges, ramps, highways, and mass transit facilities. In addition, the taxpayer must create, by the third full tax year after the tax year during which the contribution was made, more than 1,000 jobs in connection with the qualified business facility. The credit equals 6 percent of the taxpayer's increased qualified business facility payroll for the tax year. After the third full tax year after the contribution is made the employment increase test is not met, then there is a recapture of the credit. The new law applies to contributions made on or after January 1, 2000.
Estimates: 2002: $0.0 million - 2006: Minimal
Data Source: Research File
Reliability: Level 2

6. **Long-Term Care Insurance Credit**
Citation: Section 190
Effective Date: Effective for tax years beginning on or after January 1, 2002

Description: A taxpayer may take a credit equal to 20 percent of the cost of purchasing long-term care insurance, as defined in the Insurance Law. Any unused credit may be carried forward.
Estimates: 2002: Not Applicable - 2006: Minimal
Data Source: New York State Department of Insurance
Reliability: Level 4

7. **Brownfields Tax Credit**
Citation: Sections 21, 22, 23, 187-g, 187-h, 187-i
Effective Date: Effective for tax years beginning on or after April 1, 2005
Description: Three refundable tax credits are available to taxpayers who remediate a site under the Brownfield Cleanup Program.

The brownfield redevelopment tax credit consists of three credit components relating to costs associated with: site preparation; tangible property; and on-site ground water remediation. The credit equals 12 percent of costs associated with each component. The credit increases by two percent if the site is remediated to a Track 1 cleanup level (determined by the Department of Environmental Conservation), and by another eight percent if at least one half of the site is located in an Environmental Zone (En-Zone). An En-Zone is an area designated by the Commissioner of Economic Development and, as of the 2000 census, has a poverty rate of at least 20 percent and an unemployment rate of at least 1 1/4 times the statewide unemployment rate, or areas that have a poverty rate of at least two times the poverty rate for the county in which the data relate provided the site was subject to a cleanup agreement before September 1, 2006.

The remediated brownfield credit for real property taxes equals 25 percent of the product of the taxpayer's employment factor (a percentage based on the number of persons employed by the taxpayer on a qualified site) and the taxpayer's eligible real property taxes. If the site is located in an En-Zone the credit increases to 100 percent. There is a credit limitation equal to the product of the number of full time employees at the qualified site multiplied by $10,000.

The environmental remediation insurance credit is allowed for premiums paid for environmental remediation insurance up to the lesser of $30,000 or 50 percent of the cost of the premiums.
Estimates: 2002: Not Applicable - 2006: Minimal
Data Source: New York State Department of Environmental Conservation
Reliability: Level 4

8. **Alternative Fuels Credit**
Citation: Section 210(24)
Effective Date: Effective for tax years beginning on or after January 1, 2005
Description: A credit is available for 50 percent of the cost of clean-fuel vehicle refueling property located in New York State. Clean fuels are natural gas, liquefied petroleum gas, hydrogen, electricity, and any other fuel at least 85 percent methanol, ethanol, and any ether alcohol, or ether. Taxpayers may also assign the credit to affiliates.
Estimates: 2002: Not Applicable - 2006: Minimal
Data Source: Research File

Reliability: Level 5

9. Fuel Cell Electricity Generating Equipment Credit
Citation: Section 210(37)
Effective Date: Effective for tax years beginning on or after January 1, 2005
Description: Taxpayers may claim a credit equal to qualified fuel cell electric generating equipment expenditures for the tax year in which the equipment is placed in service. Qualified expenditures are associated with the purchase of on-site electricity generation systems utilizing proton exchange membrane fuel cells up to 100 kilowatts of rated capacity. The maximum credit is $1,500 per generating unit and the taxpayer may carryforward any unused credit indefinitely.
Estimates: 2002: Not Applicable - 2006: Minimal
Data Source: Research File
Reliability: Level 5

10. Security Training Tax Credit
Citation: Section 26
Effective Date: Effective for tax years beginning on or after January 1, 2005
Description: Owners of commercial buildings over 500,000 square feet can receive a $3,000 credit for each security guard employed who has undergone training certified by the New York State Office of Homeland Security (OHS) and is paid a certain minimum wage. The credit is administered by OHS and is refundable.
Estimates: 2002: Not Applicable - 2006: Minimal
Data Source: New York State Office of Homeland Security
Reliability: Level 5

Corporate Exemptions

Certain entities are exempt from the Section 183 franchise tax on capital stock.

11. Ferry Companies
Citation: Section 183.1(b)
Effective Date: April 14, 1914
Description: Ferry companies operating between any of the boroughs of the City of New York under a lease granted by the City are exempt from tax under this section.
Estimate: No data available
Reliability: Level 5

12. Taxicabs and Omnibuses
Citation: Section 183.1(c)
Effective Date: April 11, 1951 (taxicabs); January 1, 1960 (omnibuses)
Description: With certain exceptions, and so long as the State tax on motor fuel exceeds two cents per gallon, corporations classified as taxicabs and omnibuses are exempt from the tax imposed by Section 183.
Estimates: 2002: Minimal - 2006: Minimal
Data Source: Article 9-A Study File

Reliability: Level 2

13. Railroads and Vessels Engaged in Interstate or Foreign Commerce
Citation: Section 183.7
Effective Date: November 11, 1981 for taxable periods beginning on or after January 1, 1981 (original exclusion for vessels only, June 15, 1896)
Description: A railroad, palace car or sleeping car corporation or a navigation, canal, ferry (except a ferry operating between any of the boroughs of New York under a lease granted by the City), steamboat or any other corporation formed for or principally engaged in the operation of vessels in interstate or foreign commerce is not subject to the Section 183 tax, even though they maintain an office or otherwise employ capital in New York.
Estimate: No data available
Reliability: Level 5

14. Corporations Principally Engaged in Providing Telecommunications for Air Safety and Navigation Purposes
Citation: Section 183.1(b)
Effective Date: January 1, 1995
Description: Corporations principally engaged in selling of telecommunications to air carriers solely for the purposes of air safety and navigation are exempt from the tax. Providers must be at least 90 percent owned (directly or indirectly) by air carriers and have the principal function of fulfilling requirements of the Federal Aviation Administration (FAA) or International Civil Aviation Organization (ICAO) relating to the existence of a communication system between aircraft and dispatcher, aircraft and air traffic control or ground station and ground station (or any combination of these entities).
Estimate: No data available
Reliability: Level 5

Section 184
Additional Franchise Tax on Transportation and Transmission Corporations and Associations

Section 184 imposes an additional franchise tax on transportation and transmission corporations and associations based on their gross earnings within the State. Beginning in 1995, the tax on telecommunications companies under Section 184 applies only to those telecommunications corporations or associations principally engaged in a local telephone business. Effective January 1, 2000, gas pipelines became taxable under Article 9-A.

New York Modifications to Gross Income

15. Exclusion of Interstate and Foreign Income
Citation: Section 184.1
Effective Date: June 15, 1896
Description: Corporations, joint stock corporations or associations formed for or principally engaged in a railroad business, and canal, steamboat, ferry, navigation or

corporations formed for or principally engaged in the operation of vessels may exclude earnings derived from business of an interstate or foreign character.
Estimate: No data available
Reliability: Level 5

16. Exclusion of Receipts from InterLATA, Interstate, and International Telephone Services
Citation: Section 184.1
Effective Date: January 1, 1995
Description: Telephone companies subject to the tax may exclude receipts from sales for ultimate consumption of interLATA, interstate and international services.
Estimates: 2002: $2.8 million - 2006: $6.0 million
Data Source: Business Tax Files
Reliability: Level 2

17. Exclusion of Thirty Percent of Receipts from IntraLATA Toll Telephone Services
Citation: Section 184.1
Effective Date: January 1, 1996
Description: Telephone companies subject to the tax may exclude 30 percent of receipts from sales for ultimate consumption of intraLATA toll services, including interregion regional calling plan services, other than carrier access services.
Estimates: 2002: $2.6 million - 2006: $2.5 million
Data Source: Business Tax Files
Reliability: Level 2

Credits

18. Special Additional Mortgage Recording Tax Credit
Citation: Section 187
Effective Date: March 31, 1987
Description: The credit is permitted against all taxes except Sections 180, 181, 186-a, and 186-e taxes and fees. It is based on the amount of special additional mortgage recording taxes paid by the taxpayer, with certain restrictions. No credit is allowed for special additional mortgage recording taxes paid on certain mortgages recorded in the Metropolitan Commuter Transportation District or Erie County.
Estimates: 2002: $0.0 million - 2006: Minimal
Data Source: Business Tax Files
Reliability: Level 2

19. Credit for Employment of Persons with Disabilities
Citation: Section 187-a
Effective Date: Effective for taxable years beginning on or after January 1, 1998, applicable to individuals who begin work on or after January 1, 1997
Description: Employers may claim a credit equal to 35 percent of the first $6,000 of wages paid to workers with disabilities, as certified by the State Department of Education or other designated State agency. The credit applies for the second year of employment

if a Federal work opportunity tax credit applies for the first year. Alternatively, taxpayers may claim the credit based on the first year of employment if no work opportunity tax credit applies. Taxpayers may carry over unused credit amounts to subsequent tax years.
Estimates: 2002: Minimal - 2006: Minimal
Data Source: Research File
Reliability: Level 4

20. Green Building Credit
Citation: Section 187-d
Effective Date: Effective for tax years beginning on or after January 1, 2001
Description: The green building credit consists of several incentives for the purchase of recyclable building materials and other environmentally preferable tangible personal property. It also contains tax credits for the purchase of fuel cells, photovoltaic modules, and environmentally sensitive non-ozone depleting refrigerants. Phase I of the credit applies to costs incurred on or after June 1, 1999, for property placed in service or that has received a final certificate of occupancy in tax years from 2001 to 2004. Phase II of the program begins in the 2005 tax year. An additional $25 million in total credit may be issued, but the amount on any one credit certificate is limited to $2 million.
Estimates: 2002: $0.0 million - 2006: Minimal
Data Source: Statutory limitation
Reliability: Level 4

21. Credit for Transportation Improvement Contributions
Citation: Section 187-e
Effective Date: Effective for tax years beginning on or after January 1, 2000
Description: The taxpayer must make a certified contribution of at least $10 million to a qualified transportation improvement project in a prior tax year. The projects must enhance a qualified business facility, and may include the construction or improvement of transportation infrastructure and related facilities and systems, including bridges, ramps, highways, and mass transit facilities. In addition, the taxpayer must create, by the third full tax year after the tax year during which the contribution was made, more than 1,000 jobs in connection with the qualified business facility. The credit equals 6 percent of the taxpayer's increased qualified business facility payroll for the tax year. After the third full tax year after the contribution is made the employment increase test is not met, then there is a recapture of the credit. The new law applies to contributions made on or after January 1, 2000.
Estimates: 2002: $0.0 million - 2006: Minimal
Data Source: Research File
Reliability: Level 2

22. Long-Term Care Insurance Credit
Citation: Section 190
Effective Date: Effective for tax years beginning on or after January 1, 2002
Description: A taxpayer may take a credit equal to 20 percent of the cost of purchasing long-term care insurance, as defined in the Insurance Law. Any unused credit may be

carried forward.
Estimates: 2002: Not Applicable - 2006: Minimal
Data Source: New York State Department of Insurance
Reliability: Level 4

23. Brownfields Tax Credits
Citation: Sections 21, 22, 23, 187-g, 187-h, 187-i
Effective Date: Effective date for tax years beginning on or after April 1, 2005
Description: Three refundable tax credits are available to taxpayers who remediate a site under the Brownfield Cleanup Program.

The brownfield redevelopment tax credit consists of three credit components relating to costs associated with: site preparation; tangible property; and on-site groundwater remediation. The credit equals 12 percent of costs associated with each component. The credit increases by two percent if the site is remediated to a Track 1 cleanup level (determined by the Department of Environmental Conservation), and by another eight percent if at least one half of the site is located in an Environmental Zone (En-Zone). An En-Zone is an area designated by the Commissioner of Economic Development and, as of the 2000 census, has a poverty rate of at least 20 percent and an unemployment rate of at least 1 1/4 times the statewide unemployment rate, or areas that have a poverty rate of at least two times the poverty rate for the county in which the data relate provided the site was subject to a cleanup agreement before September 1, 2006.

The remediated brownfield credit for real property taxes equals 25 percent of the product of the taxpayer's employment factor (a percentage based on the number of persons employed by the taxpayer on a qualified site) and the taxpayer's eligible real property taxes. If the site is located in an En-Zone the credit increases to 100 percent. There is a credit limitation equal to the product of the number of full time employees at the qualified site multiplied by $10,000.

The environmental remediation insurance credit is allowed for premiums paid for environmental remediation insurance up to the lesser of $30,000 or 50 percent of the cost of the premiums.
Estimates: 2002: Not Applicable - 2006: Minimal
Data Source: New York State Department of Environmental Conservation
Reliability: Level 4

24. Alternative Fuels Credit
Citation: Section 210(24)
Effective Date: Effective for tax years beginning on or after January 1, 2005
Description: A credit is available for 50 percent of the cost of clean-fuel vehicle refueling property located in New York State. Clean fuels are natural gas, liquefied petroleum gas, hydrogen, electricity, and any other fuel at least 85 percent methanol, ethanol, and any ether alcohol, or ether. Taxpayers may also assign the credit to affiliates.
Estimates: 2002: Not Applicable - 2006: Minimal
Data Source: Research File
Reliability: Level 5

25. Fuel Cell Electricity Generating Equipment Credit
Citation: Section 210(37)
Effective Date: Effective for tax years beginning on or after January 1, 2005
Description: Taxpayers may claim a credit equal to qualified fuel cell electric generating equipment expenditures for the tax year in which the equipment is placed in service. Qualified expenditures are associated with the purchase of on-site electricity generation systems utilizing proton exchange membrane fuel cells up to 100 kilowatts of rated capacity. The maximum credit is $1,500 per generating unit and the taxpayer may carryforward any unused credit indefinitely.
Estimates: 2002: Not Applicable - 2006: Minimal
Data Source: Research File
Reliability: Level 5

26. Security Training Tax Credit
Citation: Section 26
Effective Date: Effective for tax years beginning on or after January 1, 2005
Description: Owners of commercial buildings over 500,000 square feet can receive a $3,000 credit for each security guard employed who has undergone training certified by the New York State Office of Homeland Security (OHS) and is paid a certain minimum wage. The credit is administered by OHS and is refundable.
Estimates: 2002: Not Applicable - 2006: Minimal
Data Source: New York State Office of Homeland Security
Reliability: Level 5

Corporate Exemptions

Certain companies are exempt from the Section 184 tax.

27. Foreign Commerce
Citation: Tax Law Article 1, Section 3
Effective Date: November 11, 1981 (original exclusion for vessels only, June 15, 1896)
Description: All corporations incorporated under the laws of the State of New York, exclusively engaged in the operation of vessels in foreign commerce, are exempted from tax on their capital stock, franchises and earnings for State and local purposes.
Estimate: No data available
Reliability: Level 5

28. Ferry Companies
Citation: Section 184.1
Effective Date: April 14, 1914
Description: Ferry companies operating between any of the boroughs of the City of New York under a lease granted by the City are exempt from Section 184 tax.
Estimate: No data available
Reliability: Level 5

29. Railroad Leasing
Citation: Section 184.3
Effective Date: June 1, 1917
Description: In lieu of the tax on gross earnings, a corporation involved in leasing railroad property to a railroad operating company is subject to an excess income tax measured at the rate of 4 ½ percent on that portion of dividends paid in a calendar year in excess of 4 percent on the capital stock of the company.
Estimate: No data available
Reliability: Level 5

30. Foreign Taxicabs and Omnibuses
Citation: Section 184.2(b)(1)(iv)
Effective Date: January 1, 1988
Description: A foreign taxicab or omnibus company doing business in New York that makes fewer than 12 trips into New York State on an annual basis, but not otherwise owning or leasing property in State or otherwise doing business so as to become subject to tax, pays a tax equal to $15 per trip.
Estimates: 2002: Minimal - 2006: Minimal
Data Source: Article 9-A Study File
Reliability: Level 3

31. Corporations Principally Engaged in Providing Telecommunications for Air Safety and Navigation Purposes
Citation: Section 184.1
Effective Date: January 1, 1995
Description: Corporations principally engaged in selling of telecommunications to air carriers solely for the purposes of air safety and navigation are exempt from the tax. Providers must be at least 90 percent owned (directly or indirectly) by air carriers and have the principal function of fulfilling requirements of the Federal Aviation Administration (FAA) or International Civil Aviation Organization (ICAO) relating to the existence of a communication system between aircraft and dispatcher, aircraft and air traffic control or ground station and ground station (or any combination of these entities).
Estimate: No data available
Reliability: Level 5

Section 185
Franchise Tax on Farmers, Fruit Growers, and Other Like Agricultural Corporations Organized and Operated on a Cooperative Basis

Section 185 imposes a tax on farmers, fruit growers and other like agricultural corporations organized and operated on a cooperative basis. The measure of tax is capital stock within the State during the preceding year allocated by the ratio that gross assets employed in business in New York bear to gross assets employed in business everywhere.

Credits

32. Special Additional Mortgage Recording Tax Credit

Citation: Section 187
Effective Date: March 31, 1987
Description: The credit is permitted against all taxes except Sections 180, 181, 186-a, and 186-e taxes and fees. It is based on the amount of special additional mortgage recording taxes paid by the taxpayer, with certain restrictions. No credit is currently allowed for special additional mortgage recording taxes paid on certain mortgages recorded in the Metropolitan Commuter Transportation District or Erie County.
Estimates: 2002: $0.0 million - 2006: Minimal
Data Source: Business Tax Files
Reliability: Level 2

33. Credit for Employment of Persons with Disabilities

Citation: Section 187-a
Effective Date: Effective for taxable years beginning on or after January 1, 1998, applicable to individuals who begin work on or after January 1, 1997
Description: Employers may claim a credit equal to 35 percent of the first $6,000 of wages paid to workers with disabilities, as certified by the State Department of Education or other designated State agency. The credit applies for the second year of employment if a Federal work opportunity tax credit applies for the first year. Alternatively, taxpayers may claim the credit based on the first year of employment if no work opportunity tax credit applies. Taxpayers may carry over unused credit amounts to subsequent tax years.
Estimates: 2002: $0.0 million - 2006: Minimal
Data Source: Research File
Reliability: Level 4

34. Green Building Credit

Citation: Section 187-d
Effective Date: Effective for tax years beginning on or after January 1, 2001
Description: The green building credit consists of several incentives for the purchase of recyclable building materials and other environmentally preferable tangible personal property. It also contains tax credits for the purchase of fuel cells, photovoltaic modules, and environmentally sensitive non-ozone depleting refrigerants. Phase I of the credit applies to costs incurred on or after June 1, 1999, for property placed in service or that has received a final certificate of occupancy in tax years from 2001 to 2004. Phase II of the program begins in the 2005 tax year. An additional $25 million in total credit may be issued, but the amount on any one credit certificate is limited to $2 million.
Estimates: 2002: $0.0 million - 2006: Minimal
Data Source: Statutory limitation
Reliability: Level 4

35. Credit for Transportation Improvement Contributions

Citation: Section 187-e

Effective Date: Effective for tax years beginning on or after January 1, 2000

Description: The taxpayer must make a certified contribution of at least $10 million to a qualified transportation improvement project in a prior tax year. The projects must enhance a qualified business facility, and may include the construction or improvement of transportation infrastructure and related facilities and systems, including bridges, ramps, highways, and mass transit facilities. In addition, the taxpayer must create, by the third full tax year after the tax year during which the contribution was made, more than 1,000 jobs in connection with the qualified business facility. The credit equals 6 percent of the taxpayer's increased qualified business facility payroll for the tax year. After the third full tax year after the contribution is made the employment increase test is not met, then there is a recapture of the credit. The new law applies to contributions made on or after January 1, 2000.

Estimates: 2002: $0.0 million - 2006: Minimal

Data Source: Research File

Reliability: Level 2

36. Long-Term Care Insurance Credit

Citation: Section 190

Effective Date: Effective for tax years beginning on or after January 1, 2002

Description: A taxpayer may take a credit equal to 20 percent of the cost of purchasing long-term care insurance, as defined in the Insurance Law. Any unused credit may be carried forward.

Estimates: 2002: Not Applicable - 2006: Minimal

Data Source: New York State Department of Insurance

Reliability: Level 4

37. Brownfields Tax Credits

Citation: Sections 21, 22, 23, 187-g, 187-h, 187-i

Effective Date: Effective for tax years beginning on or after April 1, 2005

Description: Three refundable tax credits are available to taxpayers who remediate a site under the Brownfield Cleanup Program.

The brownfield redevelopment tax credit consists of three credit components relating to costs associated with: site preparation; tangible property; and on-site groundwater remediation. The credit equals 12 percent of costs associated with each component. The credit increases by two percent if the site is remediated to a Track 1 cleanup level (determined by the Department of Environmental Conversation), and by another eight percent if at least one half of the site is located in an Environmental Zone (En-Zone). An En-Zone is an area designated by the Commissioner of Economic Development and, as of the 2000 census, has a poverty rate of at least 20 percent and an unemployment rate of at least 1 1/4 times the statewide unemployment rate, or areas that have a poverty rate of at least two times the poverty rate for the county in which the data relate provided the site was subject to a cleanup agreement before September 1, 2006.

The remediated brownfield credit for real property taxes equals 25 percent of the product of the taxpayer's employment factor (a percentage based on the number of persons employed by the taxpayer on a qualified site) and the taxpayer's eligible real property taxes. If the site is located in an En-Zone the credit increases to 100 percent. There is a credit limitation equal to the product of the number of full time employees at the qualified site multiplied by $10,000.

The environmental remediation insurance credit is allowed for premiums paid for environmental remediation insurance up to the lesser of $30,000 or 50 percent of the cost of the premiums.

Estimates: 2002: Not Applicable - 2006: Minimal
Data Source: New York State Department of Environmental Conservation
Reliability: Level 4

38. Alternative Fuels Credit
Citation: Section 210(24)
Effective Date: Effective for tax years beginning on or after January 1, 2005
Description: A credit is available for 50 percent of the cost of clean-fuel vehicle refueling property located in New York State. Clean fuels are natural gas, liquified petroleum gas, hydrogen, electricity, and any other fuel at least 85 percent methanol, ethanol, and any ether alcohol, or ether. Taxpayers may also assign the credit to affiliates.
Estimates: 2002: Not Applicable - 2006: Minimal
Data Source: Research File
Reliability: Level 5

39. Fuel Cell Electricity Generating Equipment Credit
Citation: Section 210(37)
Effective Date: Effective for tax years beginning on or after January 1, 2005
Description: Taxpayers may claim a credit equal to qualified fuel cell electric generating equipment expenditures for the tax year in which the equipment is placed in service. Qualified expenditures are associated with the purchase of on-site electricity generation systems utilizing proton exchange membrane fuel cells up to 100 kilowatts of rated capacity. The maximum credit is $1,500 per generating unit and the taxpayer may carryforward any unused credit indefinitely.
Estimates: 2002: Not Applicable - 2006: Minimal
Data Source: Research File
Reliability: Level 5

40. Security Training Tax Credit
Citation: Section 26
Effective Date: Effective for tax years beginning on or after January 1, 2005
Description: Owners of commercial buildings over 500,000 square feet can receive a $3,000 credit for each security guard employed who has undergone training certified by the New York State Office of Homeland Security (OHS) and is paid a certain minimum wage. The credit is administered by OHS and is refundable.
Estimates: 2002: Not Applicable - 2006: Minimal
Data Source: New York State Office of Homeland Security
Reliability: Level 5

Section 186
Franchise Tax on Water-Works Companies, Gas Companies and Electric or Steam Heating, Lighting and Power Companies

Section 186 repealed effective January 1, 2000 imposed a franchise tax on water-works companies, gas companies and electric or steam heating, lighting and power companies. However, a company may elect to remain a continuing Section 186 taxpayer, and be subject to the tax as it existed in 1999, if certain conditions apply. The tax is computed as a percentage of gross earnings (without any deduction) from New York sources. An additional excess dividends tax may have also applied.

Credits

41. Special Additional Mortgage Recording Tax Credit
Citation: Article 9, Section 187
Effective Date: March 31, 1987
Description: The credit is permitted against all taxes except Sections 180, 181, and 186-a taxes and fees. It is based on the amount of special additional mortgage recording taxes paid by the taxpayer, with certain restrictions. No credit is currently allowed for special additional mortgage recording taxes paid on certain mortgages recorded in the Metropolitan Commuter Transportation District or Erie County.
Estimates: 2002: $0.0 million - 2006: $0.0 million
Data Source: Business Tax Files
Reliability: Level 2

42. Credit for Employment of Persons with Disabilities
Citation: Section 187-a
Effective Date: Effective for taxable years beginning on or after January 1, 1998, applicable to individuals who begin work on or after January 1, 1997
Description: Employers may claim a credit equal to 35 percent of the first $6,000 of wages paid to workers with disabilities, as certified by the State Department of Education or other designated State agency. The credit applies for the second year of employment if a Federal work opportunity tax credit applies for the first year. Alternatively, taxpayers may claim the credit based on the first year of employment if no work opportunity tax credit applies. Taxpayers may carry over unused credit amounts to subsequent tax years.
Estimates: 2002: $0.0 million - 2006: $0.0 million
Data Source: Research File
Reliability: Level 2

Corporate Exemptions

43. Water Pollution Facilities
Citation: Section 186.3
Effective Date: January 1, 1919
Description: Section 186 does not apply to a corporation organized and operated

exclusively for the purpose of leasing from a city a water works system designed to alleviate water pollution within the city.
Estimate: 2002: Not Applicable - 2006: Not Applicable
Reliability: Level 5

Section 186-a
Tax on the Furnishing of Utility Services

Section 186-a imposes a tax on the gross income of businesses furnishing certain utility services, whether or not such businesses are subject to supervision by the Public Service Commission.

Credits

44. Power for Jobs Tax Credit
Citation: Article 9, Section 186-a subdivision 9
Effective Date: July 29, 1997
Description: The credit is associated with the Power for Jobs Program established to make low-cost power available to business, small businesses and not-for-profit corporations for job retention and creation. It is provided to utilities delivering power to retail customers participating in the program. The credit is based upon the net loss revenue of the utility associated with the sale of the low cost power. The credit is limited by the baseline energy use of all of the utility's customers participating in the program.
Estimates: 2002: $59.1 million - 2006: $35.0 million
Data Source: Public Service Commission staff
Reliability: Level 4

45. Long-Term Care Insurance Credit
Citation: Section 190
Effective Date: Effective for tax years beginning on or after January 1, 2002
Description: A taxpayer may take a credit equal to 20 percent of the cost of purchasing long-term care insurance, as defined in the Insurance Law. Any unused credit may be carried forward.
Estimates: 2002: Not Applicable - 2006: Minimal
Data Source: New York State Department of Insurance
Reliability: Level 4

Exemptions

46. Exempt Companies
Citation: Section 186-a.2(a)(I)
Effective Date: January 1, 1960 (omnibuses)
Description: Persons engaged in operating omnibuses having a seating capacity of more than seven persons; or, street surface, rapid transit, subway and elevated railroads are not subject to the Section 186-a tax.
Estimate: No data available

Reliability: Level 5

47. Exempt Organizations
Citation: Section 186-a.2(b)
Effective Date: 1937
Description: The State, municipalities, political and civil subdivisions of the State or municipality, public districts and corporations and associations organized and operated exclusively for religious, charitable or educational purposes are exempt from Section 186-a tax.
Estimate: No data available
Reliability: Level 5

48. Water Pollution Facilities
Citation: Section 186-a.2(b)
Effective Date: January 1, 1969
Description: Section 186-a does not apply to a corporation organized and operated exclusively for the purpose of leasing from a city a water works system designed to alleviate water pollution within the city.
Estimate: No data available
Reliability: Level 5

49. Commercial, Industrial, and Not-For-Profit Relief
Citation: Section 182-a.2(c)
Effective Date: January 1, 2000
Description: In addition to the reduction and elimination of the tax on the commodity, the Section 186-a tax on transmission and distribution for commercial, industrial and not-for-profit customers will be eliminated through a phased in exclusion according to the following schedule:
Estimate: 2002: Not Applicable - 2006: $ million
Data Source: No data available
Reliability: Level 5

Section 186-e
Excise Tax on Telecommunications Services

New York Modifications to Gross Income

50. Exclusion of Cable Television Service
Citation: Section 186-e(2)(b)(2)
Effective Date: January 1, 1995
Description: Cable television service is specifically excluded from the definition of telecommunications services and receipts from the sale of such service are not subject to tax.
Estimates: 2002: $82.1 million - 2006: $85.0 million
Data Source: Annual Reports to the New York State Public Service Commission
Reliability: Level 3

51. Exclusion of Receipts from Certain Telecommunications Services for Air Safety and Navigation Purposes

Citation: Section 186-e(2)(b)(3)
Effective Date: January 1, 1995
Description: Receipts from the sale of telecommunications to air carriers solely for the purposes of air safety and navigation are excluded from the tax. Providers must be at least 90 percent owned (directly or indirectly) by air carriers and have the principal function of fulfilling requirements of the Federal Aviation Administration (FAA) or International Civil Aviation Organization (ICAO) relating to the existence of a communication system between aircraft and dispatcher, aircraft and air traffic control or ground station and ground station (or any combination of these entities).
Estimate: No data available
Reliability: Level 5

Credits

52. Credit for Tax Paid in Another Jurisdiction

Citation: Section 186-e(4)(a)(2)
Effective Date: January 1, 1995
Description: To prevent actual multijurisdictional taxation of sales of telecommunications services, providers of interstate and international telecommunications services may claim a credit for a like tax paid to another state or country on a telecommunications service taxable under Section 186-e. The amount of the credit is the amount of tax lawfully due and paid to the other country or jurisdiction not exceeding the tax due to New York.
Estimates: 2002: Minimal - 2006: Minimal
Data Source: Business Tax Files
Reliability: Level 2

53. Long-Term Care Insurance Credit

Citation: Section 190
Effective Date: Effective for tax years beginning on or after January 1, 2002
Description: A taxpayer may take a credit equal to 20 percent of the cost of purchasing long-term care insurance, as defined in the Insurance Law. Any unused credit may be carried forward.
Estimates: 2002: Not Applicable - 2006: Minimal
Data Source: New York State Department of Insurance
Reliability: Level 4

Certain companies are exempt from the Section 186-e tax.

Exemptions

54. Exempt Organizations
Citation: Section 186-e(1)(c)
Effective Date: January 1, 1995
Description: The State, municipalities, political and civil subdivisions of the State or municipality, public districts and corporations and associations organized and operated exclusively for religious, charitable or educational purposes are exempt from Section 186-e tax.
Estimate: No data available
Reliability: Level 5

SALES AND USE TAX

This section of the report provides tax expenditure descriptions and estimates for 135 provisions of the sales and use tax law. The list of expenditures is based on the Tax Law in effect as of January 1, 2006. The tax expenditure estimates only pertain to the State portion of the tax and do not include any estimates of the revenue foregone by local governments levying sales and use taxes.

The report presents historical estimates for calendar years 1999 through 2003. Table 8 lists the tax expenditures and provides historical year and projected 2006 estimates. It also lists the years for which data are available. For recently added tax expenditures, the report displays historical estimates only for years the item existed as a tax expenditure. The effective dates recorded in the report refer to the date the applicable provision took effect.

Description of Tax

The New York State sales and use tax was enacted in 1965 and took effect August 1, 1965. This tax applies primarily to sales of tangible personal property in New York State, not for subsequent resale. The sales and use tax also applies to a variety of services, notably, services to real or personal property, telephone service and commercial energy use. Certain admissions, hotel rooms and restaurant meals are also taxed. Generally the tax base includes tangible personal property unless the law provides a specific exclusion or exemption and does not include services unless the law specifically enumerates the service as taxable.

The Tax Law provides manufacturers with exemptions for the purchase, repair and maintenance of machinery and equipment used in production. Other exempt items include food, medicine, residential energy, and sales to and by exempt entities. Although most services are not subject to sales or use tax, this report examines only services which are specifically exempted by New York State law. Thus, this report does not list excluded services (e.g., accounting services, engineering services, etc.) as tax expenditures.

Also, a sales tax transaction can be exempt from tax because the good or service is exempt or because its use, purchaser or seller is exempt. In valuing the exemptions, no account is taken of the fact that if the good or service were made taxable, some of the transactions would remain exempt because of the nature of the use, purchaser, or seller. Hence, the value of a particular good or service may be included in two or more tax expenditure estimates. Because of this overlapping, the revenue value of eliminating an exemption would not coincide with the estimated value herein.

The New York State Department of Taxation and Finance administers the sales and use tax for the State and its constituent jurisdictions that also impose the tax. The State rate equals 4 percent. Local rates range from 3.0 percent to 5.5 percent. Communities within the Metropolitan Commuter Transportation District are subject to an additional 3/8 of 1 percent tax rate. In State fiscal year 2004-2005, the Department collected about $10.6 billion for the State and approximately $10.8 billion for local governments from sales and use taxes.

SALES AND USE TAX

Data Sources

Most tax expenditure estimates for the sales tax use aggregate, non-tax data sources because no tax return data exists for the many exclusions and exemptions. Sales and use tax returns report only the seller's taxable receipt. Thus, the estimates are only suggestive of the revenue loss associated with each of the provisions. The estimates are rounded to the nearest million dollars.

The major non-tax data sources used to compute the tax expenditure estimates include:

- C Government publications and surveys such as the U.S. Department of Commerce Economic Census;

- C Data compiled by individual New York State agencies such as information from the Department of Transportation and the Department of Environmental Conservation; and

- C Industry surveys and information, such as the information provided by the Cornell University School of Hotel and Food Service Management.

Methodology

The report bases the historical estimates on the most recent data available. If data are not available for a particular year covered by the report, the tax expenditure is estimated from the most recent data. For example, where 2002 represents the latest year for which relevant data are available, the 2002 data are used to derive the 2003 historical estimates. Historical estimates may vary from prior year reports due to the availability of more recent data. From the most recent data, tax expenditure estimates are projected to 2006 levels. Historical estimates are projected to 2006 levels using the New York State Division of the Budget's December 2005 forecast of the U.S. and New York economies. Where applicable, such measures as price, employment and productivity were used to extrapolate to the expenditure value.

Table 8

2006 New York State Sales and Use Tax Expenditure Estimates

(2004-05 Total NY Sales and Use Tax Liability = $10,573 Million)

(Millions of Dollars)

	Tax Item	Data Source Year(s)	History 1999	History 2000	History 2001	History 2002	History 2003 3/	Forecast 2006	Reliability Level
Services									
1.	Certain Information Services		N/A	N/A	N/A	N/A	N/A	N/A	5
2.	Certain Information Services Provided Over the Telephone		N/A	N/A	N/A	N/A	N/A	N/A	5
3.	Services Performed on a Non-Trade Basis		N/A	N/A	N/A	N/A	N/A	N/A	5
4.	Laundering, Tailoring, Shoe Repair and Similar Services	1997 and 2002	55.0	57.0	59.0	62.0	64.0	70.0	4B
5.	Capital Improvement Installation Services	All years	309.0	393.0	427.0	454.0	401.0	449.0	4C
6.	Services Related to Railroad Rolling Stock	All years	2.0	2.0	2.0	2.0	2,0	2.0	4B
7.	Services to Property Delivered Outside New York		N/A	N/A	N/A	N/A	N/A	N/A	5
8.	Municipal Parking Services	1997	3.0	3.0	3.0	3.0	4.0	4.0	4A
9.	Certain Parking and Garaging Services	1998	*	*	*	*	*	*	4A
10.	Certain Protective and Detective Services	1997	*	*	*	*	*	*	4A
11.	Medical Emergency Alarm Call Services	1997	*	*	*	*	1.0	1.0	4C
12.	Coin-Operated Car Wash Services 1/	1995, 2002 and 2003	2.0	2.0	2.0	2.0	2.0	3.0	4C
13.	Trash Removal from Waste Transfer Facility 1/	2002	--	--	--	--	--	4.0	4B
Food									
14.	Certain Food Products	1997 through 2000	1,076.0	1,144.0	1,197.0	1,239.0	1,337.0	1,591.0	4B
15.	Food Sold to Airlines	1997 and 2003	7.0	7.0	6.0	6.0	6.0	6.0	4A
16.	Food Sold at School Cafeterias	All years	56.0	60.0	64.0	69.0	70.0	80.0	4A
17.	Food Purchased with Food Stamps	All years	58.0	54.0	55.0	59.0	69.0	80.0	4A
18.	Water Delivered Through Mains or Pipes	1996 and 1997	87.0	88.0	90.0	90.0	95.0	98.0	4B
19.	Mandatory Gratuity Charges	1999 through 2001	16.0	17.0	15.0	15.0	16.0	17.0	4A
20.	Wine Used for Wine Tastings 2/	1997 and 1998	*	*	*	*	*	*	4A
21.	Vending Machine Sales of Hot Drinks and Certain Foods	1995, 2000 through 2003	11.0	13.0	15.0	17.0	20.0	24.0	4C
22.	Vending Machine Sales of Candy, Juice and Soft Drinks	1995, 2000 through 2003	7.0	7.0	8.0	8.0	8.0	10.0	4C
23.	Food Sold at Senior Citizen Housing Communities	1996, 1997 and 1998	--	*	*	*	*	*	4B
Medical									
24.	Drugs, Medicine and Medical Supplies	1997 through 2001	392.0	440.0	496.0	549.0	621.0	760.0	4C
25.	Eyeglasses, Hearing Aids and Prosthetic Aids	1997 and 2003	85.0	90.0	85.0	86.0	89.0	95.0	4C

	Tax Item	Data Source Year(s)	History 1999	2000	2001	2002	2003 3/	Forecast 2006	Reliability Level
26.	Veterinarian Services	1997 through 2002	26.0	29.0	22.0	22.0	23.0	24.0	4B
27	Service Dogs	1998	*	*	*	*	*	*	4B
Energy									
28.	Energy Sources for Residential Purposes	1999, 2000 and 2001	414.0	474.0	505.0	489.0	556.0	727.0	4A
29.	Fuel, Gas, Electricity, Refrigeration and Steam Used in Research & Development and Production	All years	169.0	228.0	242.0	199.0	243.0	283.0	4C
30.	Fuel, Gas, Electricity, Refrigeration and Steam Used in Farming and Commercial Horse Boarding	1996 through 1999	6.0	7.0	7.0	7.0	7.0	10.0	4B
31.	Reduced Rate on Gas and Electric Delivery	1998	--	*	1.0	7.0	21.0	32.0	4B
32.	Gas and Electricity Used in Transmission, Distribution and Storage		--	N/A	N/A	N/A	N/A	N/A	5
33.	Residential Solar Energy Systems 1/	2004	--	--	--	--	--	*	4B
Transportation									
34.	Commercial Vessels	1996	2.0	2.0	2.0	2.0	2.0	3.0	4C
35.	Barge Repairs	1997	*	*	*	*	*	*	4C
36.	Commercial Aircraft	1996 and 1997	20.0	20.0	21.0	20.0	21.0	22.0	4C
37.	Fuel Sold to Airlines	1996 through 1998	41.0	52.0	51.0	49.0	57.0	77.0	4A
38.	Parts for Foreign Aircraft		N/A	N/A	N/A	N/A	N/A	N/A	5
39.	Services to Private Aircraft	2000	--	--	--	--	--	2.0	4C
40.	Intra-family Sales of Motor Vehicles		N/A	N/A	N/A	N/A	N/A	N/A	5
41.	Motor Vehicles and Vessels Sold to Nonresidents		N/A	N/A	N/A	N/A	N/A	N/A	5
42.	Rental of Trucks in Certain Cases		N/A	N/A	N/A	N/A	N/A	N/A	5
43.	Tractor-Trailer Combinations 1/	1999 through 2002	14.0	14.0	14.0	14.0	15.0	19.0	4A
44.	Sales of Property by Railroads in Reorganization	All years	*	*	*	*	*	*	4A
45.	Commercial Buses	1999	2.0	2.0	2.0	2.0	2.0	2.0	4A
46.	Marine Terminal Facility Equipment 1/	2005	--	--	--	--	--	*	4B
Communication and Media									
47	Interstate or International Telephone & Telegraph Service	All years	255.0	277.0	283.0	286.0	300.0	323.0	4A
48.	Internet Access Service	1999 through 2003	23.0	28.0	40.0	49.0	59.0	79.0	4C
49.	Cable Television Service	1999 through 2002	104.0	113.0	120.0	124.0	132.0	141.0	4A
50.	Newspapers and Periodicals	1999 and 2000	69.0	69.0	68.0	67.0	68.0	68.0	4B
51.	Shopping Papers	1999 and 2000	2.0	2.0	2.0	2.0	2.0	2.0	4C
52.	Telephone Service Used by the Media	1999 through 2002	*	*	*	*	*	*	4A
53.	Certain Coin-Operated Telephone Charges	1996 through 2002	5.0	4.0	3.0	3.0	3.0	3.0	4B

Tax Item	Data Source Year(s)	History 1999	2000	2001	2002	2003 3/	Forecast 2006	Reliability Level
54. Telecommunications and Internet	All years	44.0	87.0	99.0	90.0	69.0	94.0	4B
55. Internet Data Centers 2/	1996 and 1997	--	2.0	9.0	9.0	9.0	13.0	4B
56. Radio and Television Broadcasting 2/	1996 and 1997	--	1.0	3.0	3.0	3.0	4.0	4B
57. Film Production		--	--	--	N/A	N/A	N/A	5
58. Certain Mobile Telecommunication Services	1999	--	--	--	--	11.0	14.0	4C
Industry								
59. Tools and Supplies Used in Production		N/A	N/A	N/A	N/A	N/A	N/A	5
60. Farm Production and Commercial Horse Boarding	1996 through 1999	51.0	54.0	55.0	57.0	62.0	67.0	4B
61. Research and Development Property	1999 through 2001	94.0	89.0	64.0	61.0	61.0	70.0	4B
62. Machinery and Equipment Used in Production	1977	247.0	254.0	246.0	239.0	246.0	258.0	4B
63. Services to Machinery and Equipment Used in Production	1994 through 1998	14.0	14.0	14.0	14.0	14.0	15.0	4A
64. Wrapping and Packaging Materials		N/A	N/A	N/A	N/A	N/A	N/A	5
65. Commercial Fishing Vessels	All years	*	*	*	*	*	*	4B
66. Certain Services Used in Gas or Oil Production 2/	1998	*	*	*	*	*	*	4B
67. Pollution Control Equipment	All years	--	--	4.0	5.0	5.0	5.0	4C
68. Property Manufactured by the User	1996	--	--	*	*	*	*	4A
Miscellaneous								
69. Certain Property Sold Through Vending Machines	1995, 2000 through 2003	*	*	*	*	1.0	1.0	4C
70. Trade-in Allowance	1997 through 2001	542.0	640.0	625.0	658.0	694.0	678.0	4B
71. Certain Hotel Room Rent		N/A	N/A	N/A	N/A	N/A	N/A	5
72. Dues for Fraternal Societies	1997 and 2001	10.0	11.0	11.0	12.0	12.0	13.0	4C
73. Homeowner Association Dues		N/A	N/A	N/A	N/A	N/A	N/A	5
74. Homeowner Association Parking Services	1995 and 1999	5.0	5.0	5.0	5.0	6.0	6.0	4B
75. Store Coupons	1996 and 1997	3.0	3.0	3.0	3.0	3.0	3.0	4C
76. Excise Taxes Imposed on the Consumer	1999 and 2000	35.0	35.0	34.0	33.0	40.0	57.0	4A
77. Property Sold by Morticians	1998 and 2002	9.0	9.0	9.0	9.0	10.0	11.0	4C
78. Flags		N/A	N/A	N/A	N/A	N/A	N/A	5
79. Garage Sales		N/A	N/A	N/A	N/A	N/A	N/A	5
80. New Mobile Homes	All years	2.0	3.0	2.0	2.0	2.0	2.0	4A
81. Used Mobile Homes		N/A	N/A	N/A	N/A	N/A	N/A	5
82. Registered Race Horses		N/A	N/A	N/A	N/A	N/A	N/A	5
83. Race Horses Purchased Through Claiming Races		N/A	N/A	N/A	N/A	N/A	N/A	5
84. Race Horses Purchased Out of State		N/A	N/A	N/A	N/A	N/A	N/A	5

	Tax Item	Data Source Year(s)	History 1999	2000	2001	2002	2003 3/	Forecast 2006	Reliability Level
85.	Training and Maintaining Race Horses	1997, 2000 and 2003	3.0	3.0	3.0	3.0	3.0	3.0	4C
86	Property Sold to Contractors for Capital Improvements or Repairs for Exempt Organizations	All years	49.0	60.0	71.0	74.0	63.0	69.0	4C
87.	Property Donated by a Manufacturer to an Exempt Organization		N/A	N/A	N/A	N/A	N/A	N/A	5
88.	Sales and Use Tax Paid to Other States		N/A	N/A	N/A	N/A	N/A	N/A	5
89.	Precious Metal Bullion and Coins	1997	91.0	94.0	97.0	98.0	104.0	109.0	4C
90.	Computer Software Transferred to Affiliated Corporations		N/A	N/A	N/A	N/A	N/A	N/A	5
91.	Services to Computer Software		N/A	N/A	N/A	N/A	N/A	N/A	5
92.	Self-use of Prewritten Software by its Author		N/A	N/A	N/A	N/A	N/A	N/A	5
93.	Computer System Hardware	All years	13.0	17.0	14.0	9.0	9.0	14.0	4C
94.	Promotional Materials Mailed Out of State		N/A	N/A	N/A	N/A	N/A	N/A	5
95.	Printed Promotional Materials	All years	28.0	28.0	27.0	27.0	28.0	29.0	4C
96.	U.S. Postage Used in the Distribution of Promotional Materials		N/A	N/A	N/A	N/A	N/A	N/A	5
97.	Clothing and Footwear Holiday 1/	2000	--	--	--	--	--	36.0	4B
98.	Clothing and Footwear 2/ 4/	2000	--	516.0	602.0	612.0	225.0	554.0	4B
99.	Coin-Operated Photocopying Machines	1995, 2000 through 2003	*	*	*	*	*	*	4C
100.	Luggage Carts	1997	*	*	*	*	*	*	4C
101.	Emissions Testing Equipment	1998	*	*	*	*	*	*	4A
102.	College Textbooks	1999	23.0	24.0	22.0	21.0	21.0	22.0	4B
103.	Live Dramatic or Musical Arts Production	1998 and 1999	--	--	2.0	3.0	3.0	4.0	4A
104.	Qualified Empire Zone Enterprises	1998	--	--	31.0	57.0	67.0	86.0	4C
105.	Lower Manhattan Commercial Office Space 1/	2004	--	--	--	--	--	17.0	4B
Exempt Organizations									
106.	New York State Agencies and Political Subdivisions	1996 through 1998	792.0	816.0	829.0	845.0	887.0	917.0	4C
107.	Industrial Development Agencies	1999 through 2002	139.0	139.0	98.0	86.0	83.0	101.0	4A
108.	Federal Agencies	1998	146.0	150.0	151.0	155.0	163.0	167.0	4B
109.	United Nations		N/A	N/A	N/A	N/A	N/A	N/A	5
110.	Diplomats and Foreign Missions		N/A	N/A	N/A	N/A	N/A	N/A	5
111.	Charitable Organizations	All years	263.0	285.0	309.0	333.0	361.0	376.0	4C
112.	Veterans Posts or Organizations	1999	*	*	*	*	*	*	4C
113.	Indian Nations and Members of Such Indian Nations	1999	1.0	2.0	2.0	2.0	2.0	2.0	4C
114.	U.S. Military Base Post Exchanges	1999, 2000 and 2001	6.0	7.0	7.0	7.0	8.0	9.0	4A
115.	Nonprofit Health Maintenance Organizations	1997	3.0	3.0	3.0	3.0	3.0	4.0	4A

	Tax Item	Data Source Year(s)	History 1999	2000	2001	2002	2003 3/	Forecast 2006	Reliability Level
116.	Nonprofit Medical Expense Indemnity or Hospital Service Corporations	1999 and 2000	7.0	8.0	8.0	8.0	9.0	9.0	4A
117.	Nonprofit Property/Casualty Insurance Companies		--	--	--	N/A	N/A	N/A	4A
118.	Rural Electric Cooperatives	1996 through 1999	*	*	*	*	*	*	4A
119.	Municipal Trash Removal Services	1999 through 2002	33.0	33.0	34.0	34..0	36.0	36.0	4B
Exempt Admission Charges									
120.	Certain Admission Charges	1997 and 2002	46.0	49.0	52.0	55.0	62.0	67.0	4B
121.	Amusement Park Admissions	2002	--	--	--	--	--	*	4A
122.	Events Given for the Benefit of Charitable Organizations, Veterans Posts and Indian Nations		N/A	N/A	N/A	N/A	N/A	N/A	5
123.	Events Given for the Benefit of Certain Orchestras and Opera Companies		N/A	N/A	N/A	N/A	N/A	N/A	5
124.	National Guard Organization Events		N/A	N/A	N/A	N/A	N/A	N/A	5
125.	Municipal Police and Fire Department Events		N/A	N/A	N/A	N/A	N/A	N/A	5
126.	Certain Athletic Games		N/A	N/A	N/A	N/A	N/A	N/A	5
127.	Carnivals or Rodeos for Certain Charitable Organizations	2002	*	*	*	*	*	*	4B
128.	Agricultural Fairs	1999 through 2002	*	*	*	*	*	*	4A
129.	Historical Homes, Gardens, Sites and Museums		N/A	N/A	N/A	N/A	N/A	N/A	5
Credits									
130.	Sales Tax Vendor Credit	All years	41.0	56.0	34.0	49.0	48.0	59.0	3
131.	Tangible Property Sold by Contractors in Certain Situations		N/A	N/A	N/A	N/A	N/A	N/A	5
132.	Veterinary Drugs		N/A	N/A	N/A	N/A	N/A	N/A	5
133.	Construction Materials Used in Empire Zones		N/A	N/A	N/A	N/A	N/A	N/A	5
134.	Bus Companies Providing Local Transit Service	1999 through 2002	*	*	*	*	*	*	4A
135.	Vessel Operators Providing Local Transit Service	2004	--	--	--	--	--	*	4B

1/ A new tax expenditure item or a revision of the methodology, data or data sources resulting in an estimate which better reflects the tax expenditure value.

2/ First estimate in history is a partial calendar year estimate.

3/ The 2003 estimate reflects the June 1, 2003 increase in the State sales tax rate from 4% to 4.25%. As a result, the 2003 estimates are computed at a blended State sales tax rate of 4.125%. The State's sales tax rate reverted to 4% on June 1, 2005.

4/ Current law provides for the year-round clothing exemption to resume on April 1, 2006, if the 2006-2007 Executive Budget contains a new tax reduction. The Executive Budget does contain tax reductions therefore the 2006 expenditure forecast assumes the resumption of the year-round clothing and footwear exemption on April 1, 2006.

-- The tax expenditure was not applicable for these years.

* Less than $1 million.

N/A No data available

Services

1. **Certain Information Services**
Citation: Section 1105(c)(1)
Effective Date: August 1, 1965; September 1, 1995 for meteorological services
Description: An exclusion is allowed for the furnishing of information that is personal or individual in nature, the services of advertising or other agents acting in a representative capacity, information services used by newspapers, radio broadcasters and television broadcasters in the collection and dissemination of news, and meteorological services.
Estimate: No data available
Reliability: Level 5

2. **Certain Information Services Provided Over the Telephone**
Citation: Section 1105(c)(9)
Effective Date: September 1, 1990
Description: An information service that would be exempt from tax if delivered in printed form is also exempt from tax when provided over the telephone. This exemption complements Section 1105(c)(1), which is Item #1 above.
Estimate: No data available
Reliability: Level 5

3. **Services Performed on a Non-Trade Basis**
Citation: Section 1105(c)(3)(i) and Section 1105(c)(5)(i)
Effective Date: August 1, 1965
Description: An exclusion is allowed for installation, repair and maintenance services rendered by an individual who is engaged directly by a private homeowner or lessee in or about his residence and who is not in a regular trade or business offering those services to the public.
Estimate: No data available
Reliability: Level 5

4. **Laundering, Tailoring, Shoe Repair and Similar Services**
Citation: Section 1105(c)(3)(ii)
Effective Date: August 1, 1965
Description: Any receipts from laundering, dry cleaning, tailoring, weaving, pressing, shoe repairing and shoe shining are excluded from tax.
Estimates: 2003: $64.0 million - 2006: $70.0 million
Data Source: U.S. Department of Commerce, Economic Census
Reliability: Level 4B

5. **Capital Improvement Installation Services**
Citation: Section 1105(c)(3)(iii)
Effective Date: August 1, 1965
Description: An exclusion is allowed for installing property which, when installed, will constitute an addition or capital improvement to real property.

Estimates: 2003: $401.0 million - 2006: $449.0 million
Data Source: U.S. Department of Commerce, Census of Construction; U.S. Department of Commerce, Statistical Abstract of the United States
Reliability: Level 4C

6. **Services Related to Railroad Rolling Stock**
Citation: Section 1105(c)(3)(viii)
Effective Date: September 1, 1985
Description: Excluded from tax are repair and maintenance services rendered with respect to railroad rolling stock primarily engaged in carrying freight, but not including any charge for parts.
Estimates: 2003: $2.0 million - 2006: $2.0 million
Data Source: New York State Department of Transportation
Reliability: Level 4B

7. **Services to Property Delivered Outside New York**
Citation: Section 1115(d)
Effective Date: August 1, 1965
Description: Services to tangible personal property are exempt when the property is delivered outside New York State for use outside the State.
Estimate: No data available
Reliability: Level 5

8. **Municipal Parking Services**
Citation: Section 1105(c)(6)
Effective Date: December 1, 1996
Description: Charges for parking, garaging or storing motor vehicles are exempt at facilities owned and operated by local governments and local public parking authorities.
Estimates: 2003: $4.0 million - 2006: $4.0 million
Data Source: New York State Office of the Comptroller; City of New York Department of Transportation
Reliability: Level 4A

9. **Certain Parking and Garaging Services**
Citation: Section 1105(c)(6)
Effective Date: June 1, 1990
Description: Charges for parking, garaging or storing vehicles at a garage which constitutes part of the premises occupied solely as a private one- or two-family dwelling are exempt.
Estimates: 2003: Minimal - 2006: Minimal
Data Source: New York State Department of Taxation and Finance
Reliability: Level 4A

10. **Certain Protective and Detective Services**
Citation: Section 1105(c)(8)
Effective Date: June 1, 1990

Description: Protective and detective services provided by a portwatchman licensed by the Waterfront Commission of New York Harbor are exempt from tax.
Estimates: 2003: Minimal - 2006: Minimal
Data Source: New York Shipping Association, Inc.
Reliability: Level 4A

11. **Medical Emergency Alarm Call Services**
Citation: Section 1115(r)
Effective Date: September 1, 1994
Description: Exempt from tax are medical emergency alarm services that would otherwise be taxable as protective services under Section 1105(c)(8).
Estimates: 2003: $l.0 million - 2006: $1.0 million
Data Source: New York State Department of Taxation and Finance
Reliability: Level 4C

12. **Coin-Operated Car Wash Services**
Citation: Section 1115(t)
Effective Date: December 1, 1997; December 1, 2004 for certain vacuuming services; December 1, 2005 for additional automated services.
Description: The sales tax exempts the service of washing, waxing or vacuuming a motor vehicle, or other property by means of coin-operated equipment.
Estimates: 2003: $2.0 million - 2006: $3.0 million
Data Source: New York State Car Wash Association
Reliability: Level 4C

13. **Trash Removal from a Waste Transfer Facility**
Citation: Section 1105(c)(5)(iv)
Effective Date: December 1, 2005
Description: Excluded from tax is the removal of waste material from a waste transfer station or construction and demolition debris processing facility, where the waste to be removed was not originally generated by the facility.
Estimate: 2003: Not Applicable - 2006: $4.0 million
Data Source: New York State Division of the Budget
Reliability: Level 4B

Food

14. **Certain Food Products**
Citation: Sections 1115(a)(1), 1105(d)(i)(3)
Effective Date: August 1, 1965
Description: Exempt from tax are food, food products, beverages, dietary foods and health supplements sold for human consumption. The exemption does not include candy and confectionery, fruit drinks which contain less than 70 percent of natural fruit juice, soft drinks, sodas, beer, wine or other alcoholic beverages. In addition, sales of food (other than sandwiches) or drink of a type commonly sold in food stores (other than food stores principally engaged in selling prepared foods) are exempt when sold by a

restaurant or other establishment in an unheated state, for off-premises consumption.
Estimates: 2003: $1,337.0 million - 2006: $1,581.0 million
Data Source: Sales and Marketing Management, 2000 Survey of Buying Power; Supermarket Business, 52nd Annual Consumer Expenditure Study
Reliability: Level 4B

15. **Food Sold to Airlines**
Citation: Section 1105(d)(ii)(A)
Effective Date: August 1, 1965
Description: The sales tax does not apply to food or drink which is sold to an airline for consumption by passengers while in flight.
Estimates: 2003: $6.0 million - 2006: $6.0 million
Data Source: Air Transport Association
Reliability: Level 4A

16. **Food Sold at School Cafeterias**
Citation: Section 1105(d)(ii)(B)
Effective Date: September 1, 1968
Description: Food or drink sold to nursery school, kindergarten, elementary or secondary school students at a restaurant or cafeteria located at the school is excluded from tax. Also excluded are food and nonalcoholic beverages sold at a restaurant, tavern, or other establishment located on the premises of a college or university when sold to enrolled students under a contractual arrangement whereby the students do not pay cash at the time they are served.
Estimates: 2003: $70.0 million - 2006: $80.0 million
Data Source: New York State Department of Education
Reliability: Level 4A

17. **Food Purchased with Food Stamps**
Citation: Section 1115(k)
Effective Date: October 1, 1987
Description: Receipts from the sale of food eligible to be purchased with Food Stamps are exempt from tax when such food is purchased with Food Stamps.
Estimates: 2003: $ 69.0 million - 2006: $80.0 million
Data Source: U.S. Department of Agriculture
Reliability: Level 4A

18. **Water Delivered Through Mains or Pipes**
Citation: Section 1115(a)(2)
Effective Date: August 1, 1965
Description: Water delivered to consumers through mains or pipes is exempt.
Estimates: 2003: $95.0 million - 2006: $98.0 million
Data Source: New York State Department of Public Service; Office of the State Comptroller; New York City Department of Finance
Reliability: Level 4B

19. Mandatory Gratuity Charges
Citation: Section 1105(d) and Regulation Section 527.8(l)
Effective Date: August 1, 1965
Description: A separately stated charge specifically designated as a gratuity is exempt where all such monies received are paid over to employees.
Estimates: 2003: $16.0 million - 2006: $17.0 million
Data Source: Cornell University School of Hotel and Food Service Management
Reliability: Level 4A

20. Wine Used for Wine Tastings
Citation: Section 1115(a)(33)
Effective Date: December 1, 1997
Description: Exempt from tax is the wine that a winery, wine wholesaler or wine importer furnishes to customers or prospective customers at a wine tasting.
Estimates: 2003: Minimal - 2006: Minimal
Data Source: New York State Department of Taxation and Finance
Reliability: Level 4A

21. Vending Machine Sales of Hot Drinks and Certain Foods
Citation: Section 1105(d)(I)(3)
Effective Date: December 1, 1997; December 1, 1999 for credit/debit card-operated machines.
Description: Exempt from tax are hot drinks sold through coin-operated vending machines and vending machines accepting credit cards or debit cards. In addition, vending machine sales of other food and beverage, including food and beverage sold for on-premises consumption, are exempt if the food or beverage would be exempt when sold at a grocery store.
Estimates: 2003: $20.0 million - 2006: $24.0 million
Data Source: U.S. Department of Commerce, Economic Census - Retail Trade; Vending Times
Reliability: Level 4C

22. Vending Machine Sales of Candy, Juice and Soft Drinks
Citation: Section 1115(a)(1)
Effective Date: September 1, 2000
Description: This provision exempts candy, fruit drinks and soft drinks sold for 75 cents or less through a vending machine.
Estimates: 2003: $8.0 million - 2006: $10.0 million
Data Source: U.S. Department of Commerce, Economic Census - Retail Trade; Vending Times
Reliability: Level 4C

23. Food Sold at Senior Citizen Housing Communities
Citation: Section 1115(w)
Effective Date: December 1, 2000
Description: Sales by a senior citizen independent housing community of food or drink

(except alcoholic beverages) for on-premise consumption are exempt from tax when served to residents and their guests at the dining facility or in the resident's room.
Estimates: 2003: Minimal - 2006: Minimal
Data Source: New York State Division of the Budget
Reliability: Level 4B

Medical

24. Drugs, Medicine and Medical Supplies
Citation: Section 1115(a)(3), (g)
Effective Date: August 1, 1965 for drugs and medicines; September 1, 1976 for medical equipment and supplies and services to medical equipment.
Description: Exempt from tax are drugs and medicines intended for use, internally or externally, in the cure, mitigation, treatment or prevention of illnesses or diseases in human beings. The exemption extends to medical equipment and supplies required for such use or to correct or alleviate physical incapacity, services to medical equipment, and products consumed by humans for the preservation of health. This exemption does not include cosmetics or toilet articles and does not include purchases of medical equipment and supplies by a person who provides medical or dental services for compensation.
Estimates: 2003: $621.0 million - 2006: $760.0 million
Data Source: U.S. Department of Commerce, Survey of Current Business
Reliability: Level 4C

25. Eyeglasses, Hearing Aids and Prosthetic Aids
Citation: Section 1115(a)(4), (g)
Effective Date: August 1, 1965 (Sec. 1115(a)(4)); September 1, 1969 (Sec. 1115(g))
Description: Eyeglasses, hearing aids, prosthetic aids and artificial devices and component parts purchased to correct physical incapacity in human beings, as well as services performed upon these items are exempt from tax.
Estimates: 2003: $89.0 million - 2006: $95.0 million
Data Source: U.S. Department of Commerce, Survey of Current Business
Reliability: Level 4C

26. Veterinarian Services
Citation: Section 1115(f)
Effective Date: June 1, 1967
Description: Services rendered by a licensed veterinarian in the practice of veterinary medicine are exempt from tax. Tangible personal property designed for use by domestic animals or poultry is also exempt when sold by a veterinarian. However, the veterinarian is liable for the sales tax on the purchase of such property. Thus, only the markup on these items is tax exempt.
Estimates: 2003: $23.0 million - 2006: $24.0 million
Data Source: American Veterinary Medical Association; The Nelson A. Rockefeller Institute of Government, New York State Statistical Yearbook
Reliability: Level 4B

27. Service Dogs
Citation: Section 1115(s)
Effective Date: September 24, 1995
Description: This provision exempts the sales of any good or service necessary to acquire, sustain or maintain a guide dog, a hearing dog or a service dog which is used by a person with a disability.
Estimates: 2003: Minimal - 2006: Minimal
Data Source: New York State Department of Agriculture and Markets; Guide Dog Foundation; Guiding Eyes for the Blind; Canine Companions for Independence
Reliability: Level 4B

Energy

28. Energy Sources for Residential Purposes
Citation: Sections 1105-A, 1115(a)(25)
Effective Date: October 1, 1980 (Section 1105-A); September 1, 1985 (Section 1115(a)(25))
Description: Receipts from the retail sale of wood used for residential heating purposes, fuel oil, propane (except when sold in containers that hold less than 100 pounds), natural gas, electricity and steam, and gas, electric and steam services used for residential purposes are taxed at the rate of zero percent and thus are exempt from State sales tax. Residential use of natural gas obtained from a gas well located on the landowner's property is exempt.
Estimates: 2003: $556.0 million - 2006: $727.0 million
Data Source: New York State Department of Taxation and Finance; New York State Energy Research and Development Authority
Reliability: Level 4A

29. Fuel, Gas, Electricity, Refrigeration and Steam Used in Research & Development and Production
Citation: Section 1115(a)(10), (b)(ii), (c)(1)
Effective Date: August 1, 1965
Description: Fuel oil, gas, electricity, refrigeration, and steam; and gas, electric, refrigeration and steam service used directly and exclusively in research and development in the experimental or laboratory sense, or used directly and exclusively in the production of tangible personal property, gas, electricity, refrigeration or steam, for sale, by manufacturing, processing, assembling, generating, refining, mining, or extracting are exempt from the sales tax.
Estimates: 2003: $243.0 million - 2006: $283.0 million
Data Source: New York State Energy Research and Development Authority; U.S. Department of Energy
Reliability: Level 4C

30. Fuel, Gas, Electricity, Refrigeration and Steam Used in Farming and Commercial Horse Boarding
Citation: Section 1115(c)(2)
Effective Date: September 1, 2000
Description: Fuel, gas, electricity, refrigeration and steam; and gas, electric, refrigeration, and steam service used in the production of tangible personal property, for sale, by farming or in a commercial horse boarding operation are exempt from tax. Prior to September 1, 2000, energy used directly and exclusively in farm production was exempt by Tax Law Section 1115(c)(1) and is now included here.
Estimates: 2003: $7.0 million - 2006: $10.0 million
Data Source: U.S. Department of Agriculture; New York State Department of Agriculture and Markets
Reliability: Level 4B

31. Reduced Rate on Gas and Electric Delivery
Citation: Section 1105-C
Effective Date: September 1, 2000
Description: On September 1, 2000, and on September 1 of each year following, the sales and use tax rate on transportation, transmission or distribution of gas or electricity when sold by someone other than the vendor of the gas or electricity is reduced by 25 percent of the rate in effect on September 1, 2000. Beginning September 1, 2003 the State tax rate was reduced to zero.
Estimates: 2003: $21.0 million - 2006: $32.0 million
Data Source: New York State Department of Taxation and Finance
Reliability: Level 4B

32. Gas and Electricity Used in Transmission, Distribution and Storage
Citation: Section 1115(w)
Effective Date: June 1, 2000
Description: This provision exempts gas or electricity or gas or electric service used directly and exclusively to provide gas or electric service consisting of operating a gas pipeline or gas distribution line or an electric transmission or distribution line and ensuring the necessary working pressure in an underground gas storage facility.
Estimates: No data available
Reliability: Level 5

33. Residential Solar Energy Systems
Citation: Section 1115(33)
Effective Date: September 1, 2005
Description: Residential solar energy systems equipment and the service of installing such systems are exempt from tax.
Estimate: 2003: Not Applicable - 2006: Minimal
Data Source: New York State Division of the Budget
Reliability: Level 4B

Transportation

34. Commercial Vessels
Citation: Sections 1101(b)(16), 1105(c)(3)(iv), 1115(a)(8)
Effective Date: August 1, 1965 (Sections 1105(c)(3)(iv), 1115(a)(8)); December 1, 1996 (Section 1101(b)(16))
Description: Sales of commercial vessels primarily engaged in interstate or foreign commerce and property used by or purchased for the use of such vessels for fuel, provisions, supplies, maintenance and repairs are exempt as well as services rendered with respect to commercial vessels.
Estimates: 2003: $2.0 million - 2006: $3.0 million
Data Source: U.S. Department of Energy, Energy Information Administration; New York State Department of Taxation and Finance, PBT Master File
Reliability: Level 4C

35. Barge Repairs
Citation: Section 1115(q)
Effective Date: December 1, 1993
Description: Exempt from tax are maintenance and repair services (including parts) performed on a barge having a cargo capacity of at least 1,000 short tons used exclusively to transport goods in the conduct of its owner's business and primarily engaged in transportation between New York State and any other state or foreign country.
Estimates: 2003: Minimal - 2006: Minimal
Data Source: U.S. Department of Commerce
Reliability: Level 4C

36. Commercial Aircraft
Citation: Sections 1101(b)(17), 1105(c)(3)(v), 1115(a)(21)
Effective Date: March 1, 1979 (Sections 1105(c)(3)(v), 1115(a)(21)); December 1, 1996 (Section 1101(b)(17))
Description: Exempt from tax are commercial aircraft primarily engaged in intrastate, interstate or foreign commerce; machinery or equipment to be installed on such aircraft; property used by or purchased for the use of such aircraft for maintenance and repairs; flight simulators purchased by commercial airlines; and services rendered with respect to exempt purchases.
Estimates: 2003: $21.0 million - 2006: $22.0 million
Data Source: U.S. Department of Commerce, Annual Capital Expenditures Report
Reliability: Level 4C

37. Fuel Sold to Airlines
Citation: Section 1115(a)(9)
Effective Date: August 1, 1965
Description: Fuel sold to an airline for use in its airplanes is exempt from tax.
Estimates: 2003: $57.0 million - 2006: 77.0 million
Data Source: New York State Energy Research and Development

Reliability: Level 4A

38. **Parts for Foreign Aircraft**
Citation: Section 1118(8)
Effective Date: September 1, 1977
Description: Parts, engines, consumable technical supplies, and maintenance and ground equipment used exclusively in the operation, handling, or maintenance of aircraft are exempt from use tax if it is a foreign airline which brings such items into New York from a foreign country. These items must be used on aircraft owned by the foreign airline, and are exempt only if similar items would not be subject to tax in the airline's home country if taken into such country by a U.S. airline.
Estimate: No data available
Reliability: Level 5

39. **Services to Private Aircraft**
Citation: Section 115(dd)
Effective Date: December 1, 2004
Description: A sales and use tax exemption is provided for maintenance and certain other services performed on private aircraft, as well as the tangible personal property purchased and used in performing the services and any related storage charges.
Termination Date: Expires December 1, 2009
Estimate: 2003: Not Applicable - 2006: $2.0 million
Data Source: General Aviation Manufacturers Association
Reliability: 4C

40. **Intra-family Sales of Motor Vehicles**
Citation: Section 1115(a)(14)
Effective Date: September 1, 1969 for transactions between spouses; September 1, 1972 for transactions between parents and children.
Description: Motor vehicles sold between husband and wife, or by a parent to a child or child to parent are exempt from tax.
Estimate: No data available
Reliability: Level 5

41. **Motor Vehicles and Vessels Sold to Nonresidents**
Citation: Section 1117(a)
Effective Date: August 1, 1965, as amended December 1, 1994 and March 1, 2001
Description: Sales of motor vehicles and vessels in New York to nonresidents are exempt from the sales tax provided the nonresident purchaser is not registering the newly purchased vehicle or vessel for use in New York.
Estimate: No data available
Reliability: Level 5

42. **Rental of Trucks in Certain Cases**
Citation: Section 1115(a)(22)
Effective Date: May 15, 1981

Description: Certain rentals or leases of trucks, tractors, or tractor-trailer combinations to an authorized carrier, pursuant to a written contractual agreement are exempt. To qualify for exemption the equipment must be for use as augmenting equipment in the transportation, for hire, of tangible personal property, provided the owner of the vehicle, or an employee of the owner, operates the vehicle.
Estimate: No data available
Reliability: Level 5

43. Tractor-Trailer Combinations
Citation: Section 1115(a)(26), (g)
Effective Date: January 1, 1988
Description: Exempt from tax are tractors, trailers or semitrailers, and property installed on such vehicles for their equipping, maintenance or repair, provided the vehicle is used in combination where the gross weight of such combination exceeds 26,000 pounds. Related services performed on these vehicles are also exempt.
Estimates: 2003: $15.0 million - 2006: 19.0 million
Data Source: New York State Department of Motor Vehicles; U.S. Department of Commerce, Vehicle Inventory and Use Survey
Reliability: Level 4A

44. Sales of Property by Railroads in Reorganization
Citation: Section 1115(h)
Effective Date: August 1, 1975
Description: Sales of tangible personal property by a railroad in reorganization to a profitable railroad are exempt if the transactions are part of a plan of reorganization and restructuring.
Estimates: 2003: Minimal - 2006: Minimal
Data Source: New York State Department of Transportation
Reliability: Level 4A

45. Commercial Buses
Citation: Section 1115(a)(32), (u)
Effective Date: December 1, 1997
Description: Exempt from tax are buses, and parts, equipment and lubricants used in operating the bus, provided the vehicle weighs at least 26,000 pounds and measures 40 feet and is used to transport persons for hire. Related services performed on these vehicles are also exempt.
Estimates: 2003: $2.0 million - 2006: $2.0 million
Data Source: The Bus Association of New York State
Reliability: Level 4A

46. Marine Terminal Facility Equipment
Citation: 1115(a)(41)
Effective Date: December 1, 2005
Description: Exempt from tax are machinery and equipment for use directly and predominantly in loading, unloading and handling cargo at a marine terminal facility

located in a city with a population of one million or more which in 2003, handled more than 350,000 twenty-foot equivalent units (TEUs).
Estimate: 2003: Not Applicable - 2006: Minimal
Data Source: New York State Division of the Budget
Reliability: Level 4B

Communication and Media

47. Interstate or International Telephone and Telegraph Service
Citation: Section 1105(b)
Effective Date: August 1, 1965
Description: Charges for interstate and international telephone and telegraph services are exempt.
Estimates: 2003: $300.0 million - 2006: $323.0 million
Data Source: New York State Department of Taxation and Finance
Reliability: Level 4A

48. Internet Access Service
Citation: Section 1115(v)
Effective Date: February 1, 1997
Description: The sales tax exempts Internet access service. Incidental services such as Internet communications or navigation software, an email address, news headlines, space for a Web site and certain other Web site services, when offered in conjunction with Internet access and merely incidental to the access service, are considered part of the exempt service.
Estimates: 2003: $59.0 million - 2006: $79.0 million
Data Source: U.S. Department of Commerce, Statistical Abstract of the United States
Reliability: Level 4C

49. Cable Television Service
Citation: Section 1105(c)(9)
Effective Date: September 1, 1990
Description: The provision of cable television service is exempt from tax.
Estimates: 2003: $132.0 million - 2006: $141.0 million
Data Source: New York State Department of Public Service
Reliability: Level 4A

50. Newspapers and Periodicals
Citation: Sections 1101(b)(6), 1115(a)(5), Regulation Section 528.6, Section 1118(5)
Effective Date: August 1, 1965 (Section 1115(a)(5)); December 1, 1994 (Section 1101 (b)(6))
Description: The sales of newspapers and periodicals, including newspapers and periodicals delivered electronically, are exempt from tax. In addition, the paper and ink used to publish newspapers and periodicals is exempt.
Estimates: 2003: $68.0 million - 2006: $68.0 million
Data Source: U.S. Department of Commerce, Survey of Current Business and U.S.

Industrial Outlook
Reliability: Level 4B

51. Shopping Papers
Citation: Section 1115(a)(20), (I)
Effective Date: September 1, 1977
Description: Receipts from the retail sale of a shopping paper to the publisher are tax-exempt as well as the receipts from the sale of printing services performed in publishing such paper. In addition, the paper and ink used to publish a shopping paper are exempt.
Estimates: 2003: $2.0 million - 2006: $2.0 million
Data Source: U.S. Department of Commerce, U.S. Industrial and Trade Outlook
Reliability: Level 4C

52. Telephone Service Used by the Media
Citation: Section 1115(b)(I)
Effective Date: August 1, 1965
Description: Charges for telephone and telegraph service used by newspapers, radio broadcasters, and television broadcasters in the collection or dissemination of news are exempt if the charges are toll charges or charges for mileage.
Estimates: 2003: Minimal - 2006: Minimal
Data Source: New York State Department of Taxation and Finance
Reliability: Level 4A

53. Certain Coin-Operated Telephone Charges
Citation: Section 1115(e)
Effective Date: June 1, 1966 for 10 cent exemption; September 1, 1998 for 25 cent exemption
Description: Coin-operated telephone charges of 25 cents or less are tax-exempt.
Estimates: 2003: $3.0 million - 2006: $3.0 million
Data Source: New York State Department of Public Service; New York State Telephone Association
Reliability: Level 4B

54. Telecommunications and Internet
Citation: Sections 1115(a)(12-a), 1105(c)(3)(x)
Effective Date: September 1, 2000
Description: These provisions exempt tangible personal property used directly and predominantly in the receiving, initiating, amplifying, processing, transmitting, re-transmitting, switching or monitoring or switching of telecommunications services for sale or Internet access services for sale.
Estimates: 2003: $69.0 million - 2006: $94.0 million
Data Source: New York State Public Service Commission; Cellular Telecommunications and Internet Association
Reliability: Level 4B

55. Internet Data Centers
Citation: Section 1115(a)(37), (y)
Effective Date: September 1, 2000
Description: Machinery, equipment, and certain other tangible personal property sold to a person operating an Internet data center that is required for and directly related to the provision of Internet Web site hosting and other Web site services at the data center are exempt. Also exempt are certain services to the exempt tangible personal property and building security services.
Estimates: 2003: $9.0 million - 2006: $13.0 million
Data Source: New York State Division of the Budget
Reliability: Level 4B

56. Radio and Television Broadcasting
Citation: Section 1115(a)(38), (aa)
Effective Date: September 1, 2000
Description: Exempt from tax are purchases by radio and television broadcasters of machinery, equipment, parts, tools, and supplies used in the production and transmission of live or recorded programs. Installing, maintaining, servicing or repairing the exempt items is also exempt. Moreover, the services of producing, fabricating, processing, printing, or imprinting tangible personal property furnished to the service provider by the broadcaster and performed in connection with the production, post-production, or the transmission of live or recorded programs are exempt. A broadcaster includes Federal Communications Commission licensed radio and television stations, radio and television networks, and cable television networks.
Estimates: 2003: $3.0 million - 2006: $4.0 million
Data Source: New York State Division of the Budget
Reliability: Level 4B

57. Film Production
Citation: Section 1115(a)(39) and Section 1115(bb)
Effective Date: December 1, 2002
Description: Tangible personal property used or consumed directly and predominantly in the production of a film for sale is exempt, regardless of the medium by which the film is conveyed to the purchaser. For purposes of this exemption, *film* means feature films, documentary films, shorts, television films, television commercials, and similar productions. The exemption also extends to services rendered to the exempt property and to fuel and utility services used directly and exclusively in production.
Estimate: No data available
Reliability: Level 5

58. Certain Mobile Telecommunication Services
Citation: Section 1115(cc)
Effective Date: August 1, 2002
Description: The sales of mobile telecommunication services by a home service provider is exempt from tax if the mobile telecommunications customer's place of primary use is within a taxing jurisdiction outside of New York State.

Estimate: 2003: $11.0 million - 2006: $14.0 million
Data Source: Cellular Telecommunications and Internet Association; New York State Department of Taxation and Finance
Reliability: 4C

Industry

59. Tools and Supplies Used in Production
Citation: Sections 1105-B(a), 1115(a)(36)
Effective Date: March 1, 1981, December 1, 1998
Description: Receipts from the retail sale of parts with a useful life of one year or less, tools and supplies for use or consumption directly and predominantly in the production of tangible personal property, gas, electricity, refrigeration or steam for sale by manufacturing, processing, generating, assembling, refining, mining or extracting are exempt from sales tax.
Estimate: No data available
Reliability: Level 5

60. Farm Production and Commercial Horse Boarding
Citation: Sections 1115(a)(6), 1105(c)(3)(vi), 1105(c)(5)(iii)
Effective Date: August 1, 1965 (Section 1115(a)(6)); September 1, 1982 (Section 1105 (c)(3)(vi)), September 1, 2000 (Section 1105(c)(5)(iii)
Description: Exempt from tax is tangible personal property for use or consumption predominantly in the production, for sale, of tangible personal property by farming or in a commercial horse boarding operation. Also exempt are the services of installing, repairing, maintaining and servicing tangible personal property and real property used predominantly in farming or in a commercial horse boarding operation. Prior to September 1, 2000 this exemption was limited to property used directly and predominantly in farm production, not including property incorporated in a building or structure.
Estimates: 2003: $62.0 million - 2006: $67.0 million
Data Source: U.S. Department of Agriculture, Agricultural Survey; New York State Department of Agriculture and Markets
Reliability: Level 4B

61. Research and Development Property
Citation: Section 1115(a)(10)
Effective Date: August 1, 1965
Description: Tangible personal property purchased for use or consumption directly and predominantly in research and development in the experimental or laboratory sense is exempt from tax.
Estimates: 2003: $61.0 million - 2006: $70.0 million
Data Source: National Science Foundation
Reliability: Level 4B

62. Machinery and Equipment Used in Production
Citation: Section 1115(a)(12)
Effective Date: August 1, 1965
Description: Exempt from sales tax are machinery and equipment for use or consumption directly or predominantly in the production of tangible personal property, gas, electricity, refrigeration or steam for sale by manufacturing, processing, generating, assembling, refining, mining or extracting.
Estimates: 2003: $246.0 million - 2006: $258.0 million
Data Source: U.S. Department of Commerce, New York State Public Service Commission
Reliability: Level 4B

63. Services to Machinery and Equipment Used in Production
Citation: Section 1105-B(b)
Effective Date: March 1, 1981
Description: Receipts from the services of installing, repairing, maintaining or servicing exempt production machinery and equipment or exempt parts, tools and supplies are exempt.
Estimates: 2003: $14.0 million - 2006: $15.0 million
Data Source: New York State Department of Taxation and Finance
Reliability: Level 4A

64. Wrapping and Packaging Materials
Citation: Section 1115(a)(19)
Effective Date: July 1, 1974
Description: Cartons, containers, wrapping and packaging materials and supplies are nontaxable when used by a vendor in packaging or packing tangible personal property for sale and actually transferred by the vendor to the purchaser.
Estimate: No data available
Reliability: Level 5

65. Commercial Fishing Vessels
Citation: Sections 1115(a)(24), 1105(c)(3)(vii)
Effective Date: August 1, 1985
Description: Exempt from tax are the sales of commercial fishing vessels used directly and predominantly in the harvesting of fish for sale, and property used by or purchased for the use of such vessels for fuel, provisions, supplies, maintenance and repairs. Related services are also exempt.
Estimates: 2003: Minimal - 2006: Minimal
Data Source: National Marine Fisheries Services
Reliability: Level 4B

66. Certain Services Used in Gas or Oil Production
Citation: Section 1105(c)(3)(ix), (c)(5)
Effective Date: December 1, 1998
Description: Exempt from tax are the services of installing, maintaining, repairing or

servicing tangible personal property used directly and predominately in producing gas or oil for sale. Also exempt are maintenance and repair services rendered to real property or land used directly and predominately in producing gas or oil for sale.
Estimates: 2003: Minimal - 2006: Minimal
Data Source: New York State Department of Taxation and Finance; New York State Department of Environmental Conservation
Reliability: Level 4B

67. Pollution Control Equipment
Citation: Section 1115(a)(40)
Effective Date: March 1, 2001
Description: Machinery or equipment used in the control, prevention, or abatement of pollution or contaminants from manufacturing or industrial facilities are exempt from sales and use taxes.
Estimates: 2003: $5.0 million - 2006: $5.0 million
Data Source: U.S. Census Bureau
Reliability: Level 4C

68. Property Manufactured by the User
Citation: Section 1110(c)
Effective Date: March 1, 2001
Description: The compensating use tax imposed on certain self-produced items used by a manufacturer on its own premises is computed on the cost of materials rather than on the manufacturer's normal selling price.
Estimates: 2003: Minimal - 2006: Minimal
Data Source: New York State Department of Taxation and Finance
Reliability: Level 4A

Miscellaneous

69. Certain Property Sold Through Vending Machines
Citation: Section 1115(a)(13), (13-a)
Effective Date: August 1, 1965 (Section 1115(a)(13)); 50-cent exemption effective December 1, 1997 (Section 1115(a)(13-a))
Description: Tangible personal property sold through coin-operated vending machines at 10 cents or less is exempt, provided the retailer is primarily engaged in making such sales. Also exempt is tangible personal property sold through coin-operated bulk vending machines at 50 cents or less, provided the retailer is primarily engaged in making such sales.
Estimates: 2003: $1.0 million - 2006: $1.0 million
Data Source: U.S. Department of Commerce, Economic Census - Retail Trade; Vending Times
Reliability: Level 4C

70. Trade-in Allowance
Citation: Section 1101(b)(3)
Effective Date: August 1, 1965
Description: An allowance for a trade-in on an automobile and or other item qualifies as a reduction of the taxable receipts, provided the item traded in is intended for resale by the vendor.
Estimates: 2003: $694.0 million - 2006: $678.0 million
Data Source: National Automobile Dealers Association; Motor Vehicle Manufacturers Association, Facts and Figures
Reliability: Level 4B

71. Certain Hotel Room Rent
Citation: Section 1105(e)(1),(2)
Effective Date: August 1, 1965
Description: The rent for occupancy of a hotel room by a permanent resident or where the rent is not more than two dollars per day is exempt from tax.
Estimates: No data available
Reliability: Level 5

72. Dues for Fraternal Societies
Citation: Section 1105(f)(2)(ii)(a), (b)
Effective Date: August 1, 1965
Description: Dues and initiation fees paid to a fraternal society, order or association operating under the lodge system or any fraternal association of students of a college or university are excluded from tax. Also excluded are dues paid to any social or athletic club which are ten dollars or less a year.
Estimates: 2003: $12.0 million - 2006: $13.0 million
Data Source: U.S. Department of Commerce, Survey of Current Business
Reliability: Level 4C

73. Homeowner Association Dues
Citation: Section 1105(f)(ii)(c)
Effective Date: September 1, 1995
Description: The Tax Law exempts the dues paid to a homeowner association operating social or athletic facilities for its members.
Estimate: No data available
Reliability: Level 5

74. Homeowner Association Parking Services
Citation: Section 1105(c)(6)
Effective Date: December 1, 1997
Description: Charges paid by a homeowner association member for parking, garaging or storing motor vehicles at a facility owned or operated by the association are exempt.
Estimates: 2003: $6.0 million - 2006: $6.0 million
Data Source: U.S. Department of Commerce; Federation of New York Housing Cooperatives; New York City Association of Realtors

Reliability: Level 4B

75. Store Coupons
Citation: Regulation Section 526.5(c)
Effective Date: August 26, 1976
Description: Coupons issued by a retailer, for which there is no reimbursement by a manufacturer or distributor, are deducted from the price for sales tax purposes.
Estimates: 2003: $3.0 million - 2006: $3.0 million
Data Source: New York State Department of Taxation and Finance
Reliability: Level 4C

76. Excise Taxes Imposed on the Consumer
Citation: Regulation Section 526.5(b)
Effective Date: August 26, 1976
Description: Most consumer excise taxes are excluded from the receipt subject to sales tax. For example, the Federal tax on telephone service and the State tax on motor fuels are both excluded from the sales tax base.
Estimates: 2003: $40.0 million - 2006: $57.0 million
Data Source: New York State Department of Taxation and Finance; U.S. Department of Commerce, Statistical Abstract of the United States
Reliability: Level 4A

77. Property Sold by Morticians
Citation: Section 1115(a)(7)
Effective Date: August 1, 1965
Description: Exempt from tax is tangible personal property sold by a mortician, undertaker or funeral director. However, sales to them for use in conducting funerals do not qualify as a sale for resale and are taxable. Thus, only the markup on those items is tax-exempt.
Estimates: 2003: $10.0 million - 2006: $11.0 million
Data Source: Cremation Association of North America; National Funeral Directors Association; The Nelson A. Rockefeller Institute of Government, New York State Statistical Yearbook
Reliability: Level 4C

78. Flags
Citation: Section 1115(a)(11)
Effective Date: August 1, 1965
Description: Flags of the United States of America and the State of New York are tax-exempt.
Estimate: No data available
Reliability: Level 5

79. Garage Sales
Citation: Section 1115(a)(18)
Effective Date: September 1, 1973

Description: Sales of products at private residences are not taxable if the sales do not take place more than three days in a calendar year, are reasonably expected not to exceed $600, and if no member of the household conducts a trade or business selling similar products.
Estimate: No data available
Reliability: Level 5

80. New Mobile Homes
Citation: Section 1111(f)
Effective Date: September 1, 1983
Description: Thirty percent of the receipts or consideration from sales of new mobile homes is exempt from tax.
Estimates: 2003: $2.0 million - 2006: $2.0 million
Data Source: Manufactured Housing Institute; U.S. Department of Commerce Census Bureau
Reliability: Level 4A

81. Used Mobile Homes
Citation: Section 1115(a)(23)
Effective Date: January 1, 1982
Description: Sales of used mobile homes are fully tax exempt.
Estimate: No data available
Reliability: Level 5

82. Registered Race Horses
Citation: Section 1115(a)(29)
Effective Date: June 1, 1994
Description: The sales tax exempts racehorses registered with the Jockey Club, the United States Trotting Association or the National Steeplechase and Hunt Association (or such a horse during the first 24 months of its life if eligible to be so registered) purchased or used for entry in events on which pari-mutuel wagering is authorized by law. The exemption, however, does not apply to a horse which had never raced in such an event during the first four years of its life.
Estimate: No data available
Reliability: Level 5

83. Race Horses Purchased Through Claiming Races
Citation: Section 1111(g)
Effective Date: July 1, 1985
Description: The sale in New York of race horses through claiming races, if not otherwise exempt, is taxable on the full initial purchase price. On the second or later sale of the same horse in the same calendar year within the State, the tax applies only to the excess of the purchase price over the highest of the prior purchase prices.
Estimate: No data available
Reliability: Level 5

84. Race Horses Purchased Out of State
Citation: Section 1118(9), (10)
Effective Date: July 28, 1981 (Section 1118(9)); July 1, 1985 (Section 1118(10))
Description: Race horses purchased by New York residents outside New York and brought into the State for the purpose of entering racing events on five or less days in any one calendar year for which pari-mutuel racing is authorized, if not otherwise exempt, are exempt from use tax. For those race horses not otherwise exempt and entered in racing events in New York on more than five days and subject to use tax, the tax does not apply to the extent that the value of the race horse exceeds $100,000.
Estimate: No data available
Reliability: Level 5

85. Training and Maintaining Race Horses
Citation: Section 1115(m)
Effective Date: July 19, 1988
Description: Exempt from tax are the services of training and maintaining race horses. Also exempt is the tangible personal property actually transferred by a trainer to the race horse owner in conjunction with the above services.
Estimates: 2003: $3.0 million - 2006: $3.0 million
Data Source: American Horse Council Foundation; New York Agricultural Statistics Service
Reliability: Level 4C

86. Property Sold to Contractors for Capital Improvements or Repairs for Exempt Organizations
Citation: Section 1115(a)(15), (16)
Effective Date: September 1, 1969
Description: Tangible personal property sold to a contractor, subcontractor or repairman is exempt from tax if the property is used in erecting structures, maintaining, servicing, repairing or adding to or altering the real property of an exempt organization and such property becomes an integral component part of the realty.
Estimates: 2003: $63.0 million - 2006: $69.0 million
Data Source: U.S. Department of Commerce, Statistical Abstract of the United States and the Census of Construction
Reliability: Level 4C

87. Property Donated by a Manufacturer to an Exempt Organization
Citation: Section 1115(l)
Effective Date: September 1, 1986
Description: Tangible personal property manufactured and donated by the manufacturer to an exempt organization is exempt from tax provided that the manufacturer offers the same kind of property for sale in the regular course of business and that the manufacturer has not made any other use of the donated property.
Estimate: No data available
Reliability: Level 5

88. Sales and Use Tax Paid to Other States
Citation: Section 1118(7)
Effective Date: August 1, 1965
Description: Exempt from tax are property or services upon which a sales or use tax was properly paid to another state, providing such state allows a corresponding exemption for taxable purchases in New York, and no credit or refund is available from such other state. However, tax is due to New York to the extent that the tax imposed by New York is at a higher rate than the rate of such other state.
Estimate: No data available
Reliability: Level 5

89. Precious Metal Bullion and Coins
Citation: Section 1115(a)(27)
Effective Date: September 1, 1989
Description: Precious metal bullion and coins purchased for investment are exempt.
Estimates: 2003: $104.0 million - 2006: $109.0 million
Data Source: Commodities and Mercantile Exchange
Reliability: Level 4C

90. Computer Software Transferred to Affiliated Corporations
Citation: Section 1115(a)(28)
Effective Date: September 1, 1991
Description: Computer software that was originally purchased as a nontaxable custom computer program, and which is subsequently sold by the original purchaser to a corporation which is a member of an affiliated group to which the original purchaser also belongs, is exempt from tax.
Estimate: No data available
Reliability: Level 5

91. Services to Computer Software
Citation: Section 1115(o)
Effective Date: September 1, 1991
Description: Installing, maintaining, servicing or repairing prewritten computer software is exempt from tax when the charge for such services is reasonable and separately stated on an invoice or other statement of the price given to the purchaser.
Estimate: No data available
Reliability: Level 5

92. Self-use of Prewritten Software by its Author
Citation: Section 1110(g)
Effective Date: September 1, 1991
Description: The use tax on prewritten computer software used by its author or creator is calculated on the cost of the blank medium, such as the disks or tapes, and not at the price at which the software is normally offered for sale.
Estimate: No data available
Reliability: Level 5

93. Computer System Hardware
Citation: Section 1115(a)(35)
Effective Date: June 1, 1998; March 1, 2001 for Internet Web sites
Description: Exempt from tax are purchases, leases or rentals of computer system hardware used or consumed directly and predominantly in designing and developing computer software for sale or in providing the service, for sale, of designing and developing Internet Web sites.
Estimates: 2003: $9.0 million - 2006: $14.0 million
Data Source: U.S. Department of Commerce
Reliability: Level 4C

94. Promotional Materials Mailed Out of State
Citation: Section 1115(n)(1), (2)
Effective Date: September 1, 1989
Description: Exempt from tax are promotional materials mailed out of state, envelopes and cheshire labels used in mailing promotional materials from points in New York State to customers outside New York State. A pro rata exemption is also allowed for charges for the use of a mailing list, in connection with mailing such promotional materials.
Estimates: No data available
Reliability: Level 5

95. Printed Promotional Materials
Citation: Section 1115(n)(4), (5) and (6)
Effective Date: March 1, 1997
Description: Exempt from tax are printed promotional materials distributed by U.S. mail or common carrier. Also exempt are certain services purchased in connection with the exempt promotional materials, such as mailing list services and a printer's storage service.
Estimates: 2003: $28.0 million - 2006: $29.0 million
Data Source: U.S. Department of Commerce Census Bureau
Reliability: Level 4C

96. U.S. Postage Used in the Distribution of Promotional Materials
Citation: Section 1115(n)(3)
Effective Date: September 1, 1991
Description: Separately stated charges by a vendor to the purchaser of promotional materials, or of taxable services to such promotional material, for the cost of mailing such promotional materials by means of the United States Postal Service to the purchaser's customers or prospective customers are exempt from tax where such charges do not exceed the vendor's United States Postal Service costs.
Estimate: No data available
Reliability: Level 5

97. Clothing and Footwear Holiday
Citation: Section 1115(a)(30)
Effective Date: For sales occurring during the period commencing January 30, 2006 and ending February 5, 2006
Description: During the one-week period, items of clothing and footwear costing less than $110 are exempt. The exemption also applies to most fabric, thread, yarn, buttons, snaps, hooks, zippers and like items which become a physical component part of exempt clothing or are used to make or repair the exempt clothing.
Estimates: 2003: Not Applicable - 2006: $36.0 million
Data Source: New York State Division of the Budget
Reliability: Level 4B

98. Clothing and Footwear
Citation: Section 1115(a)(30)
Effective Date: March 1, 2000; Suspended June 1, 2003 through March 31, 2006
Description: Exempt from tax are items of clothing and footwear costing less than $110. The exemption applies to most clothing and footwear worn by human beings. It also applies to most fabric, thread, yarn, buttons, snaps, hooks, zippers and like items which become a physical component part of exempt clothing or are used to make or repair the exempt clothing.
Estimates: 2003: $225.0 million - 2006: $554.0 million
Data Source: New York State Division of the Budget; New York State Department of Taxation and Finance
Reliability: Level 4B

99. Coin-Operated Photocopying Machines
Citation: Section 1115(a)(31)
Effective Date: December 1, 1997
Description: Copies made using a coin-operated photocopy machine where the charge is 50 cents or less per copy are exempt from tax.
Estimates: 2003: Minimal - 2006: Minimal
Data Source: Vending Times
Reliability: Level 4C

100. Luggage Carts
Citation: Section 1115(a)(13-b)
Effective Date: December 1, 1997
Description: Exempt from tax are temporary transportation devices (e.g., luggage carts) sold through coin operated equipment, provided the retailer is primarily engaged in making such sales.
Estimates: 2003: Minimal - 2006: Minimal
Data Source: New York State Department of Taxation and Finance
Reliability: Level 4C

101. Emissions Testing Equipment
Citation: Section 1115(a)(31)
Effective Date: September 1, 1997
Description: Exempt from tax is enhanced emissions inspection equipment certified by the Department of Environmental Conservation for use in an enhanced emissions inspection and maintenance program as required by the Federal Clean Air Act of 1990, where such equipment is purchased and used by an official inspection station authorized to conduct the enhanced emissions inspections.
Estimates: 2003: Minimal - 2006: Minimal
Data Source: New York State Department of Environmental Conservation
Reliability: Level 4A

102. College Textbooks
Citation: Section 1115(a)(34)
Effective Date: June 1, 1998
Description: Course textbooks purchased by full or part-time students enrolled in an institution of higher education are exempt.
Estimates: 2003: $21.0 million - 2006: $22.0 million
Data Source: New York State Department of Education
Reliability: Level 4B

103. Live Dramatic or Musical Arts Production
Citation: Section 1115(x)
Effective Date: March 1, 2001
Description: Exempt from sales and use taxes are certain items of tangible personal property and certain services that are used directly and predominantly in producing live dramatic or musical arts performances. The performances must take place in a theater or other similar place of assembly with a fixed seating capacity of at least 100.
Estimates: 2003: $3.0 million - 2006: $4.0 million
Data Source: New York State Division of the Budget
Reliability: Level 4A

104. Qualified Empire Zone Enterprises
Citation: Section 1115(z)(1), (z)(2)
Effective Date: March 1, 2001
Description: Tangible personal property and certain services purchased by a Qualified Empire Zone Enterprise (QEZE) and used directly and predominantly by the QEZE in the empire zone in which the QEZE has qualified for benefits are exempt from sales and use tax. Also exempt is tangible personal property sold to a contractor, subcontractor, or repairman is exempt from tax if the property is used in erecting structures, maintaining, servicing, repairing, adding to, or altering the real property of a QEZE located within an empire zone.
Estimates: 2003: $67.0 million - 2006: $86.0 million
Data Source: New York State Division of the Budget
Reliability: Level 4C

105. Lower Manhattan Commercial Office Space
Citation: Section 1115(ee)
Effective Date: September 1, 2005
Description: Exempt from sales and compensating use tax is a commercial tenant's, landlord's and contractor's purchases and uses of certain property used to outfit, furnish and equip leased commercial office space in in eligible areas in Lower Manhattan.
Estimate: 2003: Not Applicable - 2006: $17.0 million
Data Source: New York State Division of the Budget
Reliability: Level 4B

Exempt Organizations

106. New York State Agencies and Political Subdivisions
Citation: Section 1116(a)(1)
Effective Date: August 1, 1965
Description: Exempt from tax is the State of New York, or any of its agencies, instrumentalities, public corporations, or political subdivisions where it is the purchaser, user or consumer, or where it is a vendor of services or property of a kind not ordinarily sold by private persons.
Estimates: 2003: $887.0 million - 2006: $917.0 million
Data Source: New York State Division of the Budget; U.S. Department of Commerce
Reliability: Level 4C

107. Industrial Development Agencies
Citation: Section 1116(a)(1), and General Municipal Law Article 18-A
Effective Date: May 26, 1969
Description: An Industrial Development Agency (IDA) qualifies as an exempt government organization under Section 1116(a)(1) and receives all the benefits of that status. In addition, Article 18-A of the General Municipal Law grants tax exempt status to purchases made by an IDA project beneficiary (as agent of the IDA) and for sales by an IDA even where it is a vendor of services or property of a kind ordinarily sold by private persons.
Estimates: 2003: $83.0 million - 2006: $101.0 million
Data Source: New York State Department of Taxation and Finance
Reliability: Level 4A

108. Federal Agencies
Citation: Section 1116(a)(2)
Effective Date: August 1, 1965
Description: Exempt from tax is the United States of America, and any of its agencies and instrumentalities where it is the purchaser, user or consumer, or where it sells services or property of a kind not ordinarily sold by private persons.
Estimates: 2003: $163.0 million - 2006: $167.0 million
Data Source: U.S. Department of Commerce, Bureau of the Census Governments Division
Reliability: Level 4B

109. United Nations
Citation: Section 1116(a)(3)
Effective Date: August 1, 1965
Description: Exempt from tax is the United Nations, or any international organization of which the United States is a member, where it is the purchaser, user or consumer, or where it sells services or property of a kind not ordinarily sold by private persons.
Estimate: No data available
Reliability: Level 5

110. Diplomats and Foreign Missions
Citation: Federal treaties with diplomat's country
Effective Date: Effective dates vary by Federal treaties
Description: Diplomats of foreign countries and foreign missions are exempt from all national, state and local taxes if the treaty with the foreign nation provides a reciprocal exemption for U.S. diplomats abroad.
Estimate: No data available
Reliability: Level 5

111. Charitable Organizations
Citation: Section 1116(a)(4)
Effective Date: August 1, 1965
Description: Exempt from tax are purchases by nonprofit organizations organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, fostering national or international amateur sports competition, or for the prevention of cruelty to children or animals. These organizations may not be engaged substantially in political activities and no part of net earnings may inure to the benefit of a private shareholder or individual.
Estimates: 2003: $361.0 million - 2006: $376.0 million
Data Source: U.S. Department of Commerce, Survey of Current Business
Reliability: Level 4C

112. Veterans Posts or Organizations
Citation: Section 1116(a)(5), (g)
Effective Date: September 1, 1974 (Section 1116(a)(5)); December 1, 1993 (Section 1116(g))
Description: Exempt from tax are purchases by posts or organizations of past or present members of the armed forces of the United States, provided that such post or organization is organized in New York and at least 75 percent of its members are past or present members of the U.S. armed forces, and no part of net earnings inures to the benefit of a private shareholder or individual. Purchases of hotel accommodations by individual members acting as duly authorized representatives of the post or organization are also exempt from tax.
Estimates: 2003: Minimal - 2006: Minimal
Data Source: New York State Department of Taxation and Finance; Food Institute, Food Industry Review
Reliability: Level 4C

113. Indian Nations and Members of Such Indian Nations
Citation: Section 1116(a)(6); Federal restrictions
Effective Date: September 1, 1976
Description: The following Indian Nations residing in New York are exempt where they are the purchaser, user or consumer: Cayuga, Oneida, Onondaga, Poospatuck, Saint Regis Mohawk, Seneca, Shinnecock, Tonawanda and Tuscarora. In addition, members of these Nations are excluded from tax for purchases made by them on the reservation in New York State.
Estimates: 2003: $2.0 million - 2006: $2.0 million
Data Source: U.S. Department of Commerce Census Bureau; U.S. Bureau of Indian Affairs
Reliability: Level 4C

114. U.S. Military Base Post Exchanges
Citation: 4 U.S. Code, Sections 104-110
Effective Date: August 1, 1965
Description: Sales, except sales of motor fuel, made on a military base at a post exchange or commissary are exempt.
Estimates: 2003: $8.0 million - 2006: $9.0 million
Data Source: Regional sales offices of U.S. Armed Services
Reliability: Level 4A

115. Nonprofit Health Maintenance Organizations
Citation: Section 1116(a)(7)
Effective Date: April 1, 1980
Description: Purchases by a nonprofit health maintenance organization subject to the provisions of Article 44 of the Public Health Law are tax exempt.
Estimates: 2003: $3.0 million - 2006: $4.0 million
Data Source: New York State Health Department
Reliability: Level 4A

116. Nonprofit Medical Expense Indemnity or Hospital Service Corporations
Citation: Insurance Law Article 43, Section 4310(j)
Effective Date: June 15, 1939
Description: The Insurance Law provides for an exemption from all State and local taxes (including State and local sales taxes) for certain entities. These entities include nonprofit corporations organized for the purpose of family medical expense indemnity, dental expense indemnity, hospital services or health services.
Estimates: 2003: $9.0 million - 2006: $9.0 million
Data Source: New York State Insurance Department
Reliability: Level 4A

117. Nonprofit Property/Casualty Insurance Companies
Citation: Insurance Law, Article 67, Section 6707
Effective Date: December 20, 2000
Description: The Insurance Law provides for an exemption from sales and use tax for a

nonprofit property/casualty insurance company subject to the provisions of Article 67 with respect to any property owned by it or under its jurisdiction, control or supervision.
Estimate: No data available
Reliability: Level 5

118. Rural Electric Cooperatives
Citation: Section 1116(a)(8)
Effective Date: September 1, 1983
Description: Exempt from tax on their purchases are cooperatives and foreign corporations doing business in this State pursuant to the Rural Electric Cooperative Law.
Estimates: 2003: Minimal - 2006: Minimal
Data Source: Rural Electric Cooperatives Association; U.S. Department of Agriculture
Reliability: Level 4A

119. Municipal Trash Removal Services
Citation: Section 1116(e)
Effective Date: June 30, 1980
Description: Receipts from the service of trash removal are exempt from tax where such service is rendered by or on behalf of a municipal corporation of the State other than New York City.
Estimates: 2003: $36.0 million - 2006: $36.0 million
Data Source: New York State Office of the State Comptroller
Reliability: Level 4B

Admission Charges

120. Certain Admission Charges
Citation: Section 1105(f)(1)
Effective Date: August 1, 1965; December 1, 1997 for circus admissions
Description: Exempt from tax are admission charges of ten cents or less, plus admission charges to: race tracks; boxing or wrestling matches; live circus performances, dramatic or musical arts performances; motion picture theaters; and sporting facilities where the patron is to be a participant, such as bowling alleys, health and fitness centers, and swimming pools.
Estimates: 2003: $62.0 million - 2006: $67.0 million
Data Source: U.S. Department of Commerce, Economic Census
Reliability: Level 4B

121. Amusement Park Admissions
Citation: Section 1122
Effective Date: July 27, 2004
Description: An exemption from sales and use tax applies to 75 percent of the admission charge to certain amusement parks when the charge includes a fee for the use of amusement rides within the park.
Termination Date: Expires October 1, 2006
Estimate: 2003: Not Applicable - 2006: Minimal

Data Source: New York State Department of Taxation and Finance
Reliability: 4A

122. Events Given for the Benefit of Charitable Organizations, Veterans Posts and Indian Nations
Citation: Section 1116(d)(1)(A)
Effective Date: August 1, 1965
Description: In general, admissions are exempt if all of the proceeds go exclusively to the benefit of a tax-exempt charitable organization, Indian Nations, or organization of past or present members of the Armed Forces.
Estimate: No data available
Reliability: Level 5

123. Events Given for the Benefit of Certain Orchestras and Opera Companies
Citation: Section 1116(d)(1)(B)
Effective Date: August 1, 1965
Description: Admissions are exempt if all of the proceeds go exclusively to the benefit of a society or organization conducted for the sole purpose of maintaining symphony orchestras or operas and receiving substantial support from voluntary contributions.
Estimate: No data available
Reliability: Level 5

124. National Guard Organization Events
Citation: Section 1116(d)(1)(c)
Effective Date: August 1, 1965
Description: Admissions are exempt if all of the proceeds go exclusively to the benefit of a National Guard organization.
Estimate: No data available
Reliability: Level 5

125. Municipal Police and Fire Department Events
Citation: Section 1116(d)(1)(D)
Effective Date: August 1, 1965
Description: Admissions are exempt if all of the proceeds go exclusively to the benefit of a police or fire department of a political subdivision of the State, including its pension or disability funds, or to volunteer fire and ambulance companies.
Estimate: No data available
Reliability: Level 5

126. Certain Athletic Games
Citation: Section 1116(d)(2)(A)
Effective Date: August 1, 1965
Description: Admissions to any athletic game or exhibition are exempt where the proceeds go exclusively to the benefit of elementary or secondary schools.
Estimate: No data available
Reliability: Level 5

127. Carnivals or Rodeos for Certain Charitable Organizations
Citation: Section 1116(d)(2)(B)
Effective Date: July 30, 1983
Description: Admissions to carnivals or rodeos in which any professional performer or operator participates for compensation are exempt when the entire net profit inures exclusively to the benefit of a tax-exempt charitable organization having as its charitable purpose the operation of a school.
Estimates: 2003: Minimal - 2006: Minimal
Data Source: U.S. Department of Commerce, Economic Census
Reliability: Level 4B

128. Agricultural Fairs
Citation: Section 1116(d)(3)(A)
Effective Date: August 1, 1965
Description: Admissions to agricultural fairs are exempt if no part of net earnings inures to the benefit of any stockholders or members of the association conducting the fair, and if the proceeds from the fair are used exclusively for the improvement, maintenance and operation of such agricultural fairs.
Estimates: 2003: Minimal - 2006: Minimal
Data Source: New York State Department of Agriculture
Reliability: Level 4A

129. Historical Homes, Gardens, Sites and Museums
Citation: Section 1116(d)(3)(B), (c)
Effective Date: August 1, 1965
Description: Admissions to an historical home or garden, historic sites, houses and shrines, or museums which are maintained and operated by a society or organization devoted to the preservation and maintenance of such historic places are exempt, provided that no part of net earnings goes to the benefit of any private stockholder or individual.
Estimate: No data available
Reliability: Level 5

Credits

130. Sales Tax Vendor Credit
Citation: Section 1137(f)
Effective Date: September 1, 1994; March 1, 1999 for increased rate
Description: A vendor allowance credit is provided to vendors who collect sales tax and remit the tax with their timely filed and fully paid quarterly or annual returns. The credit is equal to three and one-half percent of the State sales tax collected, up to a maximum credit of $150 per return. Prior to March 1, 1999 the credit equaled one and one-half percent up to $100 per return.
Estimates: 2003: $48.0 million - 2006: $59.0 million
Data Source: New York State Department of Taxation and Finance
Reliability: Level 3

131. Tangible Property Sold by Contractors in Certain Situations
Citation: Section 1119(a)
Effective Date: August 1, 1965
Description: A credit for taxes paid is allowed on the sale to or use by a contractor or subcontractor of tangible personal property if that property is used solely in the performance of a preexisting lump sum or unit price construction contract. The credit would only be applicable following a sales and use tax rate change.
Estimate: No data available
Reliability: Level 5

132. Veterinary Drugs
Citation: Section 1119(a)
Effective Date: September 1, 1978
Description: A credit for taxes paid is allowed on the sale to, or use by, a veterinarian of drugs or medicine if they are used by the veterinarian in rendering exempt services to livestock or poultry used in the production for sale of tangible personal property by farming. The credit also extends to farmers, who qualify for the farming exemption, for use by such persons on livestock or poultry.
Estimate: No data available
Reliability: Level 5

133. Construction Materials Used in Empire Zones
Citation: Section 1119(a)
Effective Date: September 1, 1986
Description: A credit for taxes paid is allowed on the sale of tangible personal property purchased for use in constructing, expanding or rehabilitating industrial or commercial real property located in an Empire Zone, but only to the extent that such property becomes an integral component part of the real property.
Estimate: No data available
Reliability: Level 5

134. Bus Companies Providing Local Transit Service
Citation: Section 1119(b)
Effective Date: March 1, 1974
Description: A credit for taxes paid is allowed on the sale to, or use by, an omnibus carrier in New York of any omnibus, parts, equipment, lubricants, motor fuel, diesel fuel, maintenance, or service or repair purchased and used in the operation of any such omnibus by such carrier. The amount of credit is based on the ratio of the vehicle mileage in local transit service in New York to the total vehicle mileage in the State.
Estimates: 2003: Minimal - 2006: Minimal
Data Source: New York State Department of Taxation and Finance
Reliability: Level 4A

135. Vessel Operators Providing Local Transit Service
Citation: Section 1119(b)
Effective Date: December 1, 2004

Description: A credit or refund for taxes paid is allowed on the sale to, or use by a vessel operator of any vessel, parts, equipment, lubricants, diesel motor fuel, maintenance, servicing, or repairs purchased and used in the operation of certain vessels providing local transit service (e.g., water taxis). The credit or refund is provided according to the percentage of the vessel's use in local transit service.
Estimate: 2003: Not Applicable - 2006: Minimal
Data Source: New York City Department of Transportation
Reliability: 4B

PETROLEUM BUSINESS TAX

This section provides tax expenditure estimates for 28 provisions of the Petroleum Business Tax. Table 9 provides a list of expenditures based on the Tax Law as of January 1, 2006. The estimates are based on data for the 2004 calendar year (the latest complete year for which tax return data is available) and then extrapolated to the 2006 calendar year. Total Petroleum Business Tax liability for calendar 2004 is provided as a benchmark for the tax expenditure estimates.

Description of Tax

Article 13-A of the Tax Law imposes a business privilege tax on petroleum businesses operating in New York State. The tax is measured by the quantity of various petroleum products refined or sold in the State or imported for sale or use in the State. Imposition of the tax occurs at different points in the distribution chain, depending upon the type of petroleum product. Motor fuel (gasoline) is subject to tax upon importation to New York State. Automotive diesel motor fuel is taxable upon the first non-exempt sale or use of the product in New York. Non-automotive diesel fuel and residual petroleum products become taxable on the final sale or use of the product in New York.

The Article 13-A business privilege tax was added to the Tax Law in 1983 and was imposed on the gross receipts of such businesses. The tax was initially imposed at the rate of 3.25 percent and was reduced to 2.75 percent on April 1, 1984. On June 1, 1990, the rate was increased to 7.2 percent and was subject to a 15 percent surcharge similar to that applied temporarily to other businesses. On September 1, 1990, the tax was restructured, converting the annual gross receipts tax to a monthly tax measured by gallons.

Some of the exemptions, credits, and reimbursements provided for in the restructuring applied to the prior gross receipts tax. Although these provisions already had been in place, the effective dates and estimates cited herein reflect the date on which they were restructured.

The rate schedule displays the petroleum business tax rates effective January 1, 2006. These rates generally have two components: the basic tax whose rates vary by product type and the supplemental tax. For example, the motor fuel tax rate of 15.9 cents per gallon consists of a 9.6 cents per gallon basic tax and a 6.3 cents per gallon supplemental tax.

Data Sources

The major sources of data used to compute the tax expenditure estimates under Article 13-A include:

C Petroleum Business Tax (PBT) Master File for 2000-2004. This is an unverified file of all taxpayers filing a return under Article 13-A. Some of the expenditure items, as indicated, were simulated using this file by reading the gallons from the database and applying the statutory tax rate for the appropriate periods to arrive at an estimate of revenue foregone. For kerosene, bunker fuel, crude oil and liquid petroleum gas, where no statutory tax rate existed, the most closely associated tax rate was selected. The rate used for each type of fuel are as follows: kerosene - the non-automotive diesel fuel rate; bunker fuel and crude oil the residual petroleum products rate; and for liquid petroleum gas the motor fuel rate and non-automotive diesel rates.

C Refund data from the Department's Audit Division.

C Nontax data sources such as: Data from the U.S. Department of Energy and U.S. Department of Defense and New York State Energy Research and Development Authority.

Methodology

The projections of the tax expenditures from 2004 to 2006 are based, where possible, on forecasted consumption of various petroleum products. These forecasts were produced by the U.S. Department of Energy. The remaining expenditure estimates used forecasts of appropriate economic variables.

Tax expenditures whose values are less than $0.1 million are considered minimal and are designated by an asterisk.

Petroleum Business Tax Rates as of January 1, 2006
(Cents-Per-Gallon)

Product			
Taxes:	Base Tax	Supplemental Tax	Total Tax
Motor Fuel and Aviation Gasoline	9.6	6.3	15.9
Automotive Diesel Fuel	9.6	4.55	14.15
Railroad Diesel	8.3	—	8.3
Kero-jet Fuel	6.3	—	6.3
Non-automotive Type Diesel Fuel	8.6	6.3	14.9
Residual Petroleum Product	6.6	6.3	12.9
Credits/Reimbursements:	Base Credit	Supplemental Credit	Total Credit
Electric Utility Credit/Reimbursement			
Unenhanced Diesel Fuel (Primarily No. 2 Fuel Oil)	5.76	—	5.76
Residual Fuel	5.72	—	5.72
Manufacturing Reimbursement 1/			
Unenhanced Diesel Motor Fuel (Primarily No. 2 Fuel Oil)	8.6	6.3	14.9
Residual Petroleum Product	6.6	6.3	12.9
Commercial Gallonage			
Unenhanced Non-automotive Type Diesel Fuel			
Residual Petroleum Product	—	6.3	6.3
Non-residential Heating 4/			
Unenhanced Diesel Motor Fuel	4.0		4.0
Residual Petroleum Product	3.0	—	3.0
Railroad Gallonage	1.3	4.55	5.85
Farm Use Reimbursement 2/			
Motor Fuel	9.6	6.3	15.9
Commercial Fisherman Reimbursement			
Motor Fuel	9.6	6.3	15.9
Diesel Motor Fuel	9.6	4.55	14.15
Distributor of Aviation Gasoline Reimbursement	3.3	6.3	9.6
Not-for-Profit and Veterans' Group Credit/Reimbursement 3/			
Unenhanced Diesel Motor Fuel	8.6	6.3	14.9
Residual Petroleum Product	6.6	6.3	12.9

1/ Unenhanced diesel motor fuel and residual petroleum product used and consumed directly and exclusively in the production of tangible personal property are exempt from the tax.

2/ Diesel motor fuel and residual petroleum product for farm use are exempt from the tax.

3/ Unenhanced diesel motor fuel and residual petroleum product used and consumed exclusively by certain not-for-profit organizations and veterans' groups for related activities are exempt from the tax.

4/ This reimbursement rate applies where the PBT commercial gallonage rate of 8.6 cents per gallon was paid at the time of purchase and the product was subsequently used for non-residential heating purposes. Other reimbursement rates would apply if the product used was enhanced diesel motor fuel or if the full automotive or non-automotive diesel rates were paid at the time of purchase and the product was subsequently used for non-residential heating purposes.

Table 9
2006 New York State Petroleum Business Tax Expenditure Estimates
(2004 Calendar Year Total Petroleum Business Tax Liability = $1,063 Million)
(Millions of Dollars)

Tax Law	History 2000	2001	2002	2003	2004	Forecast 2006	Reliability Level
Exemptions							
Products							
1. Kerosene	12.0	12.0	8.7	7.3	6.7	7.3	2
2. Bunker Fuel	1.1	23.8	33.8	30.5	33.3	36.4	2
3. Crude Oil and Liquid Petroleum Gases	43.0	38.1	48.3	45.5	44.9	47.9	4
Sales							
4. Governments	61.4	56.7	57.3	66.2	69.2	73.5	2
5. Residential Heating	255.5	276.1	252.3	274.7	280.4	288.2	2
6. Fuel Used for Manufacturing Purposes 1/	13.8	13.8	13.5	15.6	17.8	19.4	2
7. Fuel Used for Farm Production 2/	5.4	6.2	5.8	6.4	7.1	7.8	2
8. Not-for-Profit Organizations and Veterans Groups	12.2	12.6	10.5	14.5	14.2	15.5	2
9. Fuel Used for Railroad Purposes	2.8	2.3	2.0	2.0	2.1	2.3	2
10. Certain Commercial Gallonage	48.6	58.8	44.7	75.2	88.6	97.0	2
11. Fuel Used for Non-Residential Heating Purposes	--	6.7	11.3	15.1	13.9	15.0	2
Credit, Refund or Reimbursement							
12. Residential Heating Fuel	*	*	*	*	0.1	*	2
13. Governments	1.5	1.5	1.8	1.7	1.1	2.0	2
14. Omnibus Carriers	4.5	4.5	5.6	5.5	2.3	2.5	2
15. Non-Public School Operators	0.1	0.1	*	*	*	*	2
16. Regulated Electric Utilities	13.3	9.6	*	*	*	*	2
17. Fuel Used for Manufacturing Purposes 3/	*	0.1	0.1	0.1	*	*	2
18. Certain Commercial Gallonage	1.6	2.5	2.5	2.7	*	*	2
19. Fuel Used by Commercial Fishers	0.6	0.6	0.6	0.5	0.2	0.5	2

		History					Forecast	Reliability
		2000	2001	2002	2003	2004	2006	Level
20.	Fuel Used for Farm Production 4/	0.4	0.3	0.3	*	0.6	0.5	2
21.	Fuel Used for Railroad Purposes	2.3	1.0	0.5	0.6	*	*	2
22.	Fuel Used for Non-residential Heating Purposes 5/	--	*	*	*	*	*	2
23.	Fuel Used for Mining or Extracting Purposes	--	*	0.2	0.5	0.9	1.0	2
24.	Bad Debts	*	*	*	*	0.1	*	2
25.	Not-for-Profit Organizations and Veterans Groups	*	*	*	*	*	*	2
26.	Fuel Used by Passenger Commuter Ferries	0.1	0.3	0.2	0.3	0.2	0.4	2
Exempt Entities								
27.	Governments, the United Nations and Certain Not-for-Profit Organizations	*	*	*	*	*	*	4
28.	Certain Airlines 6/	--	--	--	--	--	1.3	2

* Less than $0.1 million.

N/A No data available

-- The tax expenditure was not applicable for these years.

1/ Non-automotive diesel fuel and residual petroleum product used and consumed directly and exclusively in the production of TPP for sale as part of a manufacturing process are fully exempt from the PBT, effective January 1, 1998.

2/ Non-automotive diesel fuel used for farming was exempt from the supplemental portion of tax beginning July 1991. Non-automotive diesel fuel and residual fuel used for farming is exempt from entire tax beginning September 1, 1994.

3/ Credit or refunds were available for the supplemental portion of non-automotive diesel or residual product purchased tax paid and subsequently used to produce TPP for manufacturing. Effective January 1, 1998, these products are now fully exempt from the petroleum business tax.

4/ Refunds were available for the supplemental portion of non-automotive diesel product purchased tax paid and subsequently used for farming purposes. Full refunds are now available only for motor fuel used for farming purposes effective September 1, 1994.

5/ Prior to September 1, 2002, refunds were available for the supplemental tax plus 20 percent of the base tax. Effective September 1, 2002, these refunds are available for the supplemental tax plus 46 percent of the base tax.

6/ Effective June 1, 2005, airlines which service four or more cities in the state with direct non-stop flights between these cities are exempt from PBT.

Exemptions

The petroleum business tax allows certain exemptions for gallonage otherwise included in the calculation of tax.

Products

1. **Kerosene**
Citation: Section 301-b(a)(1)
Effective Date: September 1, 1990
Description: Exemptions from tax apply to kerosene sold or used by a petroleum business registered as a diesel motor fuel distributor. The exemption applies to kerosene which has not been blended or mixed with any diesel motor fuel, motor fuel or residual petroleum product and is not used by the petroleum business as fuel to operate a motor vehicle or sold to a consumer to use as fuel for operation of a motor vehicle.
Estimates: 2004: $6.7 million - 2006: $7.3 million
Data Source: PBT Master File
Reliability: Level 2

2. **Bunker Fuel**
Citation: Section 301-b(a)(4)
Effective Date: September 1, 1990
Description: This section exempts from tax residual petroleum products sold by a business registered as a "residual petroleum business" to a consumer for exclusive use as bunker fuel, or, for use by the residual petroleum business as bunker fuel for its own vessels. Bunker fuel is petroleum fuel used in ships.
Estimates: 2004: $33.3 million - 2006: $36.4 million
Data Source: PBT Master File
Reliability: Level 2

3. **Crude Oil and Liquid Petroleum Gases**
Citation: Section 301-b(a)(5)
Effective Date: September 1, 1990
Description: An exemption from tax is allowed for crude oil and liquid petroleum gases such as butane, ethane, or propane.
Estimates: 2004: $44.9 million - 2006: $47.9 million
Data Source: Crude oil: U.S. Department of Energy; Liquid Petroleum Gases: PBT Master File and U.S. Department of Energy
Reliability: Level 4

Sales

4. **Governments**
Citation: Section 301-b(c), 301-e(e)(4)
Effective Date: September 1, 1990
Description: The petroleum business tax exempts the sales of motor fuel, enhanced

diesel motor fuel, diesel motor fuel, or residual petroleum products to the State of New York, the United States of America, or any of their agencies, instrumentalities, or political subdivisions. The exemption applies where such fuel is used by these entities for its own use or consumption. An exemption from tax also exists for naphtha based aviation fuel used solely for propelling military jet aircraft of the United States Armed Forces.
Estimates: 2004: $69.2 million - 2006: $73.5 million
Data Source: PBT Master File and U.S. Department of Defense
Reliability: Level 2

5. Residential Heating
Citation: Section 301-b(d)
Effective Date: September 1, 1990
Description: An exemption from tax applies to unenhanced diesel motor fuel, enhanced diesel motor fuel and residual petroleum product sold by a registered distributor of the product, to a consumer, exclusively for residential heating purposes.
Estimates: 2004: $280.4 million - 2006: $288.2 million
Data Source: PBT Master File
Reliability: Level 2

6. Fuel Used for Manufacturing Purposes
Citation: Section 301-a(f)(4), 301-a(g)(4)
Effective Date: January 1, 1998
Description: The sale or use of residual fuel or non-automotive diesel fuel for use and consumption directly and exclusively in the production of tangible personal property for sale by manufacturing, processing or assembly are exempt from the full petroleum business tax. Prior to January 1, 1998 (effective in September 1994), the above sales or uses of such fuels were exempt from the supplemental portion of the petroleum business tax. (See 17. Fuel Used for Manufacturing Purposes for reimbursement if the tax was paid on subsequent sales.)
Estimates: 2004: $17.8 million - 2006: $19.4 million
Data Source: PBT Master File
Reliability: Level 2

7. Fuel Used for Farm Production
Citation: Section 301-b(g)
Effective Date: September 1, 1994
Description: The sale or use of diesel motor fuel and residual petroleum product for off-highway farm production of goods for sale are exempt from the tax. However, the fuel must be delivered on the farm site and no more than 4,500 gallons of diesel motor fuel in a 30 day period may be exempted without prior clearance given by the Commissioner of Taxation and Finance. (See 20. Fuel Used for Farm Production.) Prior to September 1, 1994 (effective in July 1991), the sale of diesel motor fuel for off-highway farm production of goods for sale was exempt from the supplemental portion of the tax. No exemption was available for residual fuel prior to September 1, 1994.
Estimates: 2004: $7.1 million - 2006: $7.8 million

Data Source: PBT Master File
Reliability: Level 2

8. **Not-for-Profit Organizations and Veterans Groups**
Citation: Section 301-b(h)
Effective Date: January 1, 1996
Description: Not-for-profit organizations and veterans' groups purchasing and using residual fuel or non-automotive diesel fuel for their exclusive use are eligible for a full up-front exemption from the tax. These organizations include not-for-profit groups organized for religious, charitable, scientific, testing for public safety, literary or educational purposes, to foster national or international amateur sports competition, for the prevention of cruelty to children or animals, or veteran groups as listed in Section 1116(a)(4) or (5) of the Tax Law. (See 25. Not-for-Profit Organizations and Veterans Groups for a full credit/reimbursement of the tax.) Before January 1, 1996 (effective September 1, 1995), sales of unenhanced diesel motor fuel and residual petroleum product to not-for-profit organizations were exempt only from the supplemental tax.
Estimates: 2004: $14.2 million - 2006: $15.5 million
Data Source: PBT Master File
Reliability: Level 2

9. **Fuel Used for Railroad Purposes**
Citation: Section 301-a(e)(4); 301-j(a)(3)
Effective Date: January 1, 1997
Description: The sale of diesel motor fuel for use or consumption directly and exclusively in the operation of a locomotive or a self-propelled vehicle run only on rails or tracks is exempt from the supplemental portion of the tax. Such fuel is also taxed at a preferential rate under the base portion of the tax which is computed as the automotive diesel base rate less 1.3 cents. (See 21. Fuel Used for Railroad Purposes for refund/reimbursement of tax.)
Estimates: 2004: $2.1 million - 2006: $2.3 million
Data Source: PBT Master File and refund data from the Department of Taxation and Finance's Audit Division
Reliability: Level 2

10. **Certain Commercial Gallonage**
Citation: Section 301-j(a)(2)
Effective Date: March 1, 1997
Description: Commercial gallonage defined as non-automotive type diesel fuel and residual fuel that does not qualify for the utility credit/reimbursement or the manufacturing exemption or the not-for-profit exemption is exempt from the supplemental portion of the tax. This fuel is primarily used for space heating. (See 18. Certain Commercial Gallonage for refund/reimbursement of tax.)
Estimates: 2004: $88.6 million - 2006: $97.0 million
Data Source: PBT Master File
Reliability: Level 2

11. Fuel Used for Non-residential Heating Purposes
Citation: Section 301-b(d)(2)
Effective Date: April 1, 2001
Description: A partial exemption from tax applies to unenhanced diesel motor fuel, enhanced diesel motor fuel and residual petroleum product sold by a registered distributor of the product, to a consumer, exclusively for non-residential heating purposes. The rate of the partial exemption was calculated as the then current PBT supplemental tax rate (imposed under Section 301-j) plus 20 percent of the then current PBT base rate (imposed under Section 301-a) for the applicable fuel above. Effective September 1, 2002, this partial exemption is calculated as the then current supplemental tax rate plus 46 percent of the then current PBT base rate.
Estimates: 2004: $13.9 million - 2006: $15.0 million
Data Source: PBT Master File
Reliability: Level 2

Credit, Refund or Reimbursement

A credit, refund or reimbursement is allowed against taxes paid by certain petroleum businesses for particular petroleum products.

12. Residential Heating Fuel
Citation: Section 301-c(a)
Effective Date: September 1, 1990
Description: A reimbursement is allowed for taxes paid by subsequent purchasers of diesel motor fuel purchased in the State and sold to a consumer for use exclusively for residential heating purposes.
Estimates: 2004: $0.1 million - 2006: Minimal
Data Source: Refund data from the Department of Taxation and Finance's Audit Division
Reliability: Level 2

13. Governments
Citation: Section 301-c(b)
Effective Date: September 1, 1990
Description: This section provides a reimbursement for taxes paid pursuant to the petroleum business tax on motor fuel and diesel motor fuel purchased in the State and then sold by the purchaser to the State of New York, the United States of America, or any of their instrumentalities, agencies or political subdivisions.
Estimates: 2004: $1.1 million - 2006: $2.0 million
Data Source: Refund data from the Department of Taxation and Finance's Audit Division
Reliability: Level 2

14. Omnibus Carriers
Citation: Section 301-c(c)
Effective Date: April 1, 1992

Description: A reimbursement is allowed for taxes paid on motor fuel and diesel motor fuel purchased in the State by an omnibus carrier. The reimbursement applies to fuel used in the operation of: i) an omnibus in local transit service pursuant to a certificate of convenience and necessity issued by the Commissioner of the Department of Transportation, or issued by the Interstate Commerce Commission of the United States, or pursuant to a contract, franchise or consent with a city having a population of one million or more; and, ii) as a school bus used for the transportation of children in the State pursuant to the Education Law.
Estimates: 2004: $2.3 million - 2006: $2.5 million
Data Source: Refund data from the Department of Taxation and Finance's Audit Division
Reliability: Level 2

15. **Non-Public School Operators**
Citation: Section 301-c(d)
Effective Date: April 1, 1992
Description: This section provides a reimbursement for taxes paid on motor fuel and diesel motor fuel purchased in the State by a non-public school operator and consumed by the operator exclusively for education related activities.
Estimates: 2004: Minimal - 2006: Minimal
Data Source: Refund data from the Department of Taxation and Finance's Audit Division
Reliability: Level 2

16. **Regulated Electric Utilities**
Citation: Section 301-d
Effective Date: September 1, 1990
Description: These sections extend a credit, refund, or reimbursement for the tax surcharge and part of the basic tax for fuel used in the production of electricity. For periods July 1991 and August 1991, this credit was available only for petroleum used to produce residential electricity.
Estimates: 2004: Minimal - 2006: Minimal
Data Source: PBT Master File
Reliability: Level 2

17. **Fuel Used for Manufacturing Purposes**
Citation: Section 301-c(j)
Effective Date: January 1, 1998
Description: Purchasers who subsequently sell residual fuel or non-automotive diesel fuel used and consumed for manufacturing purposes may be reimbursed for the full petroleum business tax. (See 6. Fuel Used for Manufacturing Purposes for the up-front exemption.) Prior to January 1, 1998 (effective in September 1994), the above purchasers making such sales were eligible for reimbursement of the supplemental portion of the petroleum business tax.
Estimates: 2004: Minimal - 2006: Minimal
Data Source: Refund data from the Department of Taxation and Finance's Audit

Division
Reliability: Level 2

18. **Certain Commercial Gallonage**
Citation: Section 301-c(i)(1, 2)
Effective Date: March 1, 1997
Description: Reimbursements are allowed to a consumer where such consumer purchased non-automotive type diesel fuel or residual fuel, absorbed the supplemental portion of the tax in the purchase price and used such gallonage as "commercial gallonage." The reimbursement is calculated as the amount of such gallonage multiplied by the then applicable supplemental tax rate. (See 10. Certain Commercial Gallonage for refund/reimbursement of tax.) Prior to March 1997 (and subsequent to September 1994), commercial gallonage was eligible for a credit/reimbursement at a rate of one-half the then applicable supplemental tax plus surcharge on the supplemental tax under Section 301-k.
Estimates: 2004: Minimal - 2006: Minimal
Data Source: Refund data from the Department of Taxation and Finance's Audit Division
Reliability: Level 2

19. **Fuel Used by Commercial Fishers**
Citation: Section 301-c(e)
Effective Date: September 1, 1994
Description: A reimbursement is allowed for diesel motor fuel and motor fuel used in the operation of a commercial fishing vessel by commercial fishers while such vessel is engaged in harvesting fish for sale.
Estimates: 2004: $0.2 million - 2006: $0.5 million
Data Source: Refund data from the Department of Taxation and Finance's Audit Division
Reliability: Level 2

20. **Fuel Used for Farm Production**
Citation: Section 301-c(e), (f)
Effective Date: September 1, 1994
Description: Reimbursements are allowed for diesel motor fuel and residual fuel purchased in this State and sold by such purchaser to a consumer for farm use. In addition, a purchaser of motor fuel who uses the fuel for farm production is eligible for a reimbursement of the PBT. The reimbursement is only allowed if it is not more than 1,500 gallons of gasoline purchased in a 30 day period, or for greater amounts with prior clearance by the Commissioner of Taxation and Finance. The motor fuel must be delivered on the farm site and consumed off-highway in the production of goods for sale. (See 7. Fuel Used for Farm Production for the up-front exemption.) Prior to September 1, 1994 (effective in July 1991), the sale of diesel motor fuel for off-highway farm production of goods for sale was exempt from the supplemental portion of the tax. No exemption was available for residual or motor fuel prior to September 1, 1994.
Estimates: 2004: $0.6 million - 2006: $0.5 million

Data Source: Refund data from the Department of Taxation and Finance's Audit Division
Reliability: Level 2

21. Fuel Used for Railroad Purposes
Citation: Section 301-c(k)(1, 2)
Effective Date: January 1, 1997
Description: Reimbursements are allowed to subsequent purchasers, who are registered as distributors of diesel motor fuel, have absorbed the full PBT automotive diesel rate and then sell such fuel as "railroad diesel." The amount of the reimbursement is equal to the difference between the full automotive diesel rate and the railroad diesel rate. (See 9. Fuel Used for Railroad Purposes for exemption from tax.)
Estimates: 2004: Minimal - 2006: Minimal
Data Source: Department of Taxation and Finance Audit Division
Reliability: Level 2

22. Fuel Used for Non-residential Heating Purposes
Citation: Section 301-c(a)(2)
Effective Date: April 1, 2001
Description: A partial reimbursement from tax applies to diesel motor fuel purchased in the State and then sold by such purchaser to a consumer exclusively for non-residential heating purposes. The partial reimbursement is provided only when such diesel motor fuel is delivered into a storage tank (which is not equipped with a hose or other apparatus where such fuel can be dispensed into the tank of a motor vehicle) – and where such tank is attached to the heating unit burning such fuel. Additionally, the purchaser must possess documentary proof that it absorbed the full amount of the PBT.
The rate of the partial reimbursement was calculated as the then current PBT supplemental tax rate (imposed under Section 301-j) plus 20 percent of the then current PBT base rate (imposed under Section 301-a) applicable for the specific diesel motor fuel rate above. Effective September 1, 2002, this partial exemption is calculated as the then current supplemental tax rate plus 46 percent of the then current PBT base rate.
Estimates: 2004: Minimal - 2006: Minimal
Data Source: Department of Taxation and Finance Audit Division
Reliability: Level 2

23. Fuel Used for Mining or Extracting Purposes
Citation: Section 301-c(l)
Effective Date: April 1, 2001
Description: A purchaser may obtain a reimbursement of the PBT paid on diesel motor fuel or residual petroleum product when such fuel is purchased exclusively for use and consumption directly and exclusively in the production of tangible personal property for sale by mining or extracting. The reimbursement is provided only where such fuel is delivered at the mining or extracting site and is consumed other than on the highways of the State. Additionally, the purchaser must possess documentary proof that it absorbed the full amount of the PBT.
Estimates: 2004: $0.9 million - 2006: $1.0 million

Data Source: Refund data from the Department of Taxation and Finance's Audit Division
Reliability: Level 2

24. **Bad Debts**
Citation: Section 301-l
Effective Date: September 1, 1994
Description: A registered petroleum business or aviation fuel business may apply for a refund for PBT that it has paid with respect to gallonage sold in-bulk by the business for the purchaser's own consumption. The same must then give rise to a debt that becomes worthless for Federal income tax purposes. In addition, a sale of motor fuel and enhanced diesel motor fuel to a filling station is a sale in-bulk for such filling station's own use and consumption. Sales by a filling station are not eligible for this refund.
Estimates: 2004: $0.1 million - 2006: Minimal
Data Source: Refund data from the Department of Taxation and Finance's Audit Division
Reliability: Level 2

25. **Not-for-Profit Organizations and Veterans Groups**
Citation: Section 301-c(h)
Effective Date: January 1, 1996
Description: Purchasers who subsequently sell residual fuel or non-automotive diesel fuel used and consumed exclusively by certain not-for-profit organizations and veterans' groups may apply for a full refund of the PBT. These organizations include the organizations listed in Section 1116(a)(4) or (5) of the Tax Law. (See 8. Not-for-Profit Organizations and Veterans Groups for the full up-front exemption.)
Estimates: 2004: Minimal - 2006: Minimal
Data Source: Refund data from the Department of Taxation and Finance's Audit Division
Reliability: Level 2

26. **Fuel Used by Passenger Commuter Ferries**
Citation: 301-c(m)
Effective Date: December 1, 2000
Description: A reimbursement is allowed for diesel motor fuel and residual petroleum product used and consumed by a passenger commuter ferry when such fuel is used exclusively in providing a mass transportation service.
Estimates: 2004: $0.2 million - 2006: $0.4 million
Data Source: Refund data from the Department of Taxation and Finance's Audit Division
Reliability: Level 2

Exempt Entities

27. **Governments, the United Nations, and Certain Not-for-Profit Organizations**
Citation: Section 305
Effective Date: July 1, 1983
Description: Organizations exempt under the Sales Tax (Section 1116(a)) that import petroleum into New York exclusively for their own use and consumption are not considered petroleum businesses and are exempt from the PBT. These organizations include: the State of New York, the United States of America and any of its agencies, instrumentalities, or political subdivisions; the United Nations; or any international organization of which the United States is a member; any trust, corporation, association, fund or foundation operated exclusively for religious, charitable, or scientific purposes, or to foster international amateur sports competition, for the prevention of cruelty to children or animals, veteran's groups; certain Indian nations or tribes and certain not-for-profit health maintenance organizations.
Estimates: 2004: Minimal - 2006: Minimal
Data Source: PBT Master File
Reliability: Level 4

28. **Certain Airlines**
Citation: 301-e(f)
Effective Date: June 1, 2005
Description: Aviation fuel businesses (i.e. airlines) which service four or more cities in the State with direct non-stop flights between these cities are fully exempt from the PBT. This provision will allow these airlines to "burn" jet fuel on take-offs in New York State without paying the PBT whether the associated flights or legs of flights are intra or interstate in destination. The provision became effective June 1, 2005.
Estimates: 2004: Not Applicable - 2006: $1.3 million
Data Source: PBT Master File
Reliability: Level 2

REAL ESTATE TRANSFER TAX

This section of the report provides tax expenditure estimates for 16 separate provisions of the real estate transfer tax. Table 10 provides a list of expenditures based on the Tax Law as of January 1, 2006. The estimates are based on liability data from the 2003-04 fiscal year. Base year 2003-04 liability is also extrapolated to the 2006-07 fiscal year. The estimates are based on an examination of liability incurred between April 1 and March 31. Real estate transfer tax liability for the 2003-04 fiscal year has been included to provide some perspective to the tax expenditure estimates.

Description of Tax

Adopted in 1968, Article 31 of the New York State Tax Law imposes a real estate transfer tax on the conveyance of real property or an interest in real property where the consideration exceeds $500. Payment is due no later than fifteen days after the delivery of the instrument effecting the conveyance (such as a deed). The rate of tax equals two dollars for every five hundred dollars (or fraction thereof) of consideration. Responsibility for payment rests with the person making the conveyance, the grantor. If the grantor (the seller) has failed to pay the tax or is exempt from liability, the grantee (the buyer) is responsible for payment.

The transfer tax also applies to conveyances of shares of stock in a cooperative housing corporation, the creation of long-term leaseholds and subleases, and transfers or acquisitions of a controlling interest in an entity which owns an interest in real property.

Together with the basic transfer tax, an additional one percent tax (the “mansion” tax) is imposed on the conveyance of residential real property or interest therein where the consideration is one million dollars or more. The additional tax is imposed upon the grantee. However, if the grantee is exempt from tax, then the tax is imposed on the grantor.

Data Sources

The major source of data used to compute the tax expenditure estimates include:

- Real Estate Transfer Tax Return Database - This file, compiled by the Department of Taxation and Finance, includes information on selected transfers of real property. It includes data items from the TP-584 tax return filed with these transfers and is an unverified data file.

Methodology

Historical estimates are projected to Fiscal Year 2006-07 levels using various economic forecast variables.

Table 10
2006 New York State Real Estate Transfer Tax Expenditure Estimates
(Fiscal Year 2004 Total Real Estate Transfer Tax Liability = $510.44 Million)
(Millions of Dollars)

	Tax Law	History 2000-01	History 2001-02	History 2002-03	History 2003-2004	Forecast 2006-07	Reliability Level
Exclusions							
1.	Continuing Lien Deduction	2.4	2.2	2.5	5.0	2.9	2
Exemptions							
2.	State of New York	N/A	N/A	N/A	N/A	N/A	5
3.	The United Nations and United States of America	N/A	N/A	N/A	N/A	N/A	5
4.	Conveyances to the United Nations, United States of America, or State of New York	2.5	2.5	2.3	8.9	3.9	2
5.	Conveyances Which Secure a Debt or Other Obligation	0.2	0.2	0.3	0.5	0.3	2
6.	Conveyances that Confirm, Correct, Modify or Supplement Prior Conveyance	0.2	0.2	0.2	0.7	0.3	2
7.	Bona Fide Gifts and Conveyance WithoutConsideration	0.4	0.7	0.6	0.7	0.5	2
8.	Tax Sale	0.2	0.1	0.2	0.4	0.2	2
9.	Mere Changes of Identity	1.8	6.3	4.7	3.4	3.5	2
10.	Deeds of Partition	*	*	*	0.1	*	2
11.	Federal Bankruptcy Act	1.0	0.4	0.5	0.8	1.1	2
12.	Contract to Sell or Option to Purchase Without Use	0.2	0.1	0.2	1.5	0.5	2
13.	Option or Contract to Purchase With Right to Occupy	0.1	0.1	0.1	0.1	0.1	2
Credit							
14.	Credit for Prior Transfer Tax Paid	0.4	1.3	2.2	1.3	1.1	2
15.	Cooperative Housing Corporation Transfer Credit	0.7	0.5	0.9	1.0	0.8	2
Preferential Tax Rates							
16.	Real Estate Investment Trust Transfers (Initial Formation)	*	*	*	0.0	0.0	2

*	Minimal
--	The tax expenditure was not applicable for these years.
N/A	No data available
A/	Tax Law prohibits the disclosure of individual taxpayer information.

Exclusions

1. Continuing Lien Deduction
Citation: Section 1402
Effective Date: August 1, 1968 (amended May 1, 1983)
Description: The real estate transfer tax excludes the amount of any lien or encumbrance remaining at the time of sale involving a one-, two-, or three-family house or individual residential condominium unit, from the total consideration used to calculate the tax due. Additionally, consideration does not include the value of any lien or encumbrance at the time of sale where consideration is less than $500,000.
Estimates: FY2004: $5.0 million - FY2007: $2.9 million
Data Source: RETT Database
Reliability: Level 2

Exemptions

Section 1405 of the New York State Tax Law exempts certain organizations from payment of the transfer tax. Liability for any tax incurred, when an exempt organization is the grantor, becomes the responsibility of the grantee and is payable no later than 15 days after delivery of the instrument effecting the conveyance. Where both parties are exempt there is no tax due. Section 1405 also exempts certain conveyances from tax.

2. State of New York
Citation: Section 1405(a)(1)
Effective Date: August 1, 1968
Description: This section exempts the State of New York or any of its agencies, instrumentalities, political subdivisions, or public corporations (including a public corporation created pursuant to an agreement with another state or Dominion of Canada) from liability for the transfer tax.
Estimate: No data available
Reliability: Level 5

3. The United Nations and United States of America
Citation: Section 1405(a)(2)
Effective Date: August 1, 1968
Description: The real estate transfer tax excuses the United Nations, the United States of America and any of its agencies or instrumentalities from incurring liability for payment of the tax.
Estimate: No data available
Reliability: Level 5

4. Conveyances to the United Nations, United States of America, or State of New York
Citation: Section 1405(b)(1)
Effective Date: August 1, 1968
Description: Exempt from tax are conveyances to the United Nations, the United

States of America, the State of New York, or any of their agencies, political subdivisions, instrumentalities or any public corporation (including public corporations created pursuant to an agreement with another state or Dominion of Canada).
Estimates: FY2004: $8.9 million - FY2007: $3.9 million
Data Source: RETT Database
Reliability: Level 2

5. Conveyances Which Secure a Debt or Other Obligation
Citation: Section 1405(b)(2)
Effective Date: August 1, 1968
Description: The transfer tax exempts conveyances used to secure a debt or other obligation.
Estimates: FY2004: $0.5 million - FY2007: $0.3 million
Data Source: RETT Database
Reliability: Level 2

6. Conveyances that Confirm, Correct, Modify or Supplement a Prior Conveyance
Citation: Section 1405(b)(3)
Effective Date: August 1, 1968
Description: The real estate transfer tax does not apply to conveyances which without additional consideration confirm, correct, modify or supplement a prior conveyance.
Estimates: FY2004: $0.7 million - FY2007: $0.3 million
Data Source: RETT Database
Reliability: Level 2

7. Bona Fide Gifts and Conveyance Without Consideration
Citation: Section 1405(b)(4)
Effective Date: August 1, 1968
Description: Conveyances exempted from the tax include: conveyances made without consideration, bona fide gifts, bequests or inheritances.
Estimates: FY2004: $0.7 million - FY2007: $0.5 million
Data Source: RETT Database
Reliability: Level 2

8. Tax Sale
Citation: Section 1405(b)(5)
Effective Date: August 1, 1968
Description: The real estate transfer tax exempts any conveyance given in connection with a tax sale.
Estimates: FY2004: $0.4 million - FY2007: $0.2 million
Data Source: RETT Database
Reliability: Level 2

9. Mere Changes of Identity
Citation: Section 1405(b)(6)
Effective Date: July 1, 1989

Description: The transfer tax does not apply to a conveyance used to effectuate a mere change in identity or form of ownership where there is no change in beneficial ownership. This exemption is not applicable to conveyances to a cooperative housing corporation of the real property comprising the cooperative dwelling.
Estimates: FY2004: $3.4 million - FY2007: $3.5 million
Data Source: RETT Database
Reliability: Level 2

10. Deeds of Partition
Citation: Section 1405(b)(7)
Effective Date: August 1, 1968
Description: Exempt from the tax are conveyances which consist of a deed of partition. Partition is the division of property between several persons who are co-owners of the property. The object of a partition is to end the joint tenancy or tenancy in common and divide the property among the respective co-owners.
Estimates: FY2004: $0.1 million - FY2007: Minimal
Data Source: RETT Database
Reliability: Level 2

11. Federal Bankruptcy Act
Citation: Section 1405(b)(8)
Effective Date: August 1, 1968
Description: This section exempts from taxation any conveyance given pursuant to the Federal Bankruptcy Act.
Estimates: FY2004: $0.8 million - FY2007: $1.1 million
Data Source: RETT Database
Reliability: Level 2

12. Contract to Sell or Option to Purchase Without Use
Citation: Section 1405(b)(9)
Effective Date: July 1, 1989
Description: The real estate transfer tax exempts a conveyance which consists of a contract to sell real property without the use or occupancy of such property. Likewise, exempt from tax are conveyances granting an option to purchase real property without the use or occupancy of the property.
Estimates: FY2004: $1.5 million - FY2007: $0.5 million
Data Source: RETT Database
Reliability: Level 2

13. Option or Contract to Purchase With Right to Occupy
Citation: Section 1405(b)(10)
Effective Date: July 1, 1989
Description: An exemption from the transfer tax is allowed for conveyances of an option or contract to purchase real property, which includes the right to use or occupy the property, providing:
(i) the consideration is less than $200,000;

(ii) such property or at least one unit of a two- or three-family house was used solely as the grantor's personal residence; and

(iii) the real property consists of a one-, two-, or three-family house, an individual residential condominium unit or the sale of stock in a cooperative housing corporation in connection with a grant or transfer of a proprietary leasehold covering an individual residential cooperative unit.

Estimates: FY2004: $0.1 million - FY2007: $0.1 million
Data Source: RETT Database
Reliability: Level 2

Credit

The real estate transfer tax allows credits for taxes paid in certain transactions.

14. Credit for Prior Transfer Tax Paid
Citation: Section 1405-A
Effective Date: July 1, 1989
Description: A grantor is allowed credit against the tax due on a conveyance of real property to the extent tax was paid by the grantor on a prior creation of a leasehold for all or a portion of the same real property or on the granting of a contract or option to purchase all or a part of the same real property.
Estimates: FY2004: $1.3 million - FY2007: $1.1 million
Data Source: RETT Database
Reliability: Level 2

15. Cooperative Housing Corporation Transfer Credit
Citation: Section 1405-B
Effective Date: July 1, 1989
Description: A credit is allowed for a proportionate part of the amount of tax paid upon the conveyance to the cooperative housing corporation of real property comprising the cooperative dwelling(s). The credit applies to the conveyance of cooperative shares to unit purchases. It is allowed only to the extent that the original conveyance of the real property to the cooperative housing corporation effectuates a mere change in identity or form of ownership, and not a change in the beneficial ownership of the property.
Estimates: FY2004: $1.0 million - FY2007: $0.8 million
Data Source: RETT Database
Reliability: Level 2

Preferential Tax Rates

The real estate transfer tax allows a preferential tax rate in the following instances.

16. Real Estate Investment Trust Transfers (Initial Formation REITs)
Citation: Section 1402(b)
Effective Date: June 9, 1994 (amended July 13, 1996)
Description: The transfer tax rate is reduced to $1.00 per $500 (or fractional part

thereof) on transfers of real property effected through qualifying “real estate investment trust transfers” in order to form a REIT occurring on or after June 9, 1994.
Estimates: FY2004: $0.0 million - FY2007: $0.0 million
Data Source: New York State Department of Taxation and Finance
Reliability: Level 2

CROSS-ARTICLE TAX EXPENDITURES

Certain tax expenditures appear in more than one Article of the Tax Law. For example, taxpayers can claim the investment tax credit against the personal income tax and the corporation franchise tax. Table 11 lists tax expenditure provisions common to the personal income, corporation franchise, bank, and insurance taxes for the 2006 tax year. The charts which follow present tax expenditure information for selected expenditures common to more than one tax. They show the share of the tax expenditure from each tax article forecasted for 2006.

Table 11
2006 Tax Year
Selected Cross-Article Tax Expenditure Estimates

	Personal Income Tax	Corporation Franchise Tax	Bank Tax	Insurance Tax
Additional Holocaust Tax Exemption[1]	*	*	--	--
Federal Flow-Through Provisions				
MACRS/ACRS Depreciation	$96.4	$179.4	$32.4	$1.7
Deferred Tax on Installment Sales	11.0	7.9	30.0	*
Expensing of Certain Depreciable Business Property	*	*	*	*
Expensing of Research and Development Costs	*	117.0	--	--
Amortization of Business Start-Up Costs	0.2	0.2	N/A	N/A
Deductibility of Charitable Contributions	616.0	34.1	45.2	*
State Credits				
Investment Tax Credit	36.5	73.6	--	--
Investment Tax Credit for the Financial Services Industry	0.4	31.6	10.0	10.0
Special Additional Mortgage Recording Tax Credit[2,3]	3.0	1.6	15.5	*
Empire Zone and QEZE Credits[4]	255.0	194.1	10.1	1.2
Credit for Employment of Persons With Disabilities[2]	0.1	0.2	*	*
Qualified Emerging Technology Companies Credits	0.6	11.6	--	--
Credit for Purchase of an Automated External Defibrillator	*	*	*	*
Green Building Credit[2]	1.0	2.0	*	*
Low Income Housing Credit	*	*	*	*
Industrial or Manufacturing Business Credit	1.0	14.9	--	--
Credit for Transportation Improvement Contributions[2]	0.0	0.0	0.0	0.0
Long-Term Care Insurance Credit[2]	100.0	*	*	*
Brownfields Tax Credits[2]	58.0	58.0	*	*
Empire State Film Production Credit	20.0	5.0	--	--
Fuel Cell Electricity Generating Equipment Credit[2]	*	2.0	*	*
Farmers' School Property Tax Credit	26.5	*	--	--
Security Training Tax Credit[2]	2.0	3.0	*	*
Alternative Fuels Credit[2]	--	*	--	--

[1]The Additional Holocaust Tax Exemption appears in section 13 of the Tax Law. The exemption is different from the Exclusion of Payments to Victims of Nazi Persecution found in the Personal Income Tax section of the report. The provision exempts qualified settlement funds or grantor trusts established for the benefit of victims or targets of Nazi persecution by or in the Swiss Confederation from all state taxes imposed on or measured by income, as well as sales and use tax (not shown here). Amounts received by such victims or targets of Nazi persecution, including accumulated interest, are also exempt from State taxes imposed on or measured by income.

[2]This expenditure is also permitted under certain sections of the Corporation Tax (Article 9). See the Corporation Tax section of the report for more details.

[3]Part of the corresponding credit under the Personal Income Tax is a carryforward only credit. See the Personal Income Tax section for the report for more details.

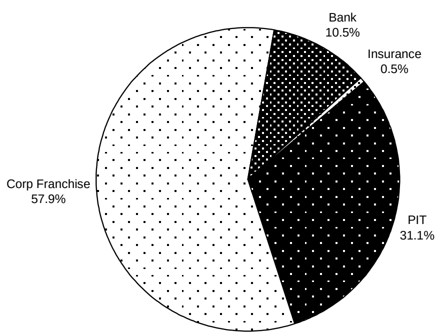
[4]There is also a QEZE Sales Tax expenditure of $86.0 million.

*Less than $1 million; N/A = no data available

SHARE OF SELECTED STATE SPECIFIC TAX EXPENDITURES BY TAX ARTICLE FOR 2006 TAX YEAR

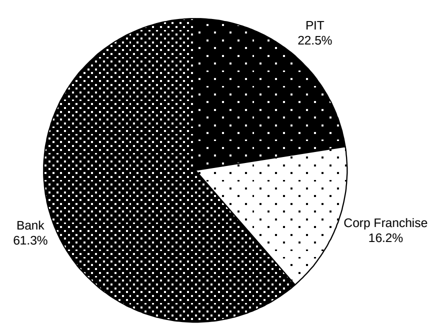
MACRS/ACRS Depreciation

The total value of the tax expenditure is $309.9 million



Deferred Tax on Installment Sales

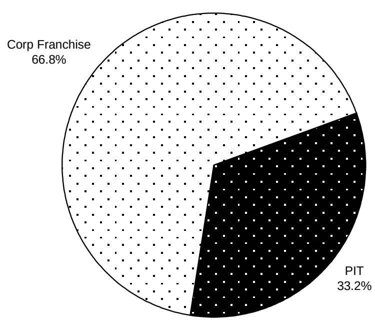
The total value of the tax expenditure is $48.9 million



SHARE OF SELECTED STATE SPECIFIC TAX EXPENDITURES BY TAX ARTICLE FOR 2006 TAX YEAR

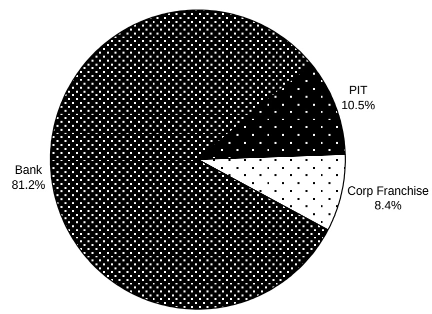
Investment Tax Credit

The total value of the tax expenditure is $110.1 million



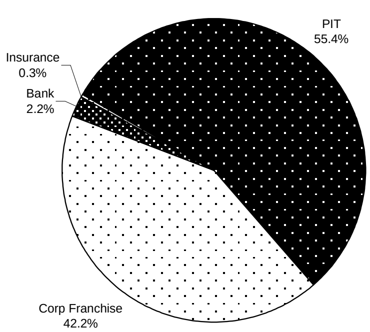
Special Additional Mortgage Recording Tax Credit

The total value of the tax expenditure is $19.1 million



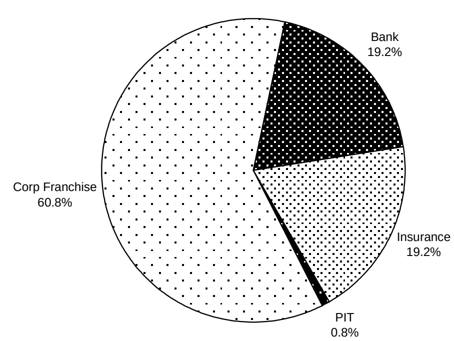
Empire Zone/QEZE Credits

The total value of the tax expenditure is $460.4 million



Investment Tax Credit for the Financial Services Industry

The total value of the tax expenditure is $52.0 million



2006-2007 EXECUTIVE BUDGET TAX EXPENDITURE PROPOSALS

This section describes the proposals contained in the 2006-2007 Executive Budget that modify, add or repeal specific tax expenditures. Each description begins with background information on the tax expenditure proposal, a summary of the proposal, reasons for recommending the change, and a discussion of revenue implications. Table 12 provides a listing of these provisions.

Table 12
2006-2007 Executive Budget Proposals Affecting Tax Expenditures

	2006-2007 Fiscal Year Estimate ($ in millions)
Personal Income Tax	
Enhance the New York State EITC for Certain Non-Custodial Parents	($5.0)
Expand the Exemption for Members of Organized Militia to Persons Called to Service in New York State by the Federal Government	(1.0)
Provide a New Refundable Credit for Primary and Secondary Tuition and Other Instructional Expenses	0.0
Provide a Refundable Credit to Residents Age 65 and Older for Home Heating Expenses	0.0
Provide a Refundable Credit for 50 Percent of the Costs of Upgrading or Renovating a Home Heating	0.0
Create a Credit for Restoration of Historic Homes	0.0
Create a New Credit for Farmers for Property Tax Paid on Land Related to Conservation Easements[1]	0.0
Corporate Franchise Tax	
Expand Empire Zones Program[2]	0.0
Provide for Immediate Expensing for Business Assets Placed in Service in New York[7]	0.0
Small Business and Farmer Energy Tax Credit[3]	0.0
Restore and Expand Alternative Fuel Production and Vehicle Tax Credits[4]	0.0
Amend the Brownfields Tax Credits[5]	0.0
Enhance the Low-Income Housing Tax Credit[6]	(2.0)
Extend and Expand the Empire State Film Production Credit[1]	0.0
Sales Tax	
Increase the Sales Tax Vendor Allowance	(13.0)
Create Sales Tax Exemption Periods for Certain Energy Star Appliances and Home Weatherization Products	(6.0)
Exempt the Sale of Alternative Fuels from Sales and Petroleum Business Taxes	(*)
Amend the Clothing and Footwear Sales Tax Exemption	(21.0)
Amend the Partial Exemption for Certain Amusement Park Admissions	(*)
Bank Tax	
Close the Loophole for REITs and RICs	57.2
Insurance Tax	
Amend the Calculation of Tax for Annuity Companies	(3.0)
Lower the Rates of the Limitations on Tax for Life Insurance Companies	(15.0)

* means less than $1 million
[1]Also applies to Corporate Franchise Tax
[2]Also applies to Corporation, Personal Income, Bank, Insurance, and Sales Taxes
[3]Also applies to Personal Income Tax
[4]Also applies to Corporation and Personal Income Tax
[5]Also applies to Corporation, Personal Income, Bank, and Insurance Taxes
[6]Also applies to Personal Income, Bank, and Insurance Taxes
[7]Also applies to Personal Income and Bank Taxes

EXECUTIVE BUDGET PROPOSALS

1. **Proposal to Enhance the New York State EITC for Certain Non-Custodial Parents**

   Background: Current law allows taxpayers a New York State earned income tax credit (EITC) equal to 30 percent of the Federal EITC. Taxpayers without qualifying dependents receive a far smaller Federal credit than those with qualifying dependents. Moreover, the EITC for taxpayers without qualifying dependents is only available to taxpayers between the ages of 25 and 64.

   Proposal: The proposal provides an enhanced State EITC to certain non-custodial parents equal to 400 percent of the Federal credit for taxpayers without qualifying dependents. To qualify, claimants must be New York State residents between the ages of 18 and 35 and the parent of a minor child with whom they do not reside. He or she must also have an order requiring the taxpayer to make child support payments payable through a support collection unit which must have been in effect for at least half of the taxable year. In addition, the taxpayer must have paid at least the amount of their current child support obligation due during the taxable year. Taxpayers claiming this credit cannot claim any other EITC for which they qualify. The enhanced State EITC would be available for taxable years beginning on or after January 1, 2006 and before January 1, 2013.

   Discussion: The proposal is part of a broader package of initiatives designed to mirror welfare reform's combination of strict enforcement of work requirements, work supports, and increased incentives.

   Estimate: The proposal would decrease revenues in SFY 2006-07 by $5.0 million.

2. **Proposal to Expand the Exemption for Members of Organized Militia to Persons Called to Service in New York State by the Federal Government**

   Background: The Tax Law allows members of the New York National Guard who are called up to active service by the Governor to subtract the monies received for their active service performed within the State from their Federal adjusted gross income. In contrast, members of the New York National Guard who are called up to serve by the Federal Government under Title 10 of the U.S. Code to perform active service within the State are not afforded the same benefit.

   Proposal: The proposal would exempt monies received by New York National Guard members called up to active service by the Federal Government under Title 10 for service performed within the State. The exemption would retroactively apply to taxable years beginning on and after January 1, 2004, which is when the current National Guard exemption took effect.

   Discussion: The proposal eliminates a disparity in treatment that was not contemplated when the income tax subtraction for active duty pay was added in 2004.

   Estimate: The proposal would decrease revenues in SFY 2006-07 by $1.0 million.

3. **Proposal to Provide a New Refundable Credit for Primary and Secondary Tuition and Other Instructional Expenses**

   Background: The proposal seeks to assist taxpayers with the qualified educational expenses incurred to provide additional educational opportunities for their dependents which reside in certain school districts.

   Proposal: The proposal would create a refundable personal income tax credit to offset qualified educational expenses incurred by taxpayers whose dependents reside in a school district where one or more schools are required by the Commissioner of Education to offer public school choice pursuant to No Child Left Behind and now attend non-public schools or receive other instructional educational assistance. The maximum credit is $500 per eligible dependent for taxpayers whose Federal Adjusted Gross Income (FAGI) is less than $75,000. The credit is phased-out for taxpayers with FAGI from $75,000 to $90,000. The credit is available for tax years beginning on and after January 1, 2006.

Discussion: Qualified educational expenses are defined as tuition expenses for eligible dependents to attend a qualified elementary or secondary educational institution and for fees incurred for instruction outside the regular school day to assist the dependent in improving knowledge in the core curriculum areas at the dependent's age or grade level.

Estimate: The proposal would have no impact on revenues in SFY 2006-07.

4. Proposal to Expand the Empire Zones Program

Background: Businesses that locate in Empire Zones (EZs) can qualify for an enhanced investment tax credit and employment incentive credit, a wage tax credit, and certain sales tax exemptions. Businesses certified as Qualified Empire Zone Enterprises (QEZEs) are eligible to receive a real property tax credit, a tax reduction credit, and additional sales tax exemptions.

Proposal: This proposal will make three modifications to the Empire Zone (EZ) program:

1. Create 5 new zones, each associated with a Center of Excellence;
2. Create a Statewide Clean Energy Research and Development Zone; and
3. Accelerate designation of the 12 zones authorized in the 2005-06 budget.

The one square mile Center of Excellence Zones may be located anywhere in the state, provided that the businesses in the zone have a substantial relationship with a Center of Excellence. Businesses can become certified as Clean Energy Research and Development Enterprises (CERDEs) and receive EZ benefits anywhere in the state. To qualify, a business must be primarily engaged in research, development, or manufacturing of renewable energy or energy efficiency technologies or products or be an initial clean coal electric generating facility capable of capturing or being retrofitted to capture carbon dioxide for sequestration. Finally, the 12 new zones authorized in the 2005-06 budget will be designated in the first round instead of being phased in over a four year period.

Discussion: These expansions to the EZ program will allow the State to further leverage successful investments in Centers of Excellence, induce next generation energy producers to locate here, making New York the worldwide center for clean, renewable energy research, product development and job creation, and allow New York to create the clean energy technologies that can be exported around the world tomorrow. The acceleration of the designation of the zones authorized in 2005-06 will provide an opportunity for counties that do not contain a Zone to benefit from the EZ program.

Estimate: This proposal would have no impact on revenues in SFY 2006-07.

5. Proposal to Provide for Immediate Expensing for Business Assets Placed in Service in New York

Background: Generally, corporate taxpayers and individual taxpayers engaged in business in New York are able to take a depreciation expense with respect to property used in their businesses through the deduction allowed for depreciation under the Internal Revenue Code (Code). Since New York taxable income is derived from federal taxable income for most taxpayers, the federal depreciation deduction also reduces the amount of income subject to New York tax. In addition, under Section 179 of the Code, and other code provisions, certain taxpayers are allowed to expense the cost of capital assets, subject to limitations such as an overall limit on the Section 179 deduction. The Tax Law does not allow a broad depreciation deduction for capital assets, nor does it allow a taxpayer to take a deduction for the cost of a capital asset.

Proposal: This bill allows taxpayers to immediately expense the full cost of capital assets placed in service in New York. The bill would provide that corporate taxpayers subject to tax under Article 9-A shall, in computing entire net income, subtract from federal taxable income the cost of property in the year the property is placed in service, rather than deduct depreciation relating to that property over the life of the property. To qualify for this immediate expensing deduction, the property has to be depreciable under section 167 of the Code, placed in service in New York in 2008 or thereafter and not be amortizable under Section 197 of the Code. This bill would also require taxpayers to add back any depreciation deduction taken with respect to immediately expensed property and any federal expense deduction allowed with respect to the property. The bill would also amend the net operating loss (NOL) deduction for corporate taxpayers (which is limited to an amount that cannot exceed the federal NOL deduction for the taxable year). Under the amendments, the federal NOL deduction is recomputed by including the new immediate expensing deduction and certain other modifications relating to the immediately expensed property. Similar amendments are made Article 32 of the Tax Law and Article 22. The Article 22 amendments, however, apply to individual taxpayers only, and do not include any modifications to an NOL deduction since Article 22 does not allow such a deduction.

Discussion: Immediate expensing of assets will provide a significant incentive for New York taxpayers to make capital investments in New York since the entire cost of the property may be taken as a deduction. In addition, the deduction will result in substantial tax relief to taxpayers doing business in New York.

Estimate: This proposal will have no impact on revenues in SFY 2006-07.

6. Proposal to Amend the Calculation of Tax for Annuity Companies

Background: Life insurance companies have a cap or limitation on their tax equal to 2 percent of taxable premiums. Taxable premiums do not include annuities, so these premiums are excluded from the calculation of the limitation for most companies. However, a company that derives more than 95 percent of total premiums from annuities must include the total amount of annuity premiums in the calculation of the limitation.

Proposal: This proposal would amend the limitation on tax as it applies to life insurance companies whose total premiums consist of more than 95 percent of annuity premiums. The amendment would provide that the limitation amount is computed by using the amount of premiums of the insurance company which are in excess of 95 percent of total premiums.

Discussion: A small increase in annuity premiums for a company whose business consists mostly of annuities can put the company over the 95 percent threshold and significantly increase the company's tax. This provision serves as a disincentive for companies significantly engaged in annuities from expanding their annuity business.

Estimate: This proposal would decrease revenues in SFY 2006-07 by $3.0 million.

7. Proposal to Lower the Rates of the Limitations on Tax for Life Insurance Companies

Background: The limitation on tax (cap) provides that the tax before credits of life insurance companies cannot be greater than 2 percent of taxable premiums. The limitation on tax (floor) provides that the tax before credits of life insurance companies cannot be less than 1.5 percent of taxable premiums. The cap was enacted in 1977, and it has been at its current rate of 2 percent since 1988. The floor was enacted as part of a major insurance tax restructuring in 2003.

Proposal: This proposal would amend the taxation of life insurance companies to lower the rate of the cap limitation from 2 percent to 1.75 percent and lower the rate of the floor limitation from 1.5 percent to 1.25 percent.

Discussion: The reductions in the cap and floor amounts would provide tax relief to life insurance companies doing business in New York State. These reductions would also result in lower retaliatory taxes assessed against domestic New York insurance companies by other states where the New York companies conduct business. It would also result in higher retaliatory tax collections by New York State on foreign insurance companies doing business in the state.

Estimate: This proposal would decrease revenues in SFY 2006-07 by $15.0 million.

8. Proposal to Increase the Sales Tax Vendor Allowance

Background: The Sales Tax provides a 'vendor allowance' equal to 3.5 percent of the amount of State Sales Tax collected, up to $150 per return.

Proposal: The proposal would increase the vendor allowance from 3.5 percent of the amount of State Sales Tax collected to 5 percent of the State, local, and other taxes and fees reported on the Sales Tax return (roughly comparable to 10 percent of the State Sales Tax rate collected). In addition, the maximum allowable credit per tax return increases from $150 to $250.

Discussion: Increasing the vendor allowance helps to defray a greater portion of compliance costs, especially for smaller businesses. This proposal also simplifies the calculation, saving businesses time and reducing errors. The proposal continues to fund the vendor allowance from the State Sales Tax so that the amount of revenues distributed to or on behalf of localities, or otherwise dedicated, would not be reduced.

Estimate: The proposal would decrease revenues in SFY 2006-07 by $13.0 million.

9. Proposal to Create Sales Tax Exemption Periods for Certain Energy Star Appliances and Home Weatherization Products

Background: This proposal exempts certain Energy Star appliances and home weatherization products from State Sales and Use Taxes for two seven-day periods each year. Localities are authorized to elect the exemption from their local Sales and Use Taxes.

Proposal: Residential refrigerators, combination refrigerator/freezers, freezers, clothes washers, light fixtures which use exclusively pin-based compact fluorescent bulbs, ceiling fans, dishwashers and room air conditioners that qualify for, and are labeled with, an Energy Star label would be exempt from State Sales Tax during two week-long Sales Tax holidays annually. Residential home weatherization products including caulking and weatherstripping, window weatherproofing kits, and insulation materials would also be exempt during these two week-long periods. The two exemption periods would coincide with the proposed clothing tax-free weeks: the seven-day period commencing on the last Monday of January and ending on the first Sunday in February, and the seven-day period commencing on the Tuesday immediately preceding the first Monday in September (Labor Day) and ending on Labor Day.

Discussion: Providing an exemption for these products will encourage consumers to purchase energy-efficient appliances and maintain energy-efficient homes, thereby conserving the State's energy resources while affording consumers with reduced utility costs over time.

Estimate: The proposal would decrease revenues in SFY 2006-07 by $6.0 million.

10. Proposal to Provide a Refundable Credit to Residents Age 65 and Older for Home Heating Costs

Background: This proposal would provide a tax credit to help ensure that home heating fuel costs remain affordable for and accessible to senior citizens.

Proposal: For tax year 2006, the proposal would provide for a refundable personal income tax credit to individuals age 65 or older and whose federal adjusted gross income does not exceed $75,000 for the cost of fuel directly associated with heating the taxpayer's principal residence located in this State. The fuel costs must exceed 7.5 percent of the taxpayer's federal adjusted gross income. The credit would equal 25 percent of the fuel cost, up to $500.

Discussion: This proposal would assist elderly, low-income taxpayers with home heating costs. In light of the current energy situation, it is vital that New York take action to minimize the current impact of high fuel prices.

Estimate: The proposal would have no impact on revenues in SFY 2006-2007.

11. Proposal to Provide a Refundable Credit for 50 Percent of the Costs of Upgrading or Renovating a Home Heating System

Background: This proposal would encourage taxpayers to replace or renovate home heating systems in order to reduce home heating costs.

Proposal: For tax year 2006, this proposal would provide a refundable personal income tax credit to individuals for costs associated directly with the replacement or renovation of an existing home heating system in the taxpayer's principal residence located in this State with a heating system which meets national Energy Star requirements. The credit would be equal to 50 percent of the cost up to $500.

Discussion: This proposal would help ensure that energy costs remain affordable and accessible to small businesses and farmers in New York. High energy costs hurt all consumers and have a negative impact on New York's business community and its

ability to create jobs.
Estimate: This proposal would have no impact on revenues in SFY 2006-07.

12. Proposal to Create a Small Business and Farmer Energy Tax Credit
Background: This proposal would create a new, temporary tax credit based on energy consumed by small businesses and farmers.
Proposal: This proposal would provide refundable corporate franchise and personal income tax credits of up to $3,000 to small businesses and farmers in tax years 2006 and 2007 for energy costs directly associated with the operation of their small business or farm. The amount of the credit would equal 25 percent of energy costs, provided they exceed 10 percent of a small business taxpayer's total costs or 5 percent of a farmer's total costs incurred in the production of goods for market.
Discussion: This proposal would help ensure that energy costs remain affordable and accessible to small businesses and farmers in New York. High energy costs hurt all consumers and have a negative impact on New York's business community and its ability to create jobs.
Estimate: This proposal would have no impact on revenues in SFY 2006-07.

13. Proposal to Restore and Expand Alternative Fuel Production and Vehicle Tax Credits
Background: Previous tax credits for alternative fuel vehicles and hybrid vehicles sunset in 2004. Presently, there is only a tax credit for alternative fuel vehicle refueling property available under Articles 9 and 9-A.
Proposal: This proposal restores the following alternative fuel vehicle credits under Articles 9, 9-A, and 22:

- Clean-fuel vehicle property credit - 60 percent of the cost of the property up to $5,000 for each vehicle with a gross vehicle weight rating of fourteen thousand pounds or less, and $10,000 dollars per vehicle for all other vehicles;
- Hybrid vehicle credit - $2,000 for each hybrid vehicle.

The bill also creates a new tax credit for biofuel production. The credit would equal 20 cents per gallon for the first twenty million gallons produced during the taxable year and ten cents per gallon for production over twenty million gallons after the first forty thousand gallons produced during the taxable year. The credit is limited to $1 million dollars per taxpayer per taxable year per biofuel plant. Finally, the bill adds the alternative fuel vehicle refueling property credit that exists in Articles 9 and 9-A to Article 22. The credit would equal 50% of the cost of such property. This proposal is effective for taxable years beginning on or after January 1, 2006.
Discussion: This bill will help limit the State's reliance on foreign oil through tax credits to encourage the purchase of vehicles powered by alternative fuels and the production of alternative fuels. It will continue to stimulate the developing market for alternative fuel vehicles by offering tax credits for the purchase of vehicles and the installation of alternative fuel vehicle property and alternative fuel vehicle refueling property until December 31, 2008. By offering tax incentives for the production and sale of biofuel (including ethanol and cellulosic ethanol), until December 31, 2010, this proposal additionally seeks to promote the growth of biofuel production and distribution in New York State. The bill offers a comprehensive effort to encourage investment in

energy efficient transportation technologies that displace petroleum consumption and reduce emissions of harmful pollutants.

Estimate: This proposal would have no impact on revenues in SFY 2006-07.

14. Proposal to Exempt the Sale of Alternative Fuels from Petroleum Business and Sales Taxes

Background: Under current law, alternative fuels such as ethanol, compressed natural gas, and biodiesel are taxed as traditional motor fuel (gasoline) or diesel motor fuel (diesel fuel) depending on the type of motor vehicle engine they are suitable for use in. This current tax treatment applies to the motor fuel excise tax, the petroleum business tax (PBT) and State and local sales taxes.

Proposal: This proposal would provide a full exemption from excise tax, PBT, and State and local sales taxes for fuel products identified as E-85, compressed natural gas (CNG), and hydrogen when suitable for use in a motor vehicle engine. The bill would also provide reduced tax rates under the excise tax and PBT for fuel product identified as B-20 [20% bio-product (e.g. soybean oil), 80% diesel fuel]. The rate reduction would be 20% under both taxes. Further, 20 percent of the receipts from the retail sale of B-20 would be exempted from the State & local sales tax. These exemptions would become effective on June 1, 2006 and apply to sales made and uses occurring on or after that date.

Discussion: The incentives in this proposal would help stimulate the developing market for renewable and clean fuels in New York State by encouraging the consumer and business demand side of the market. The fuel tax incentives are part of the Governor's comprehensive energy plan designed to reduce dependence on foreign oil and increase the production, sale and use of clean energy fuels.

Estimate: The proposal would cause a minimal decrease in State revenues in SFY 2006-07.

15. Proposal to Amend the Brownfields Tax Credits

Background: There are three refundable tax credits available to taxpayers who remediate a site under the Brownfield Cleanup Program: a redevelopment tax credit; a real property tax credit; and an environmental remediation insurance credit. The redevelopment credit consists of three components: a tangible property credit component; a site preparation component; and a groundwater remediation component.

Proposal: This bill would provide for two new credit limitations. Sites located in Manhattan between 96th Street and Canal Street would no longer be eligible for the tangible property credit component of the redevelopment tax credit or the real property tax credit. The limitations would apply to applications submitted to the Department of Environmental Conservation to participate in the Brownfield Cleanup Program on or after February 1, 2006, and to purchasers of a qualified site on or after February 1, 2006.

Discussion: While the Brownfield Cleanup Program has been successful, the tax incentives may be more efficiently utilized. The limitations contained in this proposal with respect to the brownfield credit program are necessary and consistent with the State's fiscal plan, while continuing the State's goal of encouraging brownfield clean-ups.

Estimate: This proposal would have no impact on revenues in SFY 2006-07.

16. Proposal to Create a Credit for Restoration of Historic Homes

Background: The proposal would provide taxpayers with an economic incentive to help revitalize older neighborhoods by providing a personal income tax credit for rehabilitating a historic home.

Proposal: Taxpayers would be allowed a Personal Income Tax credit equal to either 15 percent or 25 percent of the qualified rehabilitation expenditures made by the taxpayer with respect to a qualified historic home. A credit in the amount of 15 percent would be allowed for qualified rehabilitation expenditures if only the exterior work has been approved by a local landmarks commission or by the Office of Parks, Recreation and Historic Preservation. A credit in the amount of 25 percent would be allowed for qualified rehabilitation expenditures that have been approved by the Office of Parks, Recreation and Historic Preservation or by a local government certified pursuant to the National Historic Preservation Act. For the 25 percent credit, approval is necessary for both exterior and interior work affecting primary significant historic spaces. For any residence of a taxpayer, the credit allowed may not exceed $50,000. If the credit allowed for any taxable year exceeds the taxpayer's tax for such year and the taxpayer's New York adjusted gross income for such year does not exceed $100,000, the excess credit may be refunded. If the taxpayer's New York adjusted gross income exceeds $100,000, the excess credit may be carried over to future taxable years. The proposal is effective for tax years beginning on or after January 1, 2006.

Discussion: The proposal establishes a financial incentive for rehabilitating historic homes. The proposal would provide an incentive for preserving a diminishing asset and it provides a mechanism to promote the rehabilitation of the State's housing stock. This would have an important impact on the revitalization of decaying neighborhoods by promoting neighborhood stability, reducing blight, and enhancing nearby property values.

Estimate: The proposal would have no impact on revenues in SFY 2006-07.

17. Proposal to Create a New Credit for Farmers for Property Tax Paid on Land Related to Conservation Easements

Background: This proposal would create a tax credit that recognizes the ongoing public benefits provided by farmland that is permanently protected by a conservation easement.

Proposal: The proposal would allow refundable Income Tax and Corporate Franchise Tax credits to farmers equal to 25 percent of school district, county, and city/town real property taxes paid on land that is under a conservation easement. The maximum allowable tax credit is $5,000.

Discussion: Currently, there are no tax credits to encourage the donation and protection of farmland through conservation easements. A tax credit for real property taxes paid on land under a conservation easement would help farmers bear the annual carrying cost of land that provides multiple public benefits.

Estimate: The proposal would have no impact on revenues in SFY 2006-2007.

18. Proposal to Amend the Clothing and Footwear Sales Tax Exemption

Background: The year-round Sales Tax exemption for clothing and footwear is suspended until April 1, 2007. Two, week-long clothing exemption periods would be held in SFY 2006-07. However, if the 2006-07 Executive Budget proposes a new tax reduction, the year-round exemption for clothing and footwear priced under $110 resumes on April 1, 2006, with local option.

Proposal: The proposal permanently replaces the year-round clothing and footwear exemption for items priced under $110 with two one-week long Sales Tax holidays for such items priced under $250. Localities imposing Sales Tax would have the option of exempting these items from their locally-imposed Sales Taxes. The two exemption periods would occur during the seven-day period commencing on the last Monday of January and ending on the first Sunday in February, and the seven-day period commencing on the Tuesday immediately preceding the first Monday in September (Labor Day) and ending on Labor Day.

Discussion: Although this proposal exempts clothing for a total of only two weeks out of the year, consumers will benefit by the higher threshold of $250 compared to the prior $110 threshold. Moreover, the exemption periods are timed to cover busy shopping periods including the back-to-school period just before Labor Day. Limiting the exemption to two seven-day periods each year will likely make it possible for those localities that were not able to afford the year-round exemption to elect the amended exemption, thus improving the competitive position of the vendors throughout the State.

Estimate: The proposal would decrease revenues in SFY 2006-07 by $21.0 million and secure $605.0 million annually thereafter.

19. Proposal to Enhance the Low-Income Housing Tax Credit

Background: Chapter 63 of the Laws of 2000 created a new program entitled the "New York State Low-Income Housing Program." Based on the federal program, taxpayers enter into agreements with the Division of Housing and Community Renewal for a long-term commitment to low-income housing. The amount of the credit depends upon the applicable percentage of the qualified basis of each low income housing building. The amount allocated is allowed as a credit against tax for 10 years, and is available under the Corporate Franchise, Personal Income, Bank, and Insurance taxes. Unused credits may be carried forward indefinitely. The total amount of credit currently available is $80 million, or $8 million per year. This was increased from $60 million ($6 million per year) in the enacted State budget for 2005-06.

Proposal: This proposal increases the aggregate amount of low-income housing tax credit the Commissioner of Housing and Community Renewal may allocate from $8 million to $10 million in 2006. Thereafter, the credit would increase by $2 million annually.

Discussion: Increasing the available amount of credit will encourage developers and investors to devote greater resources to the program and will allow for the construction of additional low-income housing in New York State.

Estimate: This proposal would decrease revenues in SFY 2006-07 by $2.0 million.

20. Proposal to Amend the Partial Exemption for Certain Amusement Park Admissions

Background: On July 27, 2004, legislation was enacted which exempted from the Sales Tax 75 percent of the admission charge to a qualifying place of amusement. Shortly after taking effect, legislation was enacted which provided a sunset for this exemption on April 1, 2005. Subsequent legislation was enacted which extended the sunset to October 1, 2006.

Proposal: This proposal would make permanent the Sales Tax exemption for 75 percent of the admission charge to a qualifying place of amusement.

Discussion: This proposal would simplify the sales tax compliance burden for amusement park operators.

Estimate: This proposal would decrease revenues in SFY 2006-07 by $1.0 million.

21. Proposal to Extend and Expand the Empire State Film Production Credit

Background: Taxpayers may claim a tax credit for qualified film and television production activity in New York State. Currently, the credit is limited to a $25 million annual allocation and is scheduled to expire after the 2008 allocation pool.

Proposal: This proposal would make the credit permanent and increase the total annual amount of credit allowed under Articles 9-A and 22 from $25 million to $30 million in calendar years 2009 and thereafter. The proposal would also increase the total amount of credit allowed under New York City's general business corporation taxes from $12.5 million to an amount not in excess of $30 million in calendar year 2009 and thereafter.

Discussion: This credit has proven to be a crucial incentive for attracting and reviving film production work in New York State and New York City. This legislation is necessary to ensure the continued success of the Empire State Film Production Credit.

Estimate: This proposal would have no impact on revenues in SFY 2006-07.

22. Proposal to Close the Loophole for REITs and RICs

Background: All dividend income received by Article 9-A and 33 taxpayers from subsidiaries is deductible from entire net income, while half of dividends received from non-subsidiaries can be excluded. Article 32 taxpayers can deduct sixty percent of dividend income from subsidiaries. Dividend income from real estate investment trusts (REITs) and regulated investment companies (RICs) are not taxable under these exclusions.

Proposal: This proposal would disallow the exclusion of all or part of the dividends paid by a REIT or a RIC subsidiary or non-subsidiary, or by a REIT or RIC holding company in computing entire net income. The bill would also exclude the capital of such subsidiaries from the base of the subsidiary capital tax under Articles 9-A and 33.

Discussion: This proposal is intended to close a loophole in the Tax Law that allows taxpayers to create REITs and RICs for the purposes of sheltering income from taxation. This loophole has been closed to taxpayers on the Federal level, but not for New York. Over the past few years the department has seen a dramatic increase in taxpayers taking advantage of this loophole. The result is that significant amounts of income that are treated as ordinary income and fully taxable on the Federal level are not being taxed in New York.

Estimate: This proposal would increase revenues in SFY 2006-07 by $57.2 million.

GLOSSARY

Compensating Use Tax: Tax levied on tangible personal property and services for its consumption, storage, or use in the State of residency upon which sales tax has not been collected.

Corporate Exemption: The partial or full statutory exemption of certain types of business entities from taxation.

Credit: Credits are amounts that are subtracted from tax liability (i.e., credits reduce the amount of tax due by the amount of the credit):

Credit Earned: The amount of credit generated in the current tax year.

Credit Claimed: The amount of credit which taxpayers have available during the taxable year. Taxpayers determine this by adding credit earned in the current year to any unused credit from prior years and subtracting any applicable credit recapture.

Credit Used: The amount of credit which taxpayers actually apply to their tax liability.

Credit Carried Forward: Any unused amount of credit which is allowed to be used to offset tax liability in future years. The amount of credit carried forward is determined by subtracting the amount of credit used or refunded in the current year from the amount of credit claimed.

Credit Refunded: Unused credit amounts requested as a refund or applied against the next liability period. These are requested amounts from the tax return, not necessarily amounts actually paid. Refund requests are subject to audit and adjustment by the Tax Department and the Office of the State Comptroller.

Deduction: An amount which a taxpayer is allowed to subtract when computing the tax base.

Deferral: The legal authorization to delay the obligation to pay tax to a future period (e.g., a future tax year).

Dependent Exemptions: A fixed amount that is subtracted from New York Adjusted Gross Income for an individual's dependents, not including the taxpayer or spouse.

Entire Net Income (ENI): The amount of the taxable income base for corporate taxpayers. ENI equals federal taxable income after certain additions and subtractions for items that New York treats differently. The major adjustment in the computation of ENI for most taxpayers is the exclusion of income from subsidiary capital.

Excise Tax: A fixed, per unit tax imposed on a commodity or commodities (e.g., 11 cents per gallon of beer).

Exclusion/Exemption: The statutory elimination of certain items or transactions from the tax base.

Federal Adjusted Gross Income (FAGI): The amount of Federal income earned or received during the income year after certain exclusions and adjustments. Major exclusions from gross income include many government transfer payments, employer-provided pension contributions and fringe benefits, most capital gains from the sale of a primary residence, and a portion of social security benefits. Major adjustments to gross income included deductions for individual retirement arrangements, alimony paid, employee moving expenses, and one-half of self-employment tax paid.

Federal Conformity: The extent to which State tax laws adopt or conform to various provisions of Federal Tax Law.

Federal Taxable Income (FTI): The amount of taxable income before certain deductions reported by a corporate taxpayer on its federal tax return. FTI includes all income received by the taxpayer during the tax year and most deductions from income. It does not include the federal net operating loss deduction or the special federal deductions for dividends received.

Flow-Through Provisions: Provisions (e.g., definitions, deductions, exclusions) that are derived from provisions of the Federal Tax Law and are applied to or flow-through to State Tax Law.

Franchise Tax: A tax imposed on business corporations for the privilege of conducting business in the State.

Gross Receipts Tax: Tax levied on the total receipts (e.g., income from sales) of a business.

Itemized Deductions: Individual deductions that are subtracted from New York Adjusted Gross Income and are applied in lieu of a standard deduction.

New York Adjusted Gross Income (NYAGI): The amount of Federal adjusted gross income earned or received during the income year after certain modifications and before the subtraction of either the standard deduction or itemized deductions, and dependent exemptions. For example, New York State income tax refunds, included in FAGI, are subtracted in determining NYAGI.

Personal Income Tax: A tax imposed on the income of persons. Examples of income that may be subject to tax include wages, non-wage income (interests, dividends, capital gains), business income, and investment income.

Premiums Tax: A tax imposed on insurance corporations and levied on the amount of net premiums received.

Reimbursement: An amount due to a taxpayer where there was a payment of tax, but no liability.

Sales Tax: An ad valorem tax levied on sales at retail.

Service: The performance of an action or activity for others.

Standard Deduction: A statutorily fixed amount, determined by filing status, subtracted from New York adjusted gross income.

Tangible Personal Property: Corporeal personal property of any nature.

Tax Expenditure: Features of the Tax Law that by exemption, exclusion, deduction, allowance, credit, preferential tax rate, deferral, or other statutory device, reduce the amount of taxpayers' liabilities to the State by providing either economic incentives or tax relief to particular classes of persons or entities, to achieve a public purpose.

Taxable Income: The amount to which the applicable tax rate is applied. Taxable income is gross income (prior to any adjustments) minus modifications, deductions, and exemptions.

Tax Liability: The amount of tax required to be paid by a taxpayer.

Transfer Tax: A tax imposed on the transfer of tangible personal property (e.g., real property) from one individual or entity to another.

APPENDIX

Federal Exclusions from Income

This Appendix summarizes Federal "flow through" tax expenditure provisions which impact the New York State Personal Income, Corporation Franchise, Bank, and Insurance Taxes. It should be noted the Appendix items under the Insurance Tax apply only to life insurance corporations. These taxes begin with definitions of income which are derived from provisions of the Federal Internal Revenue Code. As a result of this "coupling" of State definitions of income base to Federal definitions, exclusions or deductions from income at the Federal level become exclusions or deductions at the State level. Therefore, these provisions automatically become tax expenditures at the State level. The descriptions apply for Federal law as of January 1, 2006. Therefore, estimates for the 1999-2003 tax years (1998-2002 for Corporation Franchise Tax, Bank Tax and Insurance Tax) might reflect law provisions which have changed since that time.

Code Sections 101-137 set forth items that are excluded from income. In addition, other special types of income are specifically excluded by law. The following types of income are also exempt:

- items that are protected by the U.S. Constitution,
- items that are exempted by virtue of any act of Congress, and
- items that arise under the provisions of foreign tax treaties.

These exclusions (and exemptions) are not interchangeable with deductions from gross income (e.g., losses, expenses, bad debts, etc.). Deductions must be shown on the taxpayer's return, while exclusions generally are not.

Each of these estimates is derived from methodologies which allocate Federal tax expenditures to a New York State tax equivalent. Federal exclusions and deductions from income and their associated New York State tax expenditure value are presented in the following tables.

New York State Tax Expenditure Estimates of
Federal Exclusions from and Adjustments to Income

Personal Income Tax

Provision	1999	2000	2001	2002	2003	2006
1. *Deduction for IRA and Keogh Contributions* Taxpayers may deduct up to $4,000 of contributions to qualified IRA plans. For married couples, each spouse may deduct $4,000. Limitations apply for taxpayers covered by an employer-provided retirement plan. In addition, taxpayers may exclude earnings from plans for which they elected not to deduct contributions. Separate limits apply for contributions to a Keogh plan.	76.1	73.3	76.3	82.0	107.8	116.8
2. *Exclusion of Income Earned Abroad by U.S. Citizens* A citizen or resident of the United States whose principal residence is in a foreign country may exclude, for Federal income tax purposes, income earned in foreign countries and related housing costs.	48.4	45.9	55.8	55.3	63.2	64.3
3. *Limited Exception to Passive Loss Rules on Rental Real Estate* Taxpayers may deduct up to $25,000 of passive losses attributable	91.4	90.0	116.0	120.5	118.7	100.2
4. *Exclusion of Capital Gains on Home Sales* Taxpayers may exclude up to $250,000 (single) and $500,000 (married joint) of gain from the sale of exchange of a principal residence. This exclusion applies for each sale or exchange.	359.2	358.0	400.8	427.6	530.0	640.0
5. *Exclusion of Capital Gains from Small Business Stock* Investors may exclude, subject to certain dollar limitations, one half of capital gains from investment in the stock of a qualified small business when held at least five years. In addition, gain may be deferred if reinvested in other qualified small business stock within 60 days.	0.8	1.3	2.0	2.7	3.8	6.6

Personal Income Tax

	Provision	1999	2000	2001	2002	2003	2006
6.	*Exclusion of Scholarship and Fellowship Income* Scholarship and fellowship income may be excluded from a student's Federal gross income.	21.5	22.7	25.9	26.6	31.2	33.5
7.	*Exclusion of Employee Meals and Lodging* The value of meals supplied on the employer's business premises and lodging provided as a condition of employment are excluded from an employee's Federal gross income.	13.2	13.3	15.1	16.5	19.1	20.3
8.	*Exclusion of Public Assistance Benefits* Public assistance benefits are excluded from Federal gross income.	7.0	6.9	7.7	8.4	9.7	10.3
9.	*Exclusion of Veterans' Benefits* Various benefits received by veterans or their beneficiaries are tax-exempt.	63.3	62.6	68.3	75.1	84.5	95.6
10.	*Exclusion of Employer Contributions for Medical Insurance and Care and Long Term Care Insurance* Contributions made by an employer to a health insurance plan which provides compensation to the employee for personal injury and sickness and premiums for long term care insurance may be excluded from the employee's gross income for Federal income tax purposes.	1,482.6	1,552.7	2,018.7	2,151.0	2,413.2	3,042.0
11.	*Exclusion of Employer Contributions for Employee Pensions* Employer contributions to an employee's pension plan are excluded from the employee's Federal gross income. Also, earnings are excludible until distributed. Various limitations apply to contributions on behalf of highly-compensated employees.	1,726.5	1,615.5	2,080.4	2,343.5	2,235.0	2,253.3
12.	*Exclusion of Workers' Compensation Benefits* Amounts received under workers' compensation acts, accident and health insurance, and similar plans are excluded from gross income.	99.2	104.3	117.2	128.7	129.6	133.4

Personal Income Tax

Provision	1999	2000	2001	2002	2003	2006
13. *Exclusion of Employer-Provided Tuition Assistance* Employees may exclude up to $5,250 of employer-paid tuition for undergraduate and graduate college education.	4.6	4.9	8.2	10.6	12.5	13.6
14. *Exclusion of Employer-Provided Child Care* The value of child care provided by an employer is excluded from the employee's Federal gross income. The exclusion may not exceed $5,000 ($2,500 for married filing separately).	13.0	13.5	14.1	12.5	14.2	20.3
15. *Exclusion of Certain Employer-Provided Transportation Benefits* Employees may exclude from income certain qualified transportation fringe benefits, for commuter vehicles, transit passes, and parking.	40.1	41.3	47.3	51.7	68.0	76.8
16. *Exclusion of Benefits and Allowances to Armed Forces Personnel* Combat pay and certain other in-kind benefits and cash allowances received by members of the Armed Forces are excluded from Federal gross income.	41.5	40.5	44.6	46.6	58.1	55.6
17. *Exclusion of Accelerated Death Benefits* Taxpayers may exclude accelerated death benefits paid under life insurance contracts.	4.0	4.0	4.0	4.0	4.0	4.0

Personal Income Tax

	Provision	1999	2000	2001	2002	2003	2006
18.	*Deduction for Self-Employed Persons' Health and Long Term Care Insurance* Self-employed taxpayers may deduct the entire cost of health insurance and long term care premiums they provide for themselves and their families. The deduction is not allowed for any month in which the taxpayer or spouse is eligible to participate in an employer's health insurance plan.	23.3	26.3	32.6	52.8	77.9	92.0
19.	*Exclusion of Employer-Provided Adoption Assistance* Taxpayers may exclude up to $10,960 per child of qualified adoption expenses provided by their employers.	2.3	2.4	2.9	4.6	10.6	12.3
20.	*Exclusion of Employer-Paid Premiums on Life Insurance, Accident Disability Insurance, and Accidental Death Insurance Plans* Employer-paid life insurance premiums for coverage up to $50,000 and premiums for accident disability and accidental death may be excluded from an employee's Federal gross income.	37.2	36.8	41.0	43.9	56.4	54.7
21.	*Exclusion of Interest on Life Insurance Policy and Annuity Cash Value* Interest which is credited annually on the cash value of a life insurance policy or annuity contract is not included in the income of the policy holder or annuitant.	260.8	274.5	324.4	354.8	444.2	516.5
22.	*Exclusion of Interest on Qualified New York State and Local Bonds* Interest payments from qualified New York State and municipal bonds are excluded from the taxpayer's Federal gross income.	348.9	345.2	414.9	449.3	512.8	476.7
23.	*Expensing of Exploration and Development Costs of Oil and Gas* Investors in oil and gas extraction enterprises may deduct from Federal gross income exploration and development costs incurred during the taxable year.	*	*	*	*	*	*

Personal Income Tax

Provision	1999	2000	2001	2002	2003	2006
24. *MACRS/ACRS Depreciation* Depreciable property used in the ordinary course of trade or business, and which has been placed in service after 1980, may be depreciated at an accelerated rate over a prescribed period. The taxpayer may either claim the depreciation deduction using the ACRS method of depreciation, or elect to deduct all or a part of the cost of the property from Federal gross income as an expense deduction. Modified ACRS applies to New York property placed in service after December 31, 1986, except that any "bonus depreciation" used for Federal purposes does not apply for New York purposes for property placed in service on or after June 1, 2003, for tax years beginning on or after January 1, 2003.	108.9	167.7	113.0	123.3	124.1	96.4
25. Amortization of Business Start-Up Costs A taxpayer may elect to amortize, over a period of at least 60 months, the investigatory and start-up expenses of a business in which the taxpayer actively participates.	1.5	0.8	0.4	0.2	0.2	0.2
26. Capital Gains at Death Capital gains on property which is transferred at death by inheritance or otherwise is exempt from taxation, being excluded from the Federal gross income of both the deceased and the recipient of the property.	524.8	497.7	548.0	559.7	571.1	692.0
27. Farm Income Stabilization: Expensing of Capital Outlays Farmers are allowed to deduct certain capital outlays for the taxable year during which they are paid or incurred, instead of being apportioned over an extended period in the form of depreciation deductions.	18.4	23.6	26.1	26.0	18.9	21.9

Personal Income Tax

	Provision	1999	2000	2001	2002	2003	2006
28.	*Capital Asset Treatment of Timber Income, Iron Ore and Coal Royalties* Income earned from the sale of timber or royalties received pursuant to the lease of coal or iron ore mining rights may be treated as income from long term capital assets, allowing the owner to claim any capital losses against either capital gains or ordinary income.	*	*	*	*	*	*
29.	*Expensing of R&D Costs* A taxpayer may elect to deduct costs incurred or paid during the taxable year with respect to research and development in connection with the taxpayer's trade or business. Alternatively, these expenses may, under specified conditions, be amortized over a period of not less than 60 months.	0.6	0.8	0.6	*	*	*
30.	*Expensing up to $108,000 on Certain Depreciable Business Property* Businesses investing in certain depreciable property during the taxable year may deduct as an expense, in lieu of depreciation, up to $108,000 of the cost of new equipment put in service during the tax year. This "Section 179" expensing deduction begins to phase out dollar for dollar when the total cost of such property exceeds $430,000.	22.8	17.1	0.0	10.3	15.9	*
31.	*Exclusion of Social Security and Tier I Railroad Retirement Benefits* A minimum one-half of Social Security and Tier I benefits received by single taxpayers with modified adjusted gross income (MAGI) between $25,000 and $34,000 is excluded from Federal gross income. For single taxpayers with income above $34,000, a minimum of 15 percent is excluded. For married taxpayers with MAGI between $32,000 and $44,000, a minimum of one half of Social Security is excluded, and for married taxpayers with MAGI above $44,000, a minimum of 15 percent is excluded.	308.1	353.5	359.6	371.3	398.1	423.1

Personal Income Tax

Provision	1999	2000	2001	2002	2003	2006
32. *Deferred Tax on Installment Sales* Non-dealer taxpayers may report certain sales using the installment method of accounting as provided by IRC Section 453.	5.8	7.5	8.2	10.6	9.4	11.0
33. *Deduction for Student Loan Interest* Taxpayers may deduct up to $2,500 of interest paid on qualified education loans. The deduction phases out when modified AGI exceeds $65,000 (single) and $135,000 (married joint).	7.0	7.3	9.2	15.4	17.9	17.7
34. *Exclusion for Education IRAs* Taxpayers may exclude distributions (including earnings) from education IRAs if used for qualified higher education. The exclusion is completely phased out when modified AGI exceeds $110,000 (single) and $220,000 (married joint).	0.4	0.0	1.0	1.5	2.6	5.3
35. *Exclusion of Earnings of Qualified Tuition Programs* Taxpayers may exclude the earnings and distributions of qualified tuition programs, such as New York's "College Choice" programs.	--	--	--	4.2	11.8	15.3
36. *Deduction for Contributions to Health Savings Accounts* Eligible taxpayers may deduct contributions to HSA's equal to the lesser of the annual deductible under their high deductible health insurance plan or $5,450 for those with family coverage ($2,700 for those with individual coverage).	--	--	--	--	7.0	11.0

Corporation Franchise Tax

Provision	1998	1999	2000	2001	2002	2006
1. *Expensing of Certain Outlays for Farmers (Soil and Water Conservation Expenditures, etc.)* Farmers may deduct certain capital outlays from gross income for the tax year in which they pay or incur such costs, instead of apportioning them over an extended period in the form of depreciation deductions.	0.5	0.5	0.5	0.5	0.5	0.5
2. *Expensing up to $108,000 on Certain Depreciable Business Property* Businesses investing in certain depreciable property during the taxable year may deduct as an expense, in lieu of depreciation, up to $108,000 of the cost of new equipment put in service during the tax year. This "Section 179" expensing deduction begins to phase out dollar for dollar when the total cost of such property exceeds $430,000.	*	*	*	1.1	3.1	*
3. *MACRS/ACRS Depreciation* Depreciable property used in the ordinary course of trade or business, and which has been placed in service after 1980, may be depreciated at an accelerated rate over a prescribed period. The taxpayer may either claim the depreciation deduction using the ACRS method of depreciation, or elect to deduct all or a part of the cost of the property from Federal gross income as an expense deduction. Modified ACRS applies to New York property placed in service after December 31, 1986, except that any "bonus depreciation" used for Federal purposes does not apply for New York purposes for property placed in service on or after June 1, 2003, for tax years beginning on or after January	144.1	145.0	149.0	227.2	390.0	179.4

Corporation Franchise Tax

	Provision	1998	1999	2000	2001	2002	2006
4.	*Utility Generation Property Transition Provisions* Taxpayers that are qualified public utilities and were taxed under former Section 186 in 1999 and earlier may claim for New York depreciation on property placed in service before January 1, 2000, a deduction equal to the amount of depreciation expense shown on the taxpayer's books and records for the taxable year, rather than the Federal MACRS amount. Similarly, the basis for gain or loss upon disposition of such transition property that the taxpayer owned in 1999 is generally the book cost of the property less the aggregate of New York depreciation deductions taken.	--	--	--	N/A	N/A	N/A
5.	*Expensing of Research and Development Costs* A corporation may deduct from Federal gross income costs incurred or paid during the tax year for research and development in connection with its business.	35.9	38.7	48.8	47.2	42.3	117.0
6.	*Amortization of Business Start-Up Costs* A corporation may amortize, over a period of at least 60 months, certain investigatory and business start-up expenses.	0.2	0.2	0.2	0.2	0.2	0.2
7.	*Deferred Tax on Installment Sales* Non-dealer sellers of property, other than inventory, may use the installment method of accounting as provided by IRC Section 453.	5.8	5.8	5.8	5.8	5.8	7.9
8.	*Deductibility of Charitable Contributions* Taxpayers may deduct charitable contributions, not exceeding 10 percent of taxable income computed as specified, from gross income.	18.2	19.7	21.8	23.7	25.7	34.1
9.	*Expensing of Exploration and Development Costs* Taxpayers may deduct exploration costs and development expenditures of a mine or natural deposit as expenses in the year incurred.	*	*	*	*	*	*

Corporation Franchise Tax

Provision	1998	1999	2000	2001	2002	2006
10. Completed Contract Accounting Under the completed contract accounting method, taxpayers report income and expenses associated with a long term contract in the tax year of contract completion. Expenses that are not allowable to the contract (i.e., period costs), are deductible in the year paid or incurred depending on the accounting method employed.	N/A	N/A	N/A	1.4	1.4	2.5
11. Amortization of Pollution Control Facilities and Reforestation Expenditures Instead of taking MACRS depreciation, a taxpayer may elect to amortize over a 60-month period qualified pollution control facilities, used in connection with a plant or other property in operation before 1976.	N/A	N/A	N/A	N/A	N/A	N/A

Bank Tax

	Provision	1998	1999	2000	2001	2002	2006
1.	*MACRS/ACRS Depreciation* Depreciable property used in the ordinary course of trade or business, and which has been placed in service after 1980, may be depreciated at an accelerated rate over a prescribed period. The taxpayer may either claim the depreciation deduction using the ACRS method of depreciation, or elect to deduct all or a part of the cost of the property from Federal gross income as an expense deduction. Modified ACRS applies to New York property placed in service after December 31, 1986, except that any “bonus depreciation” used for Federal purposes does not apply for New York purposes for property placed in service on or after June 1, 2003, for tax years beginning on or after January 1, 2003.	130.6	116.2	118.9	131.5	131.5	32.4
2.	*Expensing up to $108,000 on Certain Depreciable Business Property* Businesses investing in certain depreciable property during the taxable year may deduct as an expense, in lieu of depreciation, up to $108,000 of the cost of new equipment put in service during the tax year. This “Section 179" expensing deduction begins to phase out dollar for dollar when the total cost of such property exceeds $430,000.	*	*	*	*	*	*
3.	*Deductibility of Charitable Contributions* A corporation may deduct charitable contributions, not exceeding 10 percent of taxable income computed as specified, from gross income.	21.4	32.1	38.0	40.4	44.0	45.2
4.	*Amortization of Business Start-Up Costs* A corporation may elect to amortize, over a period of 60 months or more, the investigatory and start-up expenses of a business.	N/A	N/A	N/A	N/A	N/A	N/A
5.	*Deferred Tax on Installment Sales* Pursuant to the Tax Reform Act of 1986, non-dealer taxpayers may report certain sales using the installment method of accounting as provided by IRC Section 453.	25.0	25.0	10.0	30.0	30.0	30.0

Insurance Tax

	Provision	1998	1999	2000	2001	2002	2006
1.	*MACRS/ACRS Depreciation* Depreciable property used in the ordinary course of trade or business, and which has been placed in service after 1980, may be depreciated at an accelerated rate over a prescribed period. The taxpayer may either claim the depreciation deduction using the ACRS method of depreciation, or elect to deduct all or a part of the cost of the property from Federal gross income as an expense deduction. Modified ACRS applies to New York property placed in service after December 31, 1986, except that any “bonus depreciation” used for Federal purposes does not apply for New York purposes for property placed in service on or after June 1, 2003, for tax years beginning on or after January 1, 2003.	22.0	17.8	18.2	20.1	20.1	1.7
2.	*Expensing up to $108,000 on Certain Depreciable Business Property* Businesses investing in certain depreciable property during the taxable year may deduct as an expense, in lieu of depreciation, up to $108,000 of the cost of new equipment put in service during the tax year. This “Section 179" expensing deduction begins to phase out dollar for dollar when the total cost of such property exceeds $430,000.	*	*	*	*	*	*
3.	*Deductibility of Charitable Contributions* Charitable contributions, not exceeding 10 percent of taxable income computed as specified, may be deducted from a corporation’s gross income.	*	*	*	*	*	*
4.	*Amortization of Business Start-Up Costs* A corporation may elect to amortize, over a period of no less than 60 months, the investigatory and start-up expenses of a business.	N/A	N/A	N/A	N/A	N/A	N/A
5.	*Deferred Tax on Installment Sales* Pursuant to the Tax Reform Act of 1986, non-dealer taxpayers may report certain sales using the installment method of accounting as provided by IRC Section	*	*	*	*	*	*

Insurance Tax

	Provision	1998	1999	2000	2001	2002	2006
6.	*Small Life Insurance Company Taxable Income Adjustment* Small life insurance companies may claim a special deduction from gross income which is not available to other insurance corporations. The deduction is 60 percent of that portion of tentative life insurance company taxable income which does not exceed $3 million for the taxable year. A phase out of the deduction occurs for amounts over $3 million.	0.9	0.9	0.9	0.9	0.9	0.9
7.	*Deduction of Life Insurance Reserves for Life Insurance Companies* Life insurance companies may deduct a net increase in reserves which are maintained with respect to its insurance contracts and annuity contracts.	7.7	5.3	4.9	4.9	4.9	7.7
8.	*Exclusion of Investment Income on Life Insurance and Annuity Contracts* Life insurance gross income excludes investment income on life insurance and annuity contracts, in the form of policy holder dividends.	1.8	2.0	2.0	2.0	2.0	3.8

* Less than $0.1 million.
N/A No data available
-- The tax expenditure was not applicable for these years.