ANNUAL REPORT ON NEW YORK STATE TAX EXPENDITURES

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TAX EXPENDITURE REPORT

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INTRODUCTION

The eighteenth 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 9 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 2008-09 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, i.e., "Cross-Article Tax Expenditures" (Section VIII); and

[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.

- State legislation enacted in recent years that has resulted in the addition, deletion, or modification of various tax expenditure provisions (Section VI).

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 by general policy area (Section IV);
- A case study that focuses on the growth of tax credits (Section V);
- A new distributional breakdown of select credits associated with the Personal Income Tax and Corporate Franchise Tax (Section VII); and
- A glossary of terms used in this report (Section X).

USE OF THIS REPORT AND DATA LIMITATIONS

As defined by the Executive Law,[2] 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 as reflected in the Tax Law as it was in effect on January 1, 2008. The forecasted estimates do not reflect expenditures proposed in the Executive Budget. A description of the Executive Budget Tax Expenditure proposals is included in a separate section of this report. As a result of new or improved information, the estimates may differ from those published in previous reports. The estimates in the report do not reflect the impact of the Metropolitan Transportation Authority (MTA) surcharge, imposed on businesses operating in the Metropolitan Transportation Commuter District (MCTD).

The "cost of tax expenditure,[3]" 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	2001, 2002, 2003, 2004, 2005	2008
Corporate Franchise Tax*	2000, 2001, 2002, 2003, 2004	2008
Sales and Use Tax	2001, 2002, 2003, 2004, 2005	2008
Corporation and Utilities	2000, 2001, 2002, 2003, 2004	2008
Bank Tax*	2000, 2001, 2002, 2003, 2004	2008
Insurance Tax*	2000, 2001, 2002, 2003, 2004	2008
Petroleum Business Tax	2002, 2003, 2004, 2005, 2006	2008
Real Estate Transfer Tax	2001-02, 2002-03, 2003-04, 2004-05, 2005-06	2008-09

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

[2] Section 181(a).
[3] Section 181(b).

Federal Exclusions

The personal income (Article 22), corporate franchise (Article 9-A), bank (Article 32) and 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.

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.

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 (•) reflects components of income that are included in computing tax liability and ∇ reflects tax expenditures that, if applicable to a taxpayer, reduce their tax liability.

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

Figure 1: Calculation of New York Personal Income Tax Liability Tax Year 2008

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 plan 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
	∇	Exclusion for living human organ donors
	∇	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
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
	∇	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
	∇	Empire state child credit
	∇	Enhanced state earned income tax credit for certain non-custodial parents
	∇	Volunteer firefighters and ambulance workers credit
	∇	Alternative fuels credit
	∇	Empire state commercial production credit
	∇	Biofuel production credit
	∇	Land conservation easement credit
	∇	Handicapped accessible taxicab and livery service credit
	∇	Rehabilitation of historic properties credit
	∇	Historic homeownership rehabilitation 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.[4] One feature of this report is that tax expenditures are presented by Federal budgetary outlay categories.[5] 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 and Technology;
- Energy, Natural Resources, and Environment;
- Agriculture;
- Economic Development;
- Other Business and Commerce;
- Housing;
- Transportation;
- Education and Training;
- Social Services;
- Health;
- Income Security, Social Security, and Railroad Retirement;
- Veterans' Benefits and 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 and Training, Social Services, and Health categories), the itemized deduction for taxes paid (only a portion of which is found in Education and Training and General Purpose Fiscal Assistance), and dependent exemptions (only a portion of which is found in Education and Training). In keeping with

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[4]Joint Committee on Taxation, *Estimates of Federal Tax Expenditures for Fiscal Years 2007-2011* (JCS-3-07), September 24, 2007.

[5] 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.

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 and Training) and the exemption for charitable organizations (found in the Education and 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 two categories, there are less than five tax expenditures: Veterans' Benefits and 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	2005	110[1]	469.0
Sales and Use Tax	Federal Agencies	2005	112	171.0
Personal Income Tax	Exclusion of Interest on U.S. Obligations	2005	3	127.2
Petroleum Business Tax	Governments	2006	7	65.4
Sales and Use Tax	U.S. Military Post Exchanges	2005	119	9.0

General Science and Technology

Tax	Description	Base Year	Item #	Amount ($ Millions)
Sales and Use Tax	Research and Development Property	2005	65	40.0
Personal Income Tax	QETC Facilities, Operations and Training Credit	2005	30c.	1.1
Personal Income Tax	QETC Capital Tax Credit	2005	30a.	0.5
Personal Income Tax	QETC Employment Credit	2005	30b.	0.2
Corporate Franchise Tax	QETC Employment Credit	2004	14b.	0.1

Energy, Natural Resources, and Environment

Tax	Description	Base Year	Item #	Amount ($ Millions)
Petroleum Business Tax	Residential Heating	2006	8	229.3
Petroleum Business Tax	Crude Oil and Liquid Petroleum Gases	2006	3	44.7
Petroleum Business Tax	Certain Commercial Gallonage	2006	13	33.1
Petroleum Business Tax	Fuel Used for Non-Residential Heating Purposes	2006	14	11.0
Petroleum Business Tax	Kerosene	2006	1	5.4

Agriculture

Tax	Description	Base Year	Item #	Amount ($ Millions)
Sales and Use Tax	Farm Production and Commercial Horse Boarding	2005	64	52.0
Personal Income Tax	Farmers' School Property Tax Credit	2005	21	24.8
Sales and Use Tax	Fuel, Gas, Electricity, Refrigeration, and Steam Used in Farming and Commercial Horse Boarding	2005	30	12.0
Petroleum Business Tax	Fuel Used for Farm Production	2006	10	7.5
Corporate Franchise Tax	Farmers School Property Tax Credit	2004	12	0.9

Economic Development

Tax	Description	Base Year	Item #	Amount ($ Millions)
Corporate Franchise Tax	Exclusion of Interest, Dividends, and Capital Gains from Subsidiary Capital	2004	1	1,521.8
Personal Income Tax	Qualified Empire Zone Enterprise Credits	2005	36	136.9
Corporate Franchise Tax	Qualified Empire Zone Enterprise Credits	2004	10	108.8
Sales and Use Tax	Industrial Development Agencies	2005	111	100.0
Corporate Franchise Tax	Investment and Retail Enterprise Tax Credit, Employment Incentive Credit, and Rehabilitation Credit for Historic Barns	2004	7	92.4

Other Business and Commerce

Tax	Description	Base Year	Item #	Amount ($ Millions)
Personal Income Tax	Miscellaneous Deductions Subject to 2 Percent of AGI Limitation	2005	16f.	344.1
Sales and Use Tax	Fuel, Gas, Electricity, Refrigeration, and Steam Used in Research and Development and Production	2005	29	271.0
Sales and Use Tax	Machinery and Equipment Used in Production	2005	66	263.0
Insurance Tax	Exclusion from the Premiums Tax of Premiums Written on Certain Reinsurance Policies	2004	7	240.8
Sales and Use Tax	Interstate or International Telephone and Telegraph Service	2005	51	239.0

Housing

Tax	Description	Base Year	Item #	Amount ($ Millions)
Personal Income Tax	Interest Deduction	2005	16b.	1,017.6
Sales and Use Tax	Capital Improvement Installation Services	2005	5	468.0
Sales and Use Tax	New Mobile Homes	2005	85	2.0
Personal Income Tax	Low-Income Housing Credit	2005	34	1.4
Bank Tax	Low-Income Housing Credit	2004	19	0.2

Transportation

Tax	Description	Base Year	Item #	Amount ($ Millions)
Sales and Use Tax	Fuel Sold to Airlines	2005	41	95.0
Petroleum Business Tax	Bunker fuel	2006	2	41.9
Sales and Use Tax	Tractor-Trailer Combinations	2005	47	16.0
Sales and Use Tax	Commercial Aircraft	2005	40	14.0
Sales and Use Tax	Food Sold to Airlines	2005	15	6.0

Education and Training

Tax	Description	Base Year	Item #	Amount ($ Millions)
Sales and Use Tax	New York State Agencies and Political Subdivisions	2005	110[1]	469.0
Personal Income Tax	Taxes Paid Deduction	2005	16e.[4]	351.0
Personal Income Tax	College Tuition Credit	2005	31	209.5
Personal Income Tax	Charitable Contribution Deduction	2005	16c.[2]	87.7
Sales and Use Tax	Food Sold at School Cafeterias	2005	16	83.0

Social Services

Tax	Description	Base Year	Item #	Amount ($ Millions)
Personal Income Tax	Charitable Contribution Deduction	2005	16c.[2]	475.5
Personal Income Tax	Child and Dependent Care Credit	2005	24	341.6
Sales and Use Tax	Charitable Organizations	2005	115[3]	288.0
Personal Income Tax	Long-Term Care Insurance Credit	2005	37	84.6
Sales and Use Tax	Property Sold to Contractors for Capital Improvements or Repairs for Exempt Organizations	2005	91	61.0

Health

Tax	Description	Base Year	Item #	Amount ($ Millions)
Sales and Use Tax	Drugs, Medicine, and Medical Supplies	2005	24	766.0
Sales and Use Tax	Eyeglasses, Hearing Aids, and Prosthetic Aids	2005	25	96.0
Personal Income Tax	Medical/Dental Deduction	2005	16a.	94.3
Personal Income Tax	Charitable Contribution Deduction	2005	16c.[2]	60.9
Sales and Use Tax	Charitable Organizations	2005	115[3]	36.9

Income Security, Social Security, and Railroad Retirement

Tax	Description	Base Year	Item #	Amount ($ Millions)
Sales and Use Tax	Certain Food Products	2005	14	1,129.0
Personal Income Tax	Earned Income Credit	2005	19	700.0
Sales and Use Tax	Energy Sources for Residential Purposes	2005	28	694.0
Personal Income Tax	Exclusion of Pensions, Annuities, Interest, and Lump Sum Payments Received by NYS and Municipal Retirees	2005	4	575.7
Personal Income Tax	Exclusion of Social Security and Tier I Railroad Retirement Benefits	2005	2	483.8

Veterans' Benefits and Services

Tax	Description	Base Year	Item #	Amount ($ Millions)
Petroleum Business Tax	Not-For-Profit Groups and Veterans Organizations	2006	11	10.0
Petroleum Business Tax	Not-For-Profit Groups and Veterans Organizations	2006	28	*
Sales and Use Tax	Veterans Posts or Organizations	2005	116	*

General Purpose Fiscal Assistance

Tax	Description	Base Year	Item #	Amount ($ Millions)
Personal Income Tax	Taxes Paid Deduction	2005	16e.[4]	234.0

[1] Item in Government and Education and Training Categories

[2] Item in Education and Training, Social Services, and Health Categories

[3] Item in Social Services and Health Categories

[4] Item in Education and Training and General Purpose Fiscal Assistance Categories

CASE STUDY: GROWTH IN TAX CREDITS

This case study provides a broad overview of tax credits that are intended as economic development incentives. It concentrates on credits that reward investment, job creation and retention, or seek particular public policy goals intended to stimulate economic development. It does not cover credits that are "accounting mechanisms," such as the alternative minimum tax credit, nor does it address credits that pertain to individuals or households, such as the earned income tax credit or the real property tax credit (circuit breaker). This overview also excludes credits designed primarily to promote energy conservation, better health care outcomes, and other public purposes such as security guard training. The tax credits available to businesses also apply to taxpayers filing under the Personal Income Tax. These taxpayers claim credits as sole proprietors, partners in a partnership, members of a limited liability company, or shareholders in an S corporation. This discussion, which includes credit amounts and numbers of claimants, centers on Article 9-A general business corporations because the tax credit data are more robust for this tax article.

Historical Overview

New York's attempts to stimulate investment, economic development, and new and improved employment opportunities through favorable tax treatment date to the 1960s. The State's efforts began in 1964 when the Legislature enacted special depreciation rules. Taxpayers could claim double depreciation — up to twice the amount of Federal depreciation — on all new plant, machinery, equipment, and other depreciable property located in the State. They could also claim an accelerated one-year depreciation deduction for the cost of property used for scientific research and development. In 1968, the deduction was scaled back to cover production property only, and was disallowed for leased property. In 1969, the double depreciation allowance was replaced by the investment tax credit (ITC).

The Investment Tax Credit

The goal of the ITC was to encourage the modernization of New York's production facilities and make the State an attractive location for manufacturers. As enacted, the ITC equaled 1 percent and taxpayers could elect to take the one-year depreciation write-off on research and development property instead. The credit rate has fluctuated over time, with the most lucrative structure coming between 1982 and 1986. During that period the credit had a 6 percent rate with a 10 percent rate on research and development property. Since 1991, the credit has been 5 percent on the first $350 million of investment and 4 percent on amounts over $350 million, with an optional 9 percent rate on research and development property.

The Legislature also periodically expanded the ITC to cover industries beyond manufacturers. In addition to property used in the production of goods, excluding electricity, the ITC is currently available for rehabilitation expenses of retail enterprises and historic barns, certain property used in the financial services industry, and property used in qualified film production facilities.

Encouraging Employment

Lawmakers sought to directly encourage job creation through enactment of the additional ITC in 1975. Taxpayers claiming the ITC could receive an additional three-year credit of 50 percent of the ITC if their employment was at least 101 percent of the total in the year prior to the year the ITC-eligible property was placed in service. Starting in 1987, this credit was replaced by the employment incentive credit (EIC). Originally, the EIC required the same 101 percent employment test, but it was only allowed for the two years following the year the ITC was claimed. The credit equaled 2 percent of the first $500 million of the ITC base and 2.5 percent of the ITC base in excess of $500 million. Currently, the two-year credit ranges from 1.5 percent to 2.5 percent of the ITC base, depending upon the level of employment increase, ranging from 101 percent to 103 percent or more of base year employment.

Location-Specific Tax Incentives

In 1968, the State also sought to target tax incentives to certain areas in an attempt to address regional economic concerns. The eligible business facility credit's objective was the retention and expansion of businesses and job opportunities in depressed urban areas. The Job Incentive Board administered the credit and to qualify, a facility had to meet location and employment tests and operate an approved training program. In 1971, the credit was expanded to eligible business facilities in low-income rural counties. Eventually, the program expanded to encompass the entire state. By the late 1970's, the program had become unwieldy and benefits were being provided without a well-defined justification of overall economic benefits. After newspaper accounts appeared revealing that Tiffany's qualified for the credit, the program was repealed prospectively. After April 1, 1983, no more credits were issued under the program. After the program was repealed, the Department continued to administer the credit during the years of continued taxpayer eligibility.

It was three years before the legislature returned to the concept of a location-specific tax incentive. In 1986, it enacted the Economic Development Zone (EDZ) Program. The Program designated certain areas of the State consisting of several acres where businesses could be eligible for particular credits. Credits included a 10 percent ITC, a three-year additional ITC (later EIC) equal to 30 percent of the EDZ ITC, and a five-year wage tax credit that declined in value each year. Taxpayers could also receive a tax credit for investing in zone capital corporations. In 1994, the zone equivalent area wage tax credit was created to allow the EDZ wage tax credit in areas that met zone criteria but were not designated as such. Also, the EDZ capital credit was expanded to include investments in certified businesses and contributions to community development projects.

Beginning in 2001, the EDZ Program was radically expanded in scope to create virtual "tax free" areas in distressed communities. The wage tax credit doubled in value to $3,000 for targeted and $1,500 for nontargeted employees, and the EIC was allowed against the alternative minimum tax (AMT). The Empire Zones Program Act changed the name of EDZs to Empire Zones and created two new credits. Businesses that met an annual employment test could become certified as qualified Empire Zone enterprises (QEZEs) and claim a real property tax credit (RPTC) and a tax reduction credit. The RPTC can potentially equal the amount of a taxpayer's real property taxes and is fully refundable. The tax reduction credit is based on employment increases and zone presence and can be used against the AMT and, in certain circumstances, the fixed dollar minimum tax to reduce tax to zero.

After enactment, it became clear the EZ/QEZE Program provided opportunities for taxpayers to use legal maneuvers to make their businesses appear new or reconfigure their business structures and thus claim greater amounts of credit. As originally drafted, the credit formulas allowed minimal job increases to generate large tax credits. In addition, the program was expanded beginning in 2005 to include County Zones and "Regionally Significant Projects" with no specific ties to an economically distressed area. As of today, all New York counties have a designated zone. There was also debate over whether areas designated as EZs were in line with the original intent of the Program of targeting incentives to economically distressed areas. In an attempt to address criticisms and loopholes, changes have been made to the Program nearly every year since 2001.

Environmental Clean-up Incentives

As part of New York's industrial legacy, many locations within the state are so called "brownfields." Brownfields are sites within the State that have been contaminated with pollutants from past industrial activity. As a result, contaminates in the soil and groundwater present impediments to site redevelopment. In 1999, environmental and economic development interests proposed a series of environmental credits to encourage the remediation of brownfield sites and their redevelopment. The Brownfield Cleanup Program was eventually enacted in 2003. Three tax credits became effective in 2005: the brownfield redevelopment credit, the remediated brownfield credit for real property taxes, and the environmental remediation insurance credit. The brownfield redevelopment credit itself is comprised of three components relating to costs associated with site preparation, tangible property, and on-site groundwater remediation.

Growth of Credits

Credit Offerings Increase

The number of tax credits has proliferated dramatically, particularly starting in the mid-1990s. Prior to 1995, New York offered eight tax credits. Two of these credits, the EDZ-ITC and the EDZ-EIC, offered higher rates than their non-EDZ counterparts if the taxpayer was located in an EDZ, but the general credit criteria were the same. One credit, the job incentive credit, was terminated in 1983. When viewed in that regard, New York really offered only five distinct credits in 1994.

While there were only eight credits available in the first 25 years after the creation of the ITC[6], the last 13 years have seen the enactment of nearly four times that number. There have been 29 tax credits enacted since 1995, 12 of which were enacted in the last three years. Presently, the number of tax credits available to businesses stands at 36.

[6] Including the job incentive credit

GROWTH IN TAX CREDITS

The following table contains the list of the major economic development related tax credits and the year in which they were enacted. The table identifies two additional credit characteristics: the interaction with the alternative minimum tax (AMT) and refundability.

The AMT was enacted in 1986 as a way to prevent corporations from using deductions and tax credits to reduce their tax liability to the fixed dollar minimum tax. Some tax credits contain a statutory exemption to the AMT, meaning a taxpayer can apply credit against its AMT liability. Some credits can also be applied against the fixed dollar minimum tax to reduce liability to zero.

Whether limited by the AMT, the fixed dollar minimum tax, or not at all, many credits permit the taxpayer to carry forward excess credit amounts (i.e. credit amounts greater than the amount of tax liability) that can be applied against tax liability in future years. However, some credits allow a taxpayer to request any excess credit as a refund. Thus, if a taxpayer earns credit that exceeds its tax liability, the State will issue a check to the taxpayer for the amount of the excess.

Table 2: Current New York State Tax Credits with an Economic Development Focus

Tax Credits	Year Effective	Use on AMT	Refundable
Investment tax credit (ITC)	1969		New
EZ wage tax credit[7]	1986		50%, new
EZ ITC	1986		50%, new
EZ employment incentive credit (EIC)	1986	Y	
EZ capital credit	1986		
EIC	1987		
Farmers' school property tax credit	1997		Y
ITC allowed for the financial services industry	1998		New
EZ ITC for the financial services industry	1998		50%, new
Qualified emerging technology company (QETC) capital tax credit	1999		
QETC employment credit	1999		Y
Industrial or manufacturing business credit	1999		Y
Low-income housing credit	2000		
QEZE real property tax credit	2001		Y
QEZE tax reduction credit[8]	2001	Y *	
Empire State film production tax credit	2004	Y	50%
Brownfield redevelopment credit	2005		Y
Brownfield credit for real property taxes	2005		Y
Brownfield environmental remediation insurance credit	2005		Y
Fuel cell electricity generating equipment credit	2005		
QETC facilities, operations, and training credit	2005		Y
Biofuel production credit	2006		Y
Empire State commercial production credit	2007	Y	50%
Credit for rehabilitation of historic properties	2007	Y *	

Use on AMT - "Y" means credit is allowed to be applied against the AMT base
"*" means also allowed against fixed dollar minimum base
Refundable - "new" means refundable only to new businesses
"residential" means refundable on residential mortgages only
"50%" means only 50% of credit is allowed as a refund
"Y" means credit is fully refundable

[7] Aggregate limited to 50% of tax due before credits
[8] Can use against FDM if zone allocation factor = 100%

Impact on State Finances

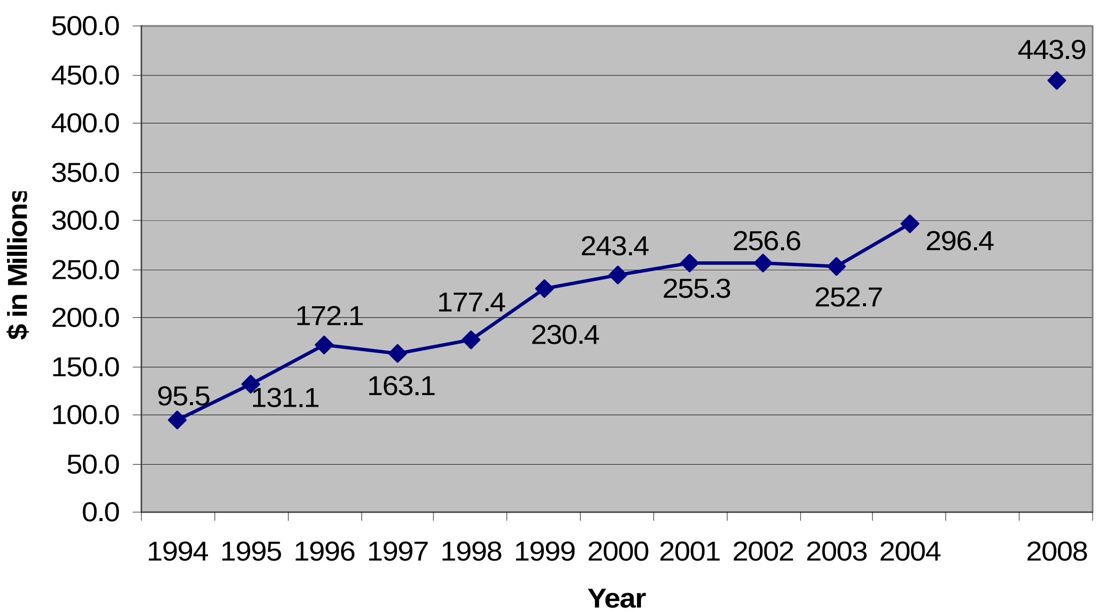
In 1994, taxpayers earned $194.8 million in tax credits and used and refunded $95.5 million. By 2004, those amounts grew to $490.0 million in credits earned and $296.4 million in credits used and refunded. The used and refunded amounts represent the actual impact on the State's financial plan. Tax receipts are reduced because taxpayers have used credit to offset all or a portion of their liability. The State financial plan is impacted because the State must issue checks to taxpayers in the amounts of the requested refunds, amounts that exceeded a taxpayer's liability.

Essentially, in 2004 New York State had an expenditure program that totaled nearly $300.0 million in Article 9-A alone, although it was administered through the tax system. The latest year for which verified Article 9-A data exists is 2004, but preliminary data for later years indicate that the impact from tax credits is poised to increase substantially. The total amount of credits used and refunded is forecasted to reach approximately $445.0 million in 2008.

Figure 2: Total Article 9-A Credit Used & Refunded

1994-2004 and 2008 Forecast

(excludes AMT credit)



The reason for this increase is twofold. First, many of the new credits enacted after 2004 are refundable. Of the 12 credits first effective between 2005 and 2007, nine allow refunds. These nine credits also represent nearly half of *all* refundable credits available. The other 12 refundable credits were enacted between 1969 and 2004. Thus, the trend of allowing excess credit to be refunded has accelerated in recent years. Not only do refundable credits impact the financial plan to a greater extent than non-refundable credits, they also raise issues regarding government transparency. Because the refunds are issued through the tax system, despite being analogous to expenditure programs, they are not subject to annual appropriation and are hidden from public scrutiny by taxpayer confidentiality laws. As a result, policymakers are less able to discern and evaluate the effectiveness of the credits.

The growth in the forecasted fiscal impact of credits can also be attributed to three new refundable credits: the brownfield redevelopment credit, the brownfield credit for real property taxes, and the brownfield environmental remediation insurance credit. These credits were effective for tax years beginning on or after April 1, 2005, so final, verified data are not yet available. Accordingly, their impact is not yet reflected in base year credit amounts. While all of the brownfield credits are refundable, the redevelopment credit has the greatest potential impact. Taxpayers can earn credit raging from 10 percent to 22 percent of site preparation, tangible property, and groundwater cleanup costs. Preliminary data indicate that the tangible property component is consuming the vast share of the credit, with relatively modest cleanup expenses being incurred for the sites in comparison to redevelopment expenses. Many sites are being redeveloped in areas where it is very costly to do so, or are being redeveloped with high-end projects; both drive up the cost of the tangible property component. Further, many of these sites are located in areas where it is likely that, once remediated, they would have been redeveloped in the absence of tax credits. Since the credit is available as-of-right, there is no mechanism for the State to direct the redevelopment efforts or contain the costs. Finally, the tangible property component is available for ten years; as a result any new construction that occurs over the ten-year period qualifies for the credit.

All of these factors will contribute to a significant fiscal impact. The combined impact of the three brownfield credits is expected to exceed $100 million in 2008 for Article 9-A.[9] This accounts for nearly 70 percent of the estimated increase in the amount of all credits used and refunded between 2004 and 2008.

Finally, as noted above, some credits permit taxpayers to carry forward excess credit amounts to future tax periods. This carry-forward value represents the total amount of credit that could potentially be applied at some uncertain future date. In 1994, this reservoir of credit totaled $1.3 billion. By 2004, this repository of credits amounted to $2.3 billion. The State has no control over the timing of these amounts. A taxpayer is free to utilize its carry-forward amount whenever its tax liability can accommodate it.

Credit Composition and Concentration

The growth in the number of tax credits has not only impacted the aggregate amounts, but the composition of the credit universe as well.

For years, the ITC was the predominant tax credit in New York. In 1994, the ITC accounted for 94.8 percent of the total credit earned and 97.6 percent of the total credit used and refunded. By 2004, the ITC's share of all credit earned shrunk to 22.8 percent, and its share of credit used and refunded was reduced to 31.2 percent.

[9] $102 million in Article 9-A; an additional $153 million is estimated for the Personal Income Tax.

The ITC has been displaced by the EZ/QEZE Program. In 1994, the EDZ credits amounted to 3.0 percent of all credits earned and 1.4 percent of all credits used and refunded. By 2004, the EZ/QEZE credits had grown to account for the majority of the Article 9-A credit totals. The credits accounted for 67.4 percent of all credit earned and 62.6 percent of all credit used and refunded.

During that time, the value of the EZ/QEZE credits grew from $5.9 million in credit earned and $1.3 million in credit used and refunded to $329.2 million in credit earned and $185.5 million in credit used and refunded. It should be noted that the wage tax credit amounts were smaller and there were no QEZE credits in 1994.

Taken together, the ITC, including the financial services ITC, and the EZ/QEZE credits accounted for 97.0 percent of the fiscal impact from all tax credits in 2004. The remaining 13 tax credits available in 2004 accounted for the other 3.0 percent. The share from these “other” credits has only grown moderately since 1994, when they accounted for approximately 1.0 percent of the total credits used and refunded.

Tax credit utilization is quite concentrated among taxpayers. In 2004, there were approximately 4,000 taxpayers claiming at least one tax credit. The entire Article 9-A universe consisted of slightly over 250,000 taxpayers. Therefore, only 1.6 percent of all Article 9-A businesses accounted for a fiscal impact of nearly $300 million. The remaining 98.4 percent of general business corporations in New York State do not participate in the wide offering of tax credits.

Executive Budget Response

The Governor’s Executive Budget recognizes the increasing fiscal and programmatic impact from the number and size of tax credits. If credits programs continue without programmatic evaluation and alteration, the fiscal impact of credits will increase significantly and reduce the resources available to address the intended goals of the credit programs as well as other needs.

Several proposals in the Executive Budget address these concerns, either administratively or statutorily. Empire State Development will be taking administrative actions that will result in savings by decertifying taxpayers that did not meet satisfactory job creation or investment goals and tightening eligibility for EZ/QEZE certification. The former will result in the disallowance of EZ/QEZE credits while the latter will ensure a more efficient ongoing expenditure of State resources. The Brownfield Cleanup Program reform proposals will cap the expenditure of State dollars on disproportionately high tangible property credits and redirect savings to reward more participants and encourage greater remediation. The proposals enable the Department of Environmental Conservation to evaluate the suitability of Program applicants and determine in advance whether the proposed projects are worthy of tax credits. The proposal will also increase transparency by requiring future credit recipients to report credit information.

Challenges in Administering Tax Credits

As the number of tax credits offered continues to grow, so do the challenges in administering them.

The role of the Department of Taxation and Finance is not to administer economic development assistance, but rather to provide a fair system of tax administration and be accessible and responsive to taxpayers. The Department strives to contribute to a favorable economic climate, however, by providing an efficient and equitable tax environment with taxes that are simple, transparent, and easy to administer.

Criteria for a Well Functioning Tax System

An effective tax policy can be summed up in just a few words: equity, efficiency, and the combination of simplicity, transparency, and administerability.

Tax equity suggests that taxes should be based upon the ability to pay or the benefits received. Ability to pay is viewed from the twin perspectives of horizontal equity and vertical equity. Horizontal equity requires those that have similar ability to pay be treated similarly. Vertical equity requires that those with greater ability to pay, pay more. The benefit principle requires that taxes be commensurate with the level of services, or the benefits received by the taxpayer.

Efficiency in a tax system requires that the distortion of economic behavior and decision making inherent in any tax or subsidy be kept at a minimum. Generally, this requires that taxes be imposed upon as broad a base as possible at the lowest rates consistent with revenue requirements.

Simple taxes and tax systems are often the best because simplicity makes compliance easier, and when compliance is easy, it is more likely to occur. Simplicity also makes it more likely that the tax will be transparent. Transparency is desirable because when a tax system is easy to understand, it becomes less difficult and expensive for taxpayers to be compliant, and it is more likely that each taxpayer will have a ready understanding of the taxes imposed upon others. This leads to the perception of fairness and also fosters compliance. Both simplicity and transparency provide for administerability. The Department's role in administering the system by accepting and processing payments, interpreting the law, providing assistance to taxpayers, and enforcing the law becomes easier and less expensive when the system is simple and transparent.

Issues in Tax Credit Administration

As a consequence of the narrowly drawn eligibility criteria for tax credits that are constructed in statute, it is frequently the case that desired projects, investments, or activities may be precluded from earning credit. Often, when these problems are recognized, the response is to alter the requirements of the credit program. This requires the Legislature and the Executive to amend the eligibility standards. This frequently results in additional complexity and adds to, rather than eliminates, the original problems.

Perhaps the greatest challenge presented in the administration of tax credits is evaluating how effective these programs have been in promoting economic development. The credit structure has the result of granting benefits not only to taxpayers who would not have undertaken the desired activity in the absence of the credit, but also to taxpayers who would have undertaken the activity in the absence of the credit. As a result, it is difficult to determine the extent to which economic development occurs as the result of credit programs. It is also difficult to control for the many factors other than taxes that impact economic development in the State. For example, would New York City-related commercial real estate projects have occurred without EZ or brownfield credits? Because credits are available as-of-right, it is impossible for policymakers to determine the extent to which a credit provided the incentive for the activity or whether a taxpayer merely claimed credit because it was available for its pre-determined activity.

Taken together, these issues present a daunting set of administrative challenges. They also raise the question, “Are tax credits as an economic development tool the most effective, efficient use of State resources?”

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:

- Effective for tax years beginning on or after January 31, 2007, manufacturers and qualified emerging technology companies are subject to a 6.5 percent ENI rate.

- Section 1115(a)(19-a) provides a new sales tax exemption for milk crates purchased by a dairy farmer or licensed milk distributor used exclusively and directly for packaging and delivering milk and milk products to customers. This exemption took effect September 1, 2007.

Deletions:

- The home heating system credit expired on June 30, 2007.

- The clean heating fuel credit expired on June 30, 2007.

- The STAR rebate/school district property tax credit was replaced with the Middle Class STAR rebate program.

Modifications:

- The solar energy system equipment credit was expanded to allow the credit to apply to members of large multi-unit dwellings like co-ops and condominiums. In addition, the size of the solar energy system eligible for the credit was increased from 10 kW to 50 kW.

- A clarification was provided for volunteer firefighters and ambulance workers to qualify for the volunteer firefighters and ambulance workers credit on their 2007 income tax returns as long as they tell their assessor before the end of 2007 that they wish to discontinue their real property tax exemption for such service.

- The low-income housing credit allocation pool was increased by $4 million, raising the aggregate annual credit cap from $12 million to $16 million.

- Data for the three Empire Zone (EZ) and two Qualified Empire Zone Enterprise (QEZE) credits are reported individually. Previously, the credit amounts were reported as combined EZ and QEZE totals, respectively.

- 2004 is the first tax year for which data on the Empire State film production tax credit is available.

- Effective for tax years beginning on or after January 1, 2007, the deduction of 60 percent of dividend income and excess gains from subsidiary capital under the Bank Tax is limited in the case of subsidiaries which are Real Estate Investment Trusts (REITs) or Regulated Investment Companies (RICs).

- Effective for tax years beginning on or after January 1, 2007, the exclusion of interest, dividends, and capital gains from subsidiary capital under the Insurance Tax is limited in the case of subsidiaries which are Real Estate Investment Trusts (REITs) or Regulated Investment Companies (RICs).

- Effective for tax years beginning on or after January 1, 2007, Real Estate Investment Trusts (REITs) and Regulated Investment Companies (RICs) which are subsidiaries of corporate franchise taxpayers are required to file combined with their parents, limiting the applicability of the corporate exemptions available to these entities.

- Effective for tax years beginning on or after January 1, 2007, the rates of tax for qualifying small business corporations under the corporate franchise tax are reduced. The rate of tax on the amount of the entire net income (ENI) base more than $290,000 but not more than $390,000 is reduced from 7.5 percent to 7.1 percent. The rate of tax on the amount of the entire net income (ENI) base more than $350,000 but not more than $390,000 is reduced from 7.25 percent to 4.35 percent.

PERSONAL INCOME TAX

This section provides revenue estimates of tax expenditures for 53 provisions of the 2008 New York State Personal Income Tax. Tax expenditures are first estimated for the 2005 tax year (the latest year for which historical tax data are available) and then projected to the 2008 tax year. This section also provides historical estimates from 2001 through 2004 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 2005 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. For tax years 2006 and after, 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, 2008. It also includes any differences applicable between the 2005 and 2008 tax years. The listing does not include provisions repealed or sunsetted prior to 2008.

Data Sources

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

- 2005 Personal Income Tax Study File — A data file based on a statistical sample of approximately 620,000 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.

  It is important to note that the sample size of the 2005 file is significantly larger than in previous years. This has resulted in smaller sampling error and more accurate estimates compared to estimates prior to 2005.

- 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 2005 Personal Income Tax study. The PITCH data are extrapolated to 2008 together with the Personal Income Tax study.

- 2005 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 24,000 returns.

- 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 2008 *Corporate and Individual Income Tax Revenue Loss Estimates for Tax Expenditures*. Historical estimates were based on prior reports.

- 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 2007-2011*. The JCT publishes this pamphlet annually. Historical estimates are based on prior reports.

Methodology

For estimating tax expenditures in 2008, components of income, modifications, and itemized deductions on the 2005 sample return file are extrapolated to 2008 levels using growth assumptions based on the economic forecast provided by the Division of the Budget during December 2007. This data file is then used with the Personal Income Tax model revised to simulate 2008 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
2008 Personal Income Tax Expenditure Estimates
(2005 Total Personal Income Tax Liability = $28,489 Million)
(Millions of Dollars)

	History					Forecast	Reliability
Tax Item	**2001**	**2002**	**2003**	**2004**	**2005**	**2008**	**Level**
New York Modifications							
1. Pension/Annuity Exclusion	368.7	349.1	359.6	371.6	434.4	523.0	1
2. Exclusion of Social Security and Tier I Railroad Retirement Benefits (Taxable Social Security for Federal Purposes but New York Exempt)	379.8	363.8	384.6	413.3	483.8	692.0	1
3. Exclusion of Interest on U.S. Obligations	191.5	123.6	106.2	95.2	127.2	165.0	1
4. Exclusion of Pensions, Annuities, Interest, and Lump Sum Payments Received by New York State and Municipal Retirees	405.3	427.7	453.3	510.7	575.7	730.0	1
5. Exclusion of Pensions, Annuities, Interest, and Lump Sum Payments by Federal Retirement Systems	85.4	89.2	93.5	104.6	117.9	146.0	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	15.6	23.4	31.4	37.6	40.1	42.0	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
14. Living Organ Exclusion	--	--	--	--	--	*	4
New York Itemized Deductions and Exemptions							
15. Value of Standard Deductions for Those Returns with Itemized Deductions in Excess of Standard Deduction	1,235.0	1,286.0	1,372.1	1,477.4	1,561.6	1,627.0	1
16. Itemized Deductions							
a. Medical/Dental Deduction	74.4	74.9	84.9	85.7	94.3	107.0	1
b. Interest Deduction	753.0	732.0	783.6	856.9	1,017.6	1,022.0	1
c. Charitable Contribution Deduction	438.5	424.1	477.8	556.5	624.1	710.0	1
d. Casualty/Theft Deduction	4.1	3.6	3.5	3.4	6.8	7.3	1
e. Taxes Paid Deduction	430.2	444.0	470.0	510.0	585.0	680.0	1
f. Miscellaneous Deductions Subject to 2 Percent of AGI Limitation	281.0	299.0	313.4	335.3	344.1	350.0	1
g. Other Miscellaneous Deductions	22.8	26.3	26.0	37.3	42.6	43.0	1
17. Dependent Exemptions	280.5	285.0	290.4	291.3	286.8	295.0	1
New York Credits							
18. Household Credit	104.8	101.8	99.2	96.6	96.2	95.0	1
19. Earned Income Credit	500.9	590.9	681.5	662.6	700.0	840.0	1
20. Real Property Tax Credit (Circuit Breaker)	31.0	31.2	32.6	29.9	29.6	29.0	1
21. Farmers' School Property Tax Credit	20.9	21.8	23.3	24.3	24.8	30.0	2
22. Investment Credit	33.1	27.9	28.4	28.1	24.0	26.0	1
23. Investment Credit for Financial Services Industry[1]	1.0	0.5	0.5	0.2	0.3	0.7	2
24. Child and Dependent Care Credit	208.5	228.7	325.3	339.3	341.6	385.0	1

	Tax Item	History					Forecast	Reliability
		2001	2002	2003	2004	2005	2008	Level
25.	Accumulation Distribution Credit[1]	0.1	*	*	*	0.5	0.1	2
26.	Empire Zone and Zone Equivalent Areas Tax Credit [1,2]	38.6	51.0	75.0	77.8	89.7	83.0	2
27.	Special Additional Mortgage Recording Tax Credit Carryforward	3.7	2.3	2.3	1.2	*	*	2
28.	Solar Energy System Equipment Credit[1]	0.1	0.5	0.6	0.5	0.4	2.0	2
29.	Credit for Employment of Persons with Disabilities[1]	0.1	0.1	0.1	0.1	0.1	*	2
30.	Qualified Emerging Technology Companies Credits							
	a. QETC Capital Tax Credit	0.7	0.7	0.8	0.5	0.5	1.0	2
	b. QETC Employment Credit	0.2	0.2	0.2	0.1	0.2	0.2	2
	c. QETC Facilities, Operations and Training Credit	--	--	--	--	1.1	2.0	1
31.	College Tuition Credit[3]	18.3	61.7	129.6	205.8	209.5	216.0	1
32.	Credit for Purchase of an Automated External Defibrillator[1]	*	*	*	*	0.1	0.1	2
33.	Green Building Credit[1]	*	0.3	0.7	0.9	2.1	3.0	2
34.	Low-Income Housing Credit[1]	*	*	*	*	1.4	15.0	2
35.	Credit for Transportation Improvement Contributions	0.0	0.0	0.0	0.0	0.0	0.0	2
36.	Qualified Empire Zone Credits[2]	16.9	30.1	78.8	100.7	136.9	170.0	2
37.	Long-Term Care Insurance Credit[1]	--	18.9	28.6	75.1	84.6	145.0	2
38.	Fuel Cell Electricity Generating Equipment Credit[1]	--	--	--	--	*	*	2
39.	Empire State Film Production Credit[1]	--	--	--	0.7	0.3	48.0	2
40.	Brownfields Tax Credits[1]	--	--	--	--	*	153.0	2
41.	Nursing Home Assessment Tax Credit	--	--	--	--	5.3	15.0	2
42.	Special Additional Mortgage Recording Tax Credit[1, 4]	--	--	--	--	24.5	20.0	2
43.	Security Training Tax Credit[1]	--	--	--	--	*	2.0	2
44.	Empire State Child Credit	--	--	--	--	--	650.0	4
45.	Enhanced State Earned Income Tax Credit for Certain Non-Custodial Parents	--	--	--	--	--	5.0	4
46.	Volunteer Firefighters and Ambulance Workers Credit	--	--	--	--	--	20.0	4
47.	Alternative Fuels Credit[1]	--	--	--	--	*	*	4
48.	Empire State Commercial Production Credit	--	--	--	--	--	6.0	4
49.	Biofuel Production Credit	--	--	--	--	--	10.0	4
50.	Land Conservation Easement Credit	--	--	--	--	--	3.0	4
51.	Handicapped Accessible Taxicab and Livery Service Credit	--	--	--	--	--	2.0	4
52.	Rehabilitation of Historic Properties Credit	--	--	--	--	--	5.0	4
53.	Historic Homeownership Rehabilitation Credit	--	--	--	--	--	3.0	4

[1] Credit estimates are amounts available for use to reduce current year tax liability as reported on IT201ATT and IT203ATT. Figure also includes refundable amounts where applicable.

[2] Prior to this year's report, EZ and QEZE data was reported in the aggregate for those two groups, respectively. Starting with this year's report, credit-specific amounts are available in the descriptions of each credit.

[3] Estimate includes value of itemized deduction and credit.

[4] Claims of this credit for tax years 2004 and 2005 will be reported in aggregate on 2005 tax returns.

* 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: 2005: $434.4 million — 2008: $523.0 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: 2005: $483.8 million — 2008: $692.0 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: 2005: $127.2 million — 2008: $165.0 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: 2005: $575.7 million — 2008: $730.0 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: 2005: $117.9 million — 2008: $146.0 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: 2005: Minimal — 2008: 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: 2005: $40.1 million — 2008: $42.0 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: 2005: Minimal — 2008: 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: 2005: Minimal — 2008: 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)(i)(ii)
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 or the Federal government.
Estimates: 2005: Minimal — 2008: Minimal
Data Source: Estimates from Division of the Budget
Reliability: Level 4

14. **Exclusion for Living Human Organ Donors**
Citation: Section 612(c)(38)
Effective Date: Effective for taxable years beginning on or after January 1, 2007
Description: Resident taxpayers may subtract certain unreimbursed expenses from Federal adjusted gross income which are incurred by the taxpayer while donating one or more of their human organs, while living, to another human being for human organ transplantation. Unreimbursed expenses include travel expenses, lodging expenses and lost wages. In addition, a "human organ" is defined as all or part of a liver, pancreas, kidney, intestine, lung or bone marrow. The subtraction can only be claimed once and must be claimed in the taxable year in which the human organ transplantation occurs. The maximum allowable subtraction is $10,000 per taxpayer.
Estimates: 2005: Not Applicable — 2008: 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 deductions, and all taxpayers are allowed exemptions for dependents who qualify for the Federal exemption.

15. **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: 2005: $1,561.6 million — 2008: $1,627.0 million
Data Source: PIT Simulation Model
Reliability: Level 1

16. **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 2008 FAGI exceeds $159,950 ($79,975 for married filing separately). This threshold is indexed annually for inflation. Deductions subject to the limitation cannot be reduced by more than 80 percent. Starting in 2008, taxpayers are required to reduce their itemized deductions by one-third of the limitation amount. For tax year 2009 and after, the limitation is completely eliminated. 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: 2005: $94.3 million — 2008: $107.0 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: 2005: $1,017.6 million — 2008: $1,022.0 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: 2005: $624.1 million — 2008: $710.0 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: 2005: $6.8 million — 2008: $7.3 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 2007 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: 2005: $585.0 million — 2008: $680.0 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: 2005: $344.1 million — 2008: $350.0 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: 2005: $42.6 million — 2008: $43.0 million
Data Source: PIT Simulation Model
Reliability: Level 1

17. **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: 2005: $286.8 million — 2008: $295.0 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. The estimates shown for non-refundable credits reflect credit amounts available to the taxpayer to use to reduce tax liability.

18. **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:

Over	But Not Over	The Credit Is
$ 0	$ 5,000	$75
5,000	6,000	60
6,000	7,000	50
7,000	20,000	45
20,000	25,000	40
25,000	28,000	20
28,000	No Credit	

All Other Filing Statuses — If Federal AGI is:

Over	But Not Over	The Credit Is	+	For Each Federal Exemption
$ 0	$ 5,000	$75		$15
5,000	6,000	60		15
6,000	7,000	50		15
7,000	20,000	45		15
20,000	22,000	50		10
22,000	25,000	40		10
25,000	28,000	35		5
28,000	32,000	15		5
32,000	No Credit			

Estimates: 2005: $96.2 million — 2008: $95.0 million
Data Source: PIT Simulation Model
Reliability: Level 1

19. **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 2008 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	$ 8,580	34%	$ 875	$18,740	$15,740	$36,995	$33,995
Taxpayers With 2 or More Children	$12,060	40%	$1,447	$18,740	$15,740	$41,646	$38,646
Taxpayers Age 25-64 Without Children	$ 5,720	7.65%	$ 131	$10,160	$ 7,160	$15,880	$12,880

* 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: 2005: $700.0 million — 2008: $840.0 million
Data Source: Earned Income Tax Credit Study
Reliability: Level 1

20. **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: 2005: $29.6 million — 2008: $29.0 million
Data Source: Real Property Tax Credit Study
Reliability: Level 1

21. **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 350 acres, and 50 percent of the school taxes paid on acres in excess of 350. 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 begins to phase out for taxpayers with NYAGI in excess of $200,000, after subtracting principal on farm indebtedness, and is phased out completely at $300,000. 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: 2005: $24.8 million — 2008: $30.0 million
Data Source: Personal Income Tax Clearing House data file
Reliability: Level 2

22. **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' investment in a 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 expenditures 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 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, excess credit may be received as a refund.

An 8 percent ITC 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: 2005: $24.0 million — 2008: $26.0 million
Data Source: PIT Simulation Model
Reliability: Level 1

23. **Investment Credit for Financial Services 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:

- 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: 2005: $0.3 million — 2008: $0.7 million
Data Source: Personal Income Tax Clearing House data file
Reliability: Level 2

24. **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 rate 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

Estimates: 2005: $341.6 million — 2008: $385.0 million
Data Source: PIT Simulation Model
Reliability: Level 1

25. **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: 2005: $0.5 million — 2008: $0.1 million
Data Source: Personal Income Tax Clearing House data file
Reliability: Level 2

26. **Empire Zone (EZ) and Zone Equivalent Areas Tax Credits**

a. **EZ Investment Tax Credit and Employment Incentive Credit**
Citation: Sections 606(j), (j-1)
Effective Date: Effective for tax years beginning on or after January 1, 1986
Description: Taxpayers may 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.

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.
Estimates: 2005: $49.2 million — 2008: $40.0 million
Data Source: Personal Income Tax Clearing House data file
Reliability: Level 2

b. **EZ/ZEA Wage Tax Credit**
Citation: Section 606(k)
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 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 certified in Investment Zones 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. The ZEA credit expired in

2004, but taxpayers are allowed to use the full term of the credit if claimed prior to expiration. The total wage tax credit cannot exceed 50 percent of tax due before credits.
Estimates: 2005: $37.1 million — 2008: $40.0 million
Data Source: Personal Income Tax Clearing House data file
Reliability: Level 2

c. **EZ Capital Credit**
Citation: Section 606(l)
Effective Date: Effective for tax years beginning on or after January 1, 1986
Description: Taxpayers may qualify for credit for 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 $200,000 and cannot exceed one half of the taxpayer's pre-credit tax. Unused capital credits may be carried over to future tax years. Qualifying new businesses may request a refund of 50 percent of the unused investment credits wage and tax credit in lieu of carrying those credits over to future tax years.
Estimates: 2005: $3.4 million — 2008: $3.0 million
Data Source: Personal Income Tax Clearing House data file
Reliability: Level 2

27. **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 could 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: 2005: Minimal — 2008: Minimal
Data Source: Personal Income Tax Clearing House data file
Reliability: Level 2

28. **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. The credit is expanded in 2008 to apply to members of large multi-unit dwellings like cooperative housing corporations and condominium associations. 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: 2005: $0.4 million — 2008: $2.0 million
Data Source: Personal Income Tax Clearing House data file
Reliability: Level 2

29. **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: 2005: $0.1 million — 2008: Minimal
Data Source: Personal Income Tax Clearing House data file
Reliability: Level 2

30. **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: 2005: $0.5 million - 2008: $1.0 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 is refundable.
Estimates: 2005: $0.2 million - 2008: $0.2 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: 2005: $1.1 million — 2008: $2.0 million
Data Source: PIT Simulation Model
Reliability: Level 1

31. **College Tuition Credit/Deduction**
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: 2005: $209.5 million — 2008: $216.0 million

College Tuition Credit/Deduction in 2005
By New York Adjusted Gross Income

NYAGI	Number of Taxpayers	Tax Expenditure (millions $)
Less than $10,000	59,055	$15.0
$10,000 – 24,999	131,865	$31.5
$25,000 – 49,999	176,019	$44.3
$50,000 – 99,999	175,930	$57.9
$100,000 – 199,999	96,635	$44.9
$200,000 and over	31,566	$15.9
Total:	671,070	$209.5

Data Source: PIT Simulation Model
Reliability: Level 1

32. **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: 2005: $0.1 million — 2008: $0.1 million
Data Source: Personal Income Tax Clearing House data file
Reliability: Level 2

33. **Green Buildings Credit**
Citation: Section 19 and Section 606(y)
Effective Date: Effective for taxable years beginning on or after January 1, 2001
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: 2005: $2.1 million — 2008: $3.0 million
Data Source: Personal Income Tax Clearing House data file
Reliability: Level 2

34. **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 $160 million, or $16 million each year.
Estimates: 2005: $1.4 million — 2008: $15.0 million
Data Source: Personal Income Tax Clearing House data file
Reliability: Level 2

35. **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: 2005: $0.0 million — 2008: $0.0 million
Data Source: Personal Income Tax Clearing House data file
Reliability: Level 2

36. **Qualified Empire Zone (QEZE) Credits**

a. **QEZE Real Property Tax Credit**
Citation: Sections 15, 606(bb)
Effective Date: Effective for tax years beginning on or after January 1, 2001
Description: The credit is allowed for taxpayers that are sole proprietors of a QEZE or a member of a partnership which is a QEZE. For taxpayers certified prior to April 1, 2005, the QEZE real property tax credit (RPTC) is the product of three factors. The benefit period factor is 1.0 in the first ten years of certification, declining by .02 each year thereafter. The employment increase factor is based upon the QEZE's job growth. The final factor is the QEZE's real property taxes for the current tax year.

For taxpayers certified on or after April 1, 2005 and located in an Investment Zone (IZ), the credit equals 25 percent of the wages and health and retirement benefits of net new employees. Taxpayers located in a Development Zone (DZ) use the same formula but include an additional factor, the DZ employment increase factor (EIF), scaled to reward greater job increases. The credit can exceed these amounts if the capital investment limitation is greater, but the credit is capped at the amount of real property taxes and is refundable.

Estimates: 2005: $81.4 million — 2008: $110.0 million

QEZE Real Property Tax Credit in 2005
By New York Adjusted Gross Income

NYAGI	Number of Claims	Amount Claimed (millions $)
Less than $10,000	272	$12.5
$10,000 – 24,999	110	$ 0.8
$25,000 – 49,999	196	$ 2.3
$50,000 – 99,999	396	$ 4.1
$100,000 – 199,999	587	$ 8.0
$200,000 and over	1,670	$53.8
Total:	3,231	$81.4

Data Source: Personal Income Tax Clearing House data file
Reliability: Level 2

b. **QEZE Tax Reduction Credit**
Citation: Sections 16, 606(cc)
Effective Date: Effective for tax years beginning on or after January 1, 2001
Description: The credit is allowed for taxpayers that are sole proprietors of a QEZE or a member of a partnership which is a QEZE. The QEZE tax reduction credit is the product of four factors: the benefit period factor, the employment increase factor, the zone allocation factor, and the tax factor. The first two factors are discussed above. The zone allocation factor measures the QEZE's economic presence in the zone. The tax factor is the amount of personal income tax attributable to allocated QEZE income. For 2005, $55.5 million was available to taxpayers and $39.2 million was actually used to offset liability.

Estimates: 2005: $55.5 million — 2008: $60.0 million

QEZE Tax Reduction Credit in 2005
By New York Adjusted Gross Income

NYAGI	Number of Claims	Amount Claimed (millions $)
Less than $10,000	20	(Under $50,000)
$10,000 – 24,999	18	(Under $50,000)
$25,000 – 49,999	96	$ 0.4
$50,000 – 99,999	231	$ 0.6
$100,000 – 199,999	660	$ 3.3
$200,000 and over	1,582	$51.2
Total:	2,573	$55.5

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. For 2005, $84.6 million was available to taxpayers and $47.3 million was actually used to offset liability.
Estimates: 2005: $84.6 million — 2008: $145.0 million

Long-Term Care Insurance Credit Claims in 2005
By New York Adjusted Gross Income

NYAGI	Number of Claims	Amount Claimed (millions $)
Less than $10,000	19,637	$17.8
$10,000 – 24,999	18,585	$14.3
$25,000 – 49,999	20,846	$14.2
$50,000 – 99,999	27,696	$15.6
$100,000 – 199,999	22,185	$12.1
$200,000 and over	16,435	$10.6
Total:	125,384	$84.6

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: 2005: Minimal — 2008: Minimal
Data Source: Personal Income Tax Clearing House data file
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 December 31, 2011
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 $60 million. Credit is awarded on a first come, first served basis with

applications 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: 2005: $0.3 million — 2008: $48.0 million
Data Sources: Personal Income Tax Clearing House data file
Reliability: Level 2

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, 2010.

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: 2005: Minimal — 2008: $153.0 million
Data Source: Personal Income Tax Clearing House data file
Reliability: Level 2

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: 2005: $5.3 million — 2008: $15.0 million
Data Source: Personal Income Tax Clearing House data file
Reliability: Level 2

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: 2005: $24.5 million — 2008: $20.0 million
Data Source: Personal Income Tax Clearing House data file
Reliability: Level 2

43. **Security Training Tax Credit**
Citation: Section 606(ii)
Effective Date: Effective for taxable years beginning on or after January 1, 2005
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.
Estimates: 2005: Minimal — 2008: $2.0 million
Data Source: Personal Income Tax Clearing House data file
Reliability: Level 2

44. **Empire State Child Credit**
Citation: Section 606(c-1)
Effective Date: Effective for taxable years beginning on or after January 1, 2006
Description: Resident taxpayers with children ages 4-16 may claim a refundable credit equal to the greater of $100 times the number of children who qualify for the Federal child tax credit, or 33 percent of the taxpayer's allowed Federal child tax credit. The Federal credit is currently a maximum of $1,000 per qualifying child. The Federal credit phases-out beginning at $110,000 of Modified Federal Adjusted Gross Income (MFAGI) for married taxpayers filing jointly, and $75,000 for others. New York taxpayers with MFAGI above these thresholds may only claim a New York credit equal to 33 percent of their allowed Federal credit.
Estimates: 2005: Not Applicable — 2008: $650.0 million
Data Sources: New York State Division of the Budget
Reliability: Level 4

45. **Enhanced State Earned Income Tax Credit for Certain Non-Custodial Parents**
Citation: Section 606(d-1)
Effective Date: Effective for taxable years beginning on or after January 1, 2006 and before January 1, 2013
Description: Certain taxpayers may claim an enhanced State earned income tax credit (EITC). To qualify for the enhanced credit, claimants must be a resident taxpayer, age 18 and over, and have a minor child with whom they do not reside. The credit is equal to the greater of 20 percent of the Federal EITC that the taxpayer would otherwise be able to claim for one qualifying child (if he/she were a custodial parent) or 2.5 times the EITC for taxpayers without qualifying children. Claimants must have a child support order in effect for at least half the tax year and have made required support payments. In addition, the credit is fully refundable, but unlike the existing State EITC, the amount of credit allowed is not reduced by the amount of the State household credit used by the taxpayer. Taxpayers are not allowed more than one credit if they have multiple children or support orders.
Estimates: 2005: Not Applicable — 2008: $5.0 million
Data Source: New York State Division of the Budget
Reliability: Level 4

46. **Volunteer Firefighters and Ambulance Workers Credit**
Citation: Section 606(e-1)
Effective Date: Effective for taxable years beginning on or after January 1, 2007
Description: Resident taxpayers serving as active volunteer firefighters or volunteer ambulance workers may claim a $200 refundable credit. To receive the credit, the taxpayer must be an active volunteer for the entire taxable year and must not be receiving a real property tax exemption relating to such service. For tax year 2007, volunteer firefighters or ambulance workers are allowed to qualify for the credit on their 2007 personal income tax returns as long as they notify their assessor before the end of 2007 that they wish to discontinue their real property tax exemption for such service. In the case of a husband and wife filing jointly who both qualify for the credit, the amount of the credit is $400.
Estimates: 2005: Not Applicable — 2008: $20.0 million
Data Source: New York State Office of Fire Prevention and Control
Reliability: Level 4

47. **Alternative Fuels Credit**
Citation: Section 606(p)
Effective Date: Effective for taxable years beginning on or after January 1, 2006 and before January 1, 2011
Description: Taxpayers may claim a credit for 50 percent of the cost of alternative fuel vehicle refueling property located in New York State. Alternative 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. Prior to January 1, 2005, the credit was also allowed for hybrid, electric, and alternative fuel vehicles.
Estimates: 2005: Minimal — 2008: Minimal
Data Sources: New York State Division of the Budget
Reliability: Level 4

48. **Empire State Commercial Production Credit**
Citation: Section 28 and Section 606(jj)
Effective Date: Effective for taxable years beginning on or after January 1, 2007 and before January 1, 2012
Description: Taxpayers may claim a tax credit for qualified commercial production in New York State. If the taxpayer satisfies certain criteria regarding a threshold level of commercial production activity in the State, then the credit equals 20 percent of qualified production costs in excess of the average of the three prior years' costs incurred in the production of commercials. In addition, the credit includes five percent of qualified production costs in excess of $500,000 during the calendar year for work within the Metropolitan Commuter Transportation District (MCTD) and five percent of qualified production costs in excess of $200,000 during the calendar year for work done outside the MCTD. All components are distributed on a pro-rata basis. Fifty percent of the credit is refundable, and any credit carried forward is fully refundable in the following year. The State credit is capped at $7 million per year.
Estimates: 2005: Not Applicable — 2008: $6.0 million
Data Source: New York State Division of the Budget
Reliability: Level 4

49. **Biofuel Production Credit**
Citation: Section 28 and Section 606(jj)
Effective Date: Effective for taxable years beginning on or after 2006 and before January 1, 2013
Description: Taxpayers may claim a refundable tax credit for the production of biofuel. Biofuel is defined as fuel which includes biodiesel and ethanol. Biodiesel is fuel comprised exclusively of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100, which meets the specifications of American Society of Testing and Materials designated D 6751. The credit equals 15 cents per gallon after the production of the first 40,000 gallons per year presented to market. The credit is capped at $2.5 million per taxpayer per year for up to four consecutive years per biofuel plant.
Estimates: 2005: Not Applicable — 2008: $10.0 million
Data Source: New York State Division of the Budget
Reliability: Level 4

50. **Land Conservation Easement Credit**
Citation: Section 606(kk)
Effective Date: Effective for taxable years beginning on or after January 1, 2006
Description: Taxpayers may claim a refundable tax credit for 25 percent of the taxpayer's school district, county, and city/town real property taxes paid on land that is under a conservation easement held by a public or private conservation agency. The term "conservation easement" means a perpetual and permanent conservation easement as defined in article forty-nine of the Environmental Conservation Law that serves to protect open space, scenic, natural resources, biodiversity, agricultural, watershed, and/or historic preservation resources. Any conservation easement for which a tax credit is claimed shall be filed with the Department of Environmental Conservation, as provided for in article forty-nine of the Environmental Conservation

Law and such conservation easement shall comply with the provisions of title three of such article, and the provisions of subdivision (h) of section 170 of the Internal Revenue Code. The maximum allowable tax credit is $5,000.
Estimates: 2005: Not Applicable — 2008: $3.0 million
Data Source: New York State Division of the Budget
Reliability: Level 4

51. **Handicapped Accessible Taxicabs and Livery Service Vehicles Credit**
Citation: Section 606(oo)
Effective Date: Effective for taxable years beginning on or after January 1, 2006 and before January 1, 2009
Description: Taxpayers providing taxicab or livery services may claim a tax credit equal to the incremental cost associated with upgrading a vehicle so that it is handicapped accessible. The credit is limited to $10,000 per vehicle. Handicapped accessible vehicles must comply with the Americans with Disabilities Act and other Federal regulations.
Estimates: 2005: Not Applicable — 2008: $2.0 million
Data Source: New York State Division of the Budget
Reliability: Level 4

52. **Rehabilitation of Historic Properties Credit**
Citation: Section 606(oo)
Effective Date: Effective for taxable years beginning on or after January 1, 2007
Description: Taxpayers may claim a tax credit for the rehabilitation of depreciable historic properties located in New York State. The amount of the credit is equal to 30 percent of the credit amount allowed under subsection (c)(3) of section 47 of the Federal Internal Revenue Code (IRC) for the same taxable year. IRC§47(c)(3) defines a certified historic structure as a building and its structural components which are listed in the National Register of Historic Places or located in a registered historic district and certified to be of historic significance to the district. The credit is capped at $100,000 and any State credit taken must be recaptured if the Federal credit upon which it is based is recaptured by the taxpayer.
Estimates: 2005: Not Applicable — 2008: $5.0 million
Data Source: Internal Revenue Service
Reliability: Level 4

53. **Historic Homeownership Rehabilitation Credit**
Citation: Section 606(pp)
Effective Date: Effective for taxable years beginning on or after January 1, 2007
Description: Taxpayers may claim a tax credit for the rehabilitation of historic homes located in New York State. The amount of the credit is equal to 20 percent of qualified rehabilitation expenditures made by the taxpayer with respect to a qualified historic home. A qualified historic home is defined as one located in a targeted area within the meaning of section 143(j) of the Internal Revenue Code and located in an area of a city, town, or village whose governing body has identified by resolution that such area is an area in need of community renewal and which has adopted an historic

preservation and community renewal program. The taxpayer must own the home and reside there during the taxable year. The credit is limited to $25,000 per residence.
Estimates: 2005: Not Applicable — 2008: $3.0 million
Data Source: NYS Historic Preservation Office
Reliability: Level 4

CORPORATION FRANCHISE TAX

This section of the report provides tax expenditure estimates for 37 separate provisions of the Corporation Franchise Tax on general business corporations. It contains estimates of the tax expenditures for tax years 2000 through 2004 (2004 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, 2008. The estimates are also extrapolated to the 2008 tax year. The tax year refers to both the 2008 calendar year and fiscal years ending in 2009. Table 4 summarizes the tax expenditure estimates. It also includes total Article 9-A corporate franchise tax liability for the 2004 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 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:

- 7.1 percent of allocated entire net income;

- 6.5 percent of allocated entire net income for manufactuers and qualified emerging technology companies whose tax year begins on or after January 31, 2007; or

- 1.5 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 tax 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 was replaced by two amounts, $5,000 and $10,000, depending on the gross payroll, and taxpayers with gross payroll of $500,000 or less paid $100. Prior to the law change, and returning in 2006, taxpayers with gross payroll between $250,001 and $500,000 pay $225.

Data Sources

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

- 2004 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.

- 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 2004 to 2008 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.

The study file is comprised of taxpayers whose filing period began in 2004. Data files prior to 2002 were comprised of taxpayers whose file period end date was between December of one year and November of the following year. A change was made for two reasons. First, the current definition is more straightforward and treats all taxpayers in a particular year in the same way. Second, and more importantly, the previous definition allowed for the inclusion of a short period return when a full year return was already in the file.

Table 4
2008 New York State Article 9-A Tax Expenditure Estimates
(2004 Total Corporate Franchise Tax Liability = $1,615.7 Million)
(Millions of Dollars)

	History					Forecast	Reliability
Tax Item	**2000**	**2001**	**2002**	**2003**	**2004**	**2008**	**Level**
New York Modifications to Federal Taxable Income							
1. Exclusion of Interest, Dividends, and Capital Gains from Subsidiary Capital	2,585.7	2,290.0	1,410.3	1,517.5	1,521.8	1,290.0	1
2. Deduction of Fifty Percent of Dividends from Non-Subsidiary Corporations	53.6	36.4	61.9	34.4	62.4	55.0	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	6.3	5.0	5.4	5.6	3.9	6.0	1
Credits							
7. Investment and Retail Enterprise Tax Credit, Employment Incentive Credit, and Rehabilitation Credit for Historic Barns	110.8	94.9	76.3	86.2	92.4	56.0	1
8. Investment Tax Credit for the Financial Services Industry	30.8	17.4	33.3	15.4	9.5	13.0	1
9. Special Additional Mortgage Recording Tax Credit	0.8	0.8	4.6	6.2	3.0	3.0	1
10. Empire Zone (EZ) and Qualified Empire Zone Enterprise (QEZE) Credits[1]							
Empire Zone and Zone Equivalent Area Tax Credits	14.2	79.6	62.0	46.6	76.8	55.0	1
Qualified Empire Zone Enterprise Tax Credits	--	45.1	63.6	82.0	108.8	166.0	1
11. Credit for Servicing SONYMA Mortgages	0.0	0.0	*	*	*	*	1
12. Farmers' School Property Tax Credit	*	0.1	0.8	0.9	0.9	0.9	1
13. Credit for Employment of Persons with Disabilities	0.2	0.2	0.2	0.1	0.1	0.1	1
14. Qualified Emerging Technology Company (QETC) Credits							
a. QETC Capital Tax Credit	0.0	*	*	*	*	*	1
b. QETC Employment Credit	0.4	0.5	0.3	0.1	0.1	0.2	1
c. QETC Facilities, Operations, and Training Credits	--	--	--	--	--	8.0	5
15. Credit for Transportation Improvement Contributions	0.0	0.0	0.0	0.0	0.0	0.0	1
16. Low Income Housing Credit	0.0	*	*	*	0.0	5.0	1
17. Credit for Purchase of an Automated External Defibrillator	--	*	*	*	*	*	1
18. Green Building Credit	--	0.0	0.0	0.0	0.0	2.0	1
19. Long-Term Care Insurance Credit	--	--	*	*	*	*	1
20. Brownfields Tax Credits	--	--	--	--	--	102.0	4
21. Empire State Film Production Credit	--	--	--	--	0.4	17.0	1
22. Alternative Fuels Credit	2.0	0.2	0.5	1.1	0.7	0.7	1
23. Security Training Tax Credit	--	--	--	--	--	3.0	5
24. Fuel Cell Electricity Generating Equipment Credit	--	--	--	--	--	2.0	5
25. Land Conservation Easement Credit	--	--	--	--	--	*	5
26. Biofuel Production Credit	--	--	--	--	--	*	5
27. Empire State Commercial Production Credit	--	--	--	--	--	1.0	3
28. Handicapped Accessible Taxicabs and Livery Service Vehicles Credit	--	--	--	--	--	1.0	5

Tax Item	History 2000	2001	2002	2003	2004	Forecast 2008	Reliability Level
29. Credit for Rehabilitation of Historic Properties	--	--	--	--	--	8.0	3
Corporate Exemptions							
30. Exempt Companies	N/A	N/A	N/A	N/A	N/A	N/A	5
31. Companies Whose Income "Passes Through" to Shareholders							
a. Real Estate Investment Trusts (REITs)[3]	N/A	N/A	N/A	N/A	N/A	N/A	5
b. Regulated Investment Companies (RICs)[3]	N/A	N/A	N/A	N/A	N/A	N/A	5
32. Businesses Using Fulfillment Services	N/A	N/A	N/A	N/A	N/A	N/A	5
33. Corporate Parent with Bank and Insurance Subsidiaries or Gas and Electric Subsidiaries	10.1	3.2	5.1	7.8	13.5	14.0	1
34. Homeowners Association Exemption from Fixed Dollar Minimum Tax	*	*	*	*	*	*	2
Preferential Tax Rates							
35. Qualifying Small Business Corporations	12.1	4.5	0.0	1.5	5.1	5.0	1
36. Capital Base Liability Cap Reduction for Manufacturers	--	--	--	--	--	0.9	2
37. Manufacturer and QETC Rate[2]	--	--	--	--	--	4.0	2

[1] Prior to this year's report, EZ and QEZE data was reported in the aggregate for those two groups, respectively. Starting with this year's report, credit-specific amounts are available in the descriptions of each credit.

[2] 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.

[3] The income of a REIT or RIC which is passed through to its shareholders is not subject to entity level taxes imposed by the Federal government. (The income of the REIT or RIC that is paid to its shareholders is subject to individual income taxes imposed on the shareholders). New York conforms to the Federal government's treatment of REIT or RIC income. AS a result, the Federal taxable income, which is the starting point for determining the State tax liability, of a REIT or RIC is minimal or zero. Thus, the New York State tax returns filed by a REIT or RIC do not provide the data necessary to determine or estimate the value of this tax expenditure.

* 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: In computing New York entire net income, taxpayers may subtract dividends, interest, and gains derived from subsidiary corporations that are not part of the combined filing entity from Federal taxable income.
   Estimates: 2004: $1,521.8 million — 2008: $1,290.0 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 50 percent of dividend income received from non-subsidiary corporations (other than DISCs) from Federal taxable income. 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: 2004: $62.4 million — 2008: $55.0 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 tax based on allocated business and investment capital. This exemption applies to the first two years of operation of a business which:
   - operates as a small business corporation as defined under the Internal Revenue Code;
   - has at least 90 percent of its assets and 80 percent of its employees located and employed within New York State;
   - is not a subsidiary of a taxable New York corporation; and
   - 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 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 from entire net income. Certain foreign airlines may exclude business and investment assets connected with such exempt income from the capital base tax. These tax benefits apply provided the "home country" provides similar treatment to United States airlines.
Estimates: 2004: Minimal — 2008: 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 the 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: 2004: $3.9 million — 2008: $6.0 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

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 2004*.

Article 9-A Tax Credits in 2004
($ 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	$111.2	$1,264.1	$1,367.1	$8.3	$1,358.8	$90.8	$1.6	$1,266.3
Investment Tax Credit for the Financial Services Industry	38.1	207.8	246.0	1.3	244.7	9.4	d/	235.1
Special Additional Mortgage Recording Tax Credit	4.5	1.0	5.5	0.0	5.5	1.3	1.7	2.4
Empire Zone Credits	329.2	690.4	1,019.5	1.3	1,017.9	81.1	104.5	820.6
Alternative Minimum Tax Credit	1.4	11.8	11.8	0.0	11.8	1.6	0.0	10.1
Mortgage Servicing Tax Credit	d/	d/	d/	d/	d/	d/	d/	d/
Farmers' School Tax Credit	1.0	0.1	1.1	0.0	1.1	0.0	0.9	0.2
Credit for Employment of Persons with Disabilities	0.1	0.1	0.2	0.0	0.2	0.1	0.0	0.1
Alternative Fuels Credit[2]	0.3	1.0	1.4	0.0	1.4	0.7	0.0	0.6
QETC Employment Credit	0.1	0.9	1.0	0.0	1.0	0.0	0.1	0.8
QETC Capital Tax Credit	d/	d/	d/	d/	d/	d/	d/	d/
IMB Credit	3.4	0.0	3.4	0.0	3.4	0.5	2.9	0.0
Credit for Purchase of an Automated External Defibrillator	0.1	0.0	0.1	0.0	0.1	0.1	0.0	0.0
Green Building Credit[3]	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Low-Income Housing Credit	d/	d/	d/	d/	d/	d/	d/	d/
Long-Term Care Insurance Credit	0.1	0.0	0.2	0.0	0.2	0.1	0.0	0.1
Empire State Film Production Credit[5]	d/	d/	d/	d/	d/	d/	d/	d/
Total[4]	$490.0	$2,177.4	$2,657.8	$10.9	$2,646.5	$186.2	$111.8	$2,336.7

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 2002 and 2003, no corporations transferred credit to affiliates.

3 No credit was claimed in 2002 or 2003.

4 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.

5 2004 was the first year the Empire State Film Production Credit was available.

d/ Tax Law provisions prohibit disclosure of data.

7. **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 the 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.

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 is 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 ITC.

For credits generated on or after 1987, the allowable carryforward of the ITC is 15 years. The cut-off of pre-1987 ITC 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 $68.6 million in ITC in 2004.

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.

New businesses which are eligible to claim the ITC elect to receive a refund of their unused credit instead of carrying it 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 ITC is earned. The credit may be carried forward 15 years. Where an ITC was allowed for a taxable year, the amount of the credit is as follows:

- 1.5 percent of the ITC base if employment is at least 101 percent but less than 102 percent of the employment base year;
- 2.0 percent of the ITC base if employment is at least 102 percent but less than 103 percent of the employment base year;
- 2.5 percent of the ITC base if employment is at least 103 percent of the employment base year.

Taxpayers earned $14.4 million in EIC in 2004.

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 have been placed in service before 1936 and would only qualify for the credit based on substantial rehabilitation. Generally, a building will only have been considered substantially rehabilitated 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: 2004: $92.4 million — 2008: $56.0 million; Information on the ITC and EIC credits used in any year is not separately available

Article 9-A ITC and EIC Credits in 2004
By Size of Entire Net Income

Size of Entire Net Income	Number of Taxpayers	Amount of Credit Claimed
Less than $0	582	$ 9,536,524
$0	91	513,192
$1 – 999	76	69,408
$1,000 – 4,999	65	76,530
$5,000 – 9,999	64	57,180
$10,000 – 49,999	238	373,975
$50,000 – 74,999	88	252,000
$75,000 – 99,999	54	152,183
$100,000 – 499,999	201	1,532,002
$500,000 – 999,999	84	1,569,857
$1,000,000 – 4,999,999	131	3,832,742
$5,000,000 – 24,999,999	112	10,314,107
Greater than $25,000,000	112	64,145,598
Total:	1,898	$92,425,298

Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

8. **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 ITC.

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: 2004: $9.5 million — 2008: $13.0 million

Article 9-A Investment Tax Credit for the
Financial Services Industry in 2004
By Size of Entire Net Income

Size of Entire Net Income	Number of Taxpayers	Amount of Credit Claimed
Less than $0	14	$ 792,647
$0	0	0
$1 – 999	0	0
$1,000 – 4,999	d/	d/
$5,000 – 9,999	d/	d/
$10,000 – 49,999	0	0
$50,000 – 74,999	0	0
$75,000 – 99,999	d/	d/
$100,000 – 499,999	d/	d/
$500,000 – 999,999	0	0
$1,000,000 – 4,999,999	4	52,760
$5,000,000 – 24,999,999	5	863,061
Greater than $25,000,000	15	7,805,014
Total:	43	$9,527,680

d/ Tax Law provisions prohibit disclosure of data.

Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

9. **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 Erie County or the Metropolitan Commuter Transportation District recorded on or after May 1, 1987 are ineligible for the credit.
Estimates: 2004: $3.0 million — 2008: $3.0 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

10. **Empire Zone (EZ) and Qualified Empire Zone Enterprise (QEZE) Credits**

Empire Zone and Zone Equivalent Area Tax Credits

a. **Empire Zone Investment Tax Credit**
Citation: Section 210(12-B), (12-C)
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 the 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. Taxpayers earned $128.0 million in EZ-ITC and $17.2 million in EZ-EIC in 2004.
Estimates: 2004: $33.6 million — 2008: $25.0 million

*Article 9-A EZ-ITC and EIC in 2004 by Size of Entire Net Income**

Size of Entire Net Income	Number of Taxpayers	Amount of Credit Claimed
Less than $0	89	$ 11,808,388
$0	9	97,939
$1 – 999	4	78,809
$1,000 – 4,999	13	15,300
$5,000 – 9,999	6	20,820
$10,000 – 49,999	24	586,523
$50,000 – 74,999	15	225,163
$75,000 – 99,999	15	42,521
$100,000 – 499,999	47	1,218,944
$500,000 – 999,999	16	401,838
$1,000,000 – 4,999,999	26	756,913
$5,000,000 – 24,999,999	30	3,323,476
Greater than $25,000,000	20	14,988,109
Total:	314	$33,564,743

* This includes the EZ-ITC and EIC for the financial services industry

Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

b. **EZ and Zone Equivalent Area Wage Tax Credit**
Citation: Section 210(19)
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 Empire Zones (EZ-WTC). The wage tax credit has two components. The credit equals the product of the average number of targeted EZ employees receiving EZ wages multiplied by $3,000. The corresponding credit amount for other employees is $1,500. Taxpayers certified in Investment Zones 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 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.
Estimates: 2004: $43.1 million — 2008: $30.0 million

Article 9-A EZ and Zone Equivalent Area Wage Tax Credit in 2004
By Size of Entire Net Income

Size of Entire Net Income	Number of Taxpayers	Amount of Credit Claimed
Less than $0	178	$ 7,384,020
$0	28	1,321,165
$1 – 999	17	44,404
$1,000 – 4,999	20	20,575
$5,000 – 9,999	19	102,423
$10,000 – 49,999	84	371,115
$50,000 – 74,999	38	199,702
$75,000 – 99,999	37	218,867
$100,000 – 499,999	89	1,006,459
$500,000 – 999,999	29	490,441
$1,000,000 – 4,999,999	54	2,383,454
$5,000,000 – 24,999,999	30	2,821,619
Greater than $25,000,000	59	26,766,668
Total:	682	$43,130,912

Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

c. **EZ Capital Credit**
Citation: Section 210(20)
Effective Date: Effective for tax years beginning on or after January 1, 1986
Description: Taxpayers may qualify for a credit for direct equity investments in certified zone businesses and contributions to community development projects (EZ capital 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.
Estimates: 2004: $0.1 million — 2008: $0.1 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

"New business" taxpayers or taxpayers designated as owners of a qualified investment project (QUIP) or a significant capital investment project (SCIP) 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. Owners of QUIPs or SCIPs may refund 50 percent of the EZ-EIC.

Qualified Empire Zone Enterprise (QEZE) Credits

d. **QEZE Real Property Tax Credit**
Citation: Sections 14, 15, 210(27)
Effective Date: Effective for tax years beginning on or after January 1, 2001

Description: For taxpayers certified prior to April 1, 2005, the QEZE real property tax credit (RPTC) is the product of three factors. The benefit period factor is 1.0 in the first ten years of certification, declining by 0.02 each year thereafter. The employment increase factor is based upon the QEZE's job growth. The final factor is the QEZE's real property taxes for the current tax year.

For taxpayers certified on or after April 1, 2005 and located in an Investment Zone (IZ), the credit equals 25 percent of the wages and health and retirement benefits of net new employees. Taxpayers located in a Development Zone (DZ) use the same formula but include an additional factor, the DZ employment increase factor (EIF), scaled to reward greater job increases. The credit can exceed these amounts if the capital investment limitation is greater, but the credit is capped at the amount of real property taxes.

The QEZE RPTC may not be used against the AMT or fixed dollar minimum tax bases but is fully refundable.
Estimates: 2004: $87.0 million — 2008: $138.0 million

Article 9-A QEZE Real Property Tax Credit in 2004
By Size of Entire Net Income

Size of Entire Net Income	Number of Taxpayers	Amount of Credit Claimed
Less than $0	97	$42,457,180
$0	10	982,381
$1 – 999	12	165,323
$1,000 – 4,999	7	277,905
$5,000 – 9,999	7	571,856
$10,000 – 49,999	23	463,470
$50,000 – 74,999	16	469,494
$75,000 – 99,999	10	1,002,473
$100,000 – 499,999	36	2,661,889
$500,000 – 999,999	12	1,057,127
$1,000,000 – 4,999,999	31	5,804,395
$5,000,000 – 24,999,999	22	23,201,047
Greater than $25,000,000	20	7,843,130
Total:	303	$86,957,670

Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

e. **QEZE Tax Reduction Credit**
Citation: Sections 14, 16, 210(28)
Effective Date: Effective for tax years beginning on or after January 1, 2001
Description: The QEZE tax reduction credit is the product of four factors: the benefit period factor, the employment increase factor, the zone allocation factor, and the tax factor. The first two factors are discussed above. The Zone allocation factor measures the QEZE's economic presence in the zone. The tax

factor is the greater of the QEZE's tax on the ENI or AMT bases. The tax reduction credit can be applied against the AMT and fixed dollar minimum tax, potentially reducing a taxpayer's liability to zero.
Estimates: 2004: $21.8 million — 2008: $28.0 million

Article 9-A QEZE Tax Reduction Credit in 2004
By Size of Entire Net Income

Size of Entire Net Income	Number of Taxpayers	Amount of Credit Claimed
Less than $0	30	$ 145,351
$0	5	62,630
$1 – 999	5	224
$1,000 – 4,999	10	1,275
$5,000 – 9,999	6	1,335
$10,000 – 49,999	38	37,458
$50,000 – 74,999	18	29,805
$75,000 – 99,999	16	49,330
$100,000 – 499,999	48	367,696
$500,000 – 999,999	21	302,556
$1,000,000 – 4,999,999	35	1,645,700
$5,000,000 – 24,999,999	22	4,929,101
Greater than $25,000,000	24	14,247,903
Total:	278	$21,820,364

Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

11. **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 meeting 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: 2004: Minimal — 2008: Minimal
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

12. **Farmers' School Property Tax Credit**
Citation: Section 210(22)
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 350 acres, and 50 percent of the school taxes paid on acres in excess of 350. To be eligible, taxpayers must earn two-thirds of their Federal income from farming, with three-year income averaging allowed in determining this threshold. The credit begins to phase out for taxpayers with New York entire net income in excess of $200,000 and is phased out completely at $300,000. Shareholders may elect to take their pro rata share of the corporation's income and principal payments on farm indebtedness when determining the farmers' school tax credit. In such instances, the corporation does not claim any credit. 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: 2004: $0.9 million — 2008: $0.9 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

13. **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: 2004: $0.1 million — 2008: $0.1 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

14. **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: 2004: Minimal — 2008: 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: 2004: $0.1 million — 2008: $0.2 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: 2004: Not Applicable — 2007: $8.0 million
Data Source: Research File
Reliability: Level 5

15. **Credit for Transportation Improvement Contributions**
Citation: Sections 20, 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 project 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. If the employment increase test is not met after the third full tax year after the contribution is made, there is a recapture of the credit. The law applies to contributions made on or after January 1, 2000.

Estimates: 2004: $0.0 million — 2008: $0.0 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

16. **Low-Income Housing Credit**
Citation: Sections 18, 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 2007-08 budget increased the aggregate credit to $160 million, or $16 million each year.
Estimates: 2004: $0.0 million — 2008: $5.0 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

17. **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 to exceed $500 per purchase.
Estimates: 2004: Minimal — 2008: Minimal
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

18. **Green Building Credit**
Citation: Sections 19, 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 began 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: 2004: $0.0 million — 2008: $2.0 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

19. **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: 2004: Minimal — 2008: Minimal
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

20. **Brownfields Tax Credits**
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 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 an area that has a poverty rate of at least two times the poverty rate for the county in which the site is located provided the site was subject to a cleanup agreement before September 1, 2010.

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: 2004: Not Applicable — 2008: $102.0 million
Data Source: New York State Department of Environmental Conservation
Reliability: Level 4

21. **Empire State Film Production Tax Credit**
Citation: Sections 24, 210 (36)
Effective Date: Effective for tax years beginning on or after January 1, 2004, and expires after December 31, 2011
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. Starting in 2006, the cap was raised to $60 million annually. Credit is awarded on a first come, first served basis with applications 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: 2004: $0.4 million — 2008: $17.0 million
Data Source: Empire State Development Corporation, Industry Representatives
Reliability: Level 1

22. **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. Prior to January 1, 2005, the credit was also allowed for hybrid, electric, and alternative fuel vehicles.
Estimates: 2004: $0.7 million — 2008: $0.7 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

23. **Security Training Tax Credit**
Citation: Section 26, Section 210 (37)
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: 2004: Not Applicable — 2008: $3.0 million
Data Source: New York State Office of Homeland Security
Reliability: Level 5

24. **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: 2004: Not Applicable — 2008: $2.0 million
Data Source: Research File
Reliability: Level 5

25. **Land Conservation Easement Credit**
Citation: Section 210 (38)
Effective Date: Effective for taxable years beginning on or after January 1, 2006
Description: Taxpayers may claim a refundable tax credit for 25 percent of the taxpayer's school district, county, and city/town real property taxes paid on land that is under a conservation easement held by a public or private conservation agency. The term conservation easement means a perpetual and permanent conservation easement as defined in Article 49 of the Environmental Conservation Law that serves to protect open space, scenic, natural resources, biodiversity, agricultural, watershed, and/or historic preservation resources. Any conservation easement for which tax credit is claimed shall be filed with the Department of Environmental Conservation, as provided for in Article 49 of the Environmental Conservation Law and such conservation easement shall comply with the provisions of Title 3 of such article, and the provisions of subdivision (h) of section 170 of the Internal Revenue Code. The maximum allowable tax credit is $5,000.
Estimates: 2004: Not Applicable — 2008: Minimal
Data Source: New York State Division of the Budget
Reliability: Level 5

26. **Biofuel Production Credit**
Citation: Sections 28, 210 (38)
Effective Date: Effective for taxable years beginning on or after 2006 and before January 1, 2013
Description: Taxpayers may claim a refundable tax credit for the production of biofuel. Biofuel is defined as fuel which includes biodiesel and ethanol. Biodiesel is fuel comprised exclusively of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100, which meets the specifications of American Society of Testing and Materials designated D 6751. The credit equals 15 cents per gallon after the production of the first 40,000 gallons per year presented to market. The credit is capped at $2.5 million per taxpayer per year for up to four consecutive years per biofuel plant.
Estimates: 2004: Not Applicable — 2008: Minimal
Data Source: New York State Division of the Budget
Reliability: Level 5

27. **Empire State Commercial Production Credit**
Citation: Sections 28, 210(38)
Effective Date: Effective for taxable years beginning on or after January 1, 2007 and before January 1, 2012

Description: Taxpayers may claim a tax credit for qualified commercial production in New York State. If the taxpayer satisfies certain criteria regarding a threshold level of commercial production activity in the State, then the credit equals 20 percent of qualified production costs in excess of the average of the three prior years' costs incurred in the production of commercials. In addition, the credit equals five percent of qualified production costs in excess of $500,000 during the calendar year for work within the Metropolitan Commuter Transportation District (MCTD) and five percent of qualified production costs in excess of $200,000 during the calendar year for work done outside the MCTD. Components are distributed on a pro-rata basis among all applicants. Fifty percent of the credit is refundable, and any credit carried forward is fully refundable in the following year. The credit is administered by the Governor's Office for Motion Picture and Television Development and is capped at $7 million per year.
Estimates: 2004: Not Applicable — 2008: $1.0 million
Data Source: Empire State Development Corporation, Industry Representatives
Reliability: Level 3

28. **Handicapped Accessible Taxicabs and Livery Service Vehicles Credit**
Citation: Section 210(40)
Effective Date: Effective for taxable years beginning on or after January 1, 2006 and before January 1, 2009
Description: Taxpayers providing taxicab or livery services may claim a tax credit equal to the incremental cost associated with upgrading a vehicle so that it is handicapped accessible. The credit is limited to $10,000 per vehicle. Handicapped accessible vehicles must comply with the American with Disabilities Act and other Federal regulations.
Estimates: 2004: Not Applicable — 2008: $1.0 million
Data Source: New York State Division of the Budget
Reliability: Level 5

29. **Credit for Rehabilitation of Historic Properties**
Citation: Section 210(40)
Effective Date: Effective for taxable years beginning on or after January 1, 2007
Description: Taxpayers may claim a tax credit for the rehabilitation of depreciable historic properties located in New York State. The amount of the credit is equal to 30 percent of the credit amount allowed under subsection (c)(3) of section 47 of the Federal Internal Revenue Code (IRC) for the same taxable year. IRC §47(c)(3) defines a certified historic structure as a building and its structural components which are listed in the National Register of Historic Places or located in a registered historic district and certified to be of historic significance to the district. The credit is capped at $100,000 and any State credit taken must be recaptured if the Federal credit upon which it is based is recaptured by the taxpayer.
Estimates: 2004: Not Applicable — 2008: $8.0 million
Data Source: Internal Revenue Service
Reliability: Level 3

Corporate Exemptions

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

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

- Limited Profit Housing Companies (6/7/74)
- Limited Dividend Housing Companies (1/1/74)
- 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)
- Urban Development Corporation and its subsidiaries (1/1/69)
- Domestic corporations exclusively engaged in the operation of one or more vessels in foreign commerce (3/31/44)
- Domestic International Sales Corporations (DISCs), to the extent a DISC is required to have its income imputed to its shareholders (1/1/71)
- Passive Trusts (3/31/44)
- 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)
- 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)
- Real Estate Mortgage Investment Conduits (REMICs) (1/1/87)
- Industrial Development Agencies (1/1/69)
- Housing Development Fund Companies (7/24/86)
- Corporations exempt from tax under IRC Sections 501(c)(2) and (25) (1/1/87)
- 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

31. **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))

Description: 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. Effective for taxable years beginning on or after January 1, 2007, REITs which are subsidiaries of corporate franchise taxpayers are required to file combined with their parents and will not receive preferential tax treatment at the entity level.
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. Effective for taxable years beginning on or after January 1, 2007, RICs which are subsidiaries of corporate franchise taxpayers are required to file combined with their parents and will not receive preferential tax treatment at the entity level.
Estimate: No data available
Reliability: Level 5

32. **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 the State for 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

33. **Corporate Parent with Bank and Insurance Subsidiaries or 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: A corporate parent is allowed to exclude from its subsidiary capital tax base, capital attributable to subsidiaries taxable under Article 32 (bank) or 33 (insurance) taxes. The corporate parent is also allowed 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: 2004: $13.5 million — 2008: $14.0 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

34. **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 exempts qualified homeowners associations which have no homeowner's taxable income from payment of the fixed dollar minimum tax. The associations would still be subject to the other taxable bases under Article 9-A, if applicable.
Estimates: 2004: Minimal — 2008: Minimal
Data Source: Research File
Reliability: Level 2

Preferential Tax Rates

35. **Qualifying Small Business Corporations**
Citation: Section 210(1)(a)(i)
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 was raised to $390,000. To account for changes in the Article 9-A rate, starting in tax years beginning on or after 1/1/07, 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 7.1 percent of the amount over $290,000, plus 4.35 percent of the amount over $350,000.
Estimates: 2004: $5.1 million — 2008: $5.0 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1

36. **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: 2004: Not Applicable — 2008: $0.9 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 2

37. **Manufacturer and QETC Rate**
Citation: Section 210(l)(a)
Effective Date: Effective for taxable years beginning on or after January 31, 2007
Description: Taxpayers who are manufacturers or qualified emerging technology companies (QETCs) are subject to a reduced ENI rate of 6.5 percent.

A manufacturer is defined as "a taxpayer…principally engaged in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture, or commercial fishing." The generation and distribution of electricity, the distribution of natural gas, and the production of steam associated with the generation of electricity is specially excluded.

To qualify for the special manufacturing rate, a taxpayer must meet two tests. First, the taxpayer, or the combined group, must be principally engaged in manufacturing. This test is satisfied if more than 50 percent of the taxpayer's or group's gross receipts are derived from the sale of goods produced by the activities listed above.

The second test requires the taxpayer to have manufacturing property in New York State with a federal adjusted basis of at least $1 million or have all of its real and personal property located in New York State.

A taxpayer who meets the definition of a QETC in Section 3102-e of the Public Authorities Law is considered a manufacturer and is exempt form the two-part manufacturing test described above. To qualify as a QETC for the special manufacturing rate, a taxpayer is exempt from the QETC- specific $10 million total annual product sales limitation, but must still satisfy one of two other QETC tests: the primary products or services test; or the research and development funds to net sales ratio test.
Estimates: 2004: Not Applicable — 2008: $4.0 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, 2008. The estimates are based on data from the 2004 tax year, the latest year for which Article 32 tax return data are available. They are also extrapolated to the 2008 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 2004 and 2008 calendar tax years and fiscal tax years beginning in 2004 and 2008.

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:

- 7.1 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 three 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 the Article 32 Bank Tax include:

- 2004 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 2004 to 2008 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
2008 New York State Bank Tax Expenditure Estimates
(2004 Total Bank Tax Liability = $506.8 Million)
(Millions of Dollars)

Tax Item	History 2000	2001	2002	2003	2004	Forecast 2008	Reliability Level
New York Modifications to Federal Taxable Income							
1. Bad Debt Deduction for Commercial Banks	4.9	3.9	16.0	4.8	16.0	14.8	1
2. Bad Debt Deduction for Thrift Institutions	6.0	3.9	7.2	3.2	1.3	7.0	1
3. Deduction of Money Received from the FDIC and FSLIC	0.0	0.0	0.0	*	0.0	*	1
4. Deduction for Eligible Net Income of IBFs	26.0	8.0	1.6	1.9	2.6	2.5	1
5. Deduction of 17 Percent of Interest Income from Subsidiary Capital	35.5	31.3	11.6	5.7	6.1	5.6	1
6. Deduction of 60 Percent of Dividend Income and Excess Gains from Subsidiary Capital	106.1	118.1	83.1	52.6	55.1	49.0	1
7. Deduction of 22.5 Percent of Interest Income from Government Obligations	29.2	21.4	8.9	9.2	5.3	4.7	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	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	19.1	18.5	17.1	20.2	26.7	25.2	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	33.6	19.5	6.6	3.9	24.9	23.6	1
Credits							
13. Mortgage Servicing Tax Credit	8.3	9.9	11.1	8.0	7.0	8.9	1
14. Special Additional Mortgage Recording Tax Credit	12.5	17.3	19.9	28.0	25.9	19.0	1
15. Empire Zone (EZ) and Qualified Empire Zone Enterprise (QEZE) Credits[1]							
Empire Zone and Zone Equivalent Area Tax Credits	3.0	5.5	6.0	9.0	7.8	7.6	1
Qualified Empire Zone Enterprise Tax Credits	--	3.8	2.7	4.9	7.5	8.6	1
16. Credit for Employment of Persons with Disabilities	*	0.0	*	*	*	*	1
17. Investment Credit for Financial Services Industry	5.3	6.1	5.0	6.9	1.5	7.5	1
18. Credit for Transportation Improvement Contributions	0.0	0.0	0.0	0.0	0.0	*	1
19. Low-Income Housing Credit	0.0	0.0	0.0	*	0.2	*	1
20. Credit for Purchase of Automated External Defibrillator	--	0.0	*	0.0	*	*	1
21. Green Buildings Credit	--	0.0	0.0	0.0	0.0	*	1
22. Long-Term Care Insurance Credit	--	--	*	*	*	*	1
23. Brownfields Tax Credits	--	--	--	--	--	*	4
24. Security Training Tax Credit	--	--	--	--	--	*	5
25. Fuel Cell Electricity Generating Equipment Credit	--	--	--	--	--	*	5

Tax Item	History 2000	2001	2002	2003	2004	Forecast 2008	Reliability Level
Corporate Exemptions							
26. Exemption of Trust Companies Whose Capital Stock is Owned by Twenty or More New York Savings Banks	*	*	*	*	*	*	4
27. Exemption of Federal and State Chartered Credit Unions	16.1	14.0	18.1	22.1	24.1	34.1	4

[1] Prior to this year's report, EZ and QEZE data was reported in the aggregate for those two groups, respectively. Starting with this year's report, credit-specific amounts are available in the descriptions of each credit.

* 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: 2004: $16.0 million — 2008: $14.8 million
   Reliability: Level 1

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: 2004: $1.3 million — 2008: $7.0 million
   Reliability: Level 1

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: 2004: $0.0 million — 2008: 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: 2004: $2.6 million — 2008: $2.5 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: 2004: $6.1 million — 2008: $5.6 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. Effective for taxable years beginning on or after January 1, 2007, the deduction does not apply to certain amounts attributable to Real Estate Investment Trusts (REITs) and Regulated Investment Companies (RICs).
Estimates: 2004: $55.1 million — 2008: $49.0 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: 2004: $5.3 million — 2008: $4.7 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: 2004: Minimal — 2008: 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: 2004: $0.0 million — 2008: $0.0 million
   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 are allocated to New York State for tax purposes could be reduced, depending on the corporation's particular circumstances.
Estimates: 2004: $26.7 million — 2008: $25.2 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 are allocated to New York State for tax purposes could be reduced, depending on the corporation's particular 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: 2004: $24.9 million — 2008: $23.6 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: 2004: $7.0 million — 2008: $8.9 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: 2004: $25.9 million — 2008: $19.0 million
Data Source: Bank Tax Study File
Reliability: Level 1

15. **Empire Zone (EZ) and Qualified Empire Zone Enterprise (QEZE) Credits**

Empire Zone and Zone Equivalent Area Tax Credits

a. **EZ and Zone Equivalent Area Wage Tax Credit**
Citation: Section 1456(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 Empire Zones (EZ-WTC). The wage tax credit has two components. The credit equals the product of the average number of targeted EZ employees receiving EZ wages multiplied by $3,000. The corresponding credit amount for other employees is $1,500. Taxpayers certified in Investment Zones 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 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.
Estimates: 2004: $7.6 million — 2008: $7.4 million
Data Source: Bank Tax Study File
Reliability: Level 1

b. **EZ Capital Credit**
Citation: Section 1456(d)
Effective Date: Effective for tax years beginning on or after January 1, 1986
Description: Taxpayers may qualify for a credit for direct equity investments in certified zone businesses and contributions to community development projects (EZ capital 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.
Estimates: 2004: $0.2 million — 2008: $0.2 million
Data Source: Bank Tax Study File
Reliability: Level 1

"New business" taxpayers or taxpayers designated as owners of a qualified investment project (QUIP) or a significant capital investment project (SCIP) may elect to have 50 percent of their unused EZ-WTC or ZEA-WTC for the tax year refunded, in lieu of carryover.

Qualified Empire Zone Enterprise (QEZE) Credits

c. **QEZE Real Property Tax Credit**
Citation: Sections 14, 15, 1456(o)
Effective Date: Effective for tax years beginning on or after January 1, 2001
Description: For taxpayers certified prior to April 1, 2005, the QEZE real property tax credit (RPTC) is the product of three factors. The benefit period factor is 1.0 in the first ten years of certification, declining by 0.02 each year thereafter. The employment increase factor is based upon the QEZE's job growth. The final factor is the QEZE's real property taxes for the current tax year.

For taxpayers certified on or after April 1, 2005 and located in an Investment Zone (IZ), the credit equals 25 percent of the wages and health and retirement benefits of net new employees. Taxpayers located in a Development Zone (DZ) use the same formula but include an additional factor, the DZ employment increase factor (EIF), scaled to reward greater job increases. The credit can exceed these amounts if the capital investment limitation is greater, but the credit is capped at the amount of real property taxes.

The QEZE RPTC may not be used against the fixed dollar minimum tax but is fully refundable.
Estimates: 2004: $2.9 million — 2008: $3.0 million
Data Source: Bank Tax Study File
Reliability: Level 1

d. **QEZE Tax Reduction Credit**
Citation: Sections 14, 16, 1456(p)
Effective Date: Effective for tax years beginning on or after January 1, 2001
Description: The QEZE tax reduction credit is the product of four factors: the benefit period factor, the employment increase factor, the zone allocation factor, and the tax factor. The first two factors are discussed above. The Zone

allocation factor measures the QEZE's economic presence in the zone. The tax factor is the greater of the QEZE's tax on the ENI or AMT bases. The tax reduction credit cannot be applied against the fixed dollar minimum tax.
Estimates: 2004: $4.6 million — 2008: $5.6 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: 2004: Minimal — 2008: 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:

- 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: 2004: $1.5 million — 2008: $7.5 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 project 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. If the employment increase test is not met after the third full tax year after the contribution is made, then there is a recapture of the credit. The law applies to contributions made on or after January 1, 2000.
Estimates: 2004: $0.0 million — 2008: Minimal
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 $160 million, or $16 million each year.
Estimates: 2004: $0.2 million — 2008: 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: 2004: Minimal — 2008: 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 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 January 1, 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: 2004: $0.0 million — 2008: 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: 2004: Minimal — 2008: Minimal
Data Source: Bank Tax Study File
Reliability: Level 1

23. **Brownfields Tax Credits**
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, 2010.

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: 2004: Not Applicable — 2008: 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: 2004: Not Applicable — 2008: 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: 2004: Not Applicable — 2008: 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: 2004: Minimal — 2008: 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: 2004: $24.1 million — 2008: $34.1 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 corporate franchise tax on insurance companies. The list of tax expenditures contained in Table 6 is based on the Tax Law as of January 1, 2008. The estimates are based on data from the 2004 tax year, the latest year for which Article 33 tax return data are available. They are also extrapolated to the 2008 tax year. The tax years refer to both the 2004 and 2008 calendar years and fiscal tax years beginning in 2004 and 2008. Total insurance tax liability for the 2004 tax year has been included to provide some perspective to the tax expenditure estimates.

It should be noted that base year numbers for 2003 and 2004, and 2008 projections may differ from the pattern of historical estimates shown for 2000-2002. 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 “floor tax” amount has been added for life insurance corporations.

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:

- 7.1 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:

- 2004 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 are 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 2004 to 2008 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
2008 New York State Insurance Tax Expenditure Estimates
(2004 Total Insurance Tax Liability = $879.0 Million)
(Millions of Dollars)

Tax Item	History 2000	2001	2002	2003	2004	Forecast 2008	Reliability Level
New York Modifications to Federal Taxable Income							
1. Exclusion of Interest, Dividends, and Capital Gains from Subsidiary Capital[1]	11.3	4.7	14.8	0.6	1.2	1.3	1
2. Deduction of 50 Percent of Dividends from Non-Subsidiary Corporations[1]	5.8	4.7	4.7	0.9	2.0	2.0	1
Alternative Bases							
3. Exclusion of Assets Held as Reserves Under NYS Insurance Law Sections 1303, 1304, and 1305[1]	*	*	*	*	*	*	5
Exclusions from Premiums Based Tax							
4. Exclusion of Annuities from the Tax on Premiums[1]	5.4	11.7	26.1	22.2	11.1	11.4	1
5. Exclusion from the Premiums Tax of Premiums Written on Certain Joint Underwriting Policies[1]	1.4	2.9	6.5	5.6	2.8	2.8	1
6. Exclusion from the Premiums Tax of Premiums Written on Marine Vessels	2.5	3.5	4.1	8.5	8.5	8.5	1
7. Exclusion from the Premiums Tax of Premiums Written on Certain Reinsurance Policies	36.7	50.8	58.8	218.0	240.8	239.8	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[1]	227.5	134.7	143.5	51.0	128.1	118.9	1
Credits							
10. Fire Insurance Tax Credits - Credit for Taxes on Certain Fire Insurance Premiums	31.8	37.4	37.1	40.4	40.2	52.2	1
11. Retaliatory Tax Credit	27.3	19.1	20.0	51.4	58.0	59.7	1
12. Special Additional Mortgage Recording Tax Credit	0.0	0.0	0.0	0.0	0.0	*	1
13. Credit for Assessments Paid to the Life Insurance Company Guaranty Corporation[1]	0.0	0.0	0.0	0.0	0.0	0.0	4
14. Empire Zone (EZ) and Qualified Empire Zone Enterprise (QEZE) Credits[2]							
Empire Zone and Zone Equivalent Area Tax Credits	0.1	0.0	0.6	0.8	2.1	2.0	1
Qualified Empire Zone Enterprise Tax Credits	--	0.0	0.3	0.2	15.0	18.2	1
15. Credit for Employment of Persons with Disabilities	0.0	0.0	*	0.0	0.0	*	1
16. Credit for Investment in Certified Capital Companies	8.6	12.4	23.0	25.6	20.0	40.0	1
17. Credit for Transportation Improvement Contributions	0.0	0.0	0.0	0.0	0.0	*	1
18. Low-Income Housing Credit	0.0	0.0	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	0.0	0.0	*	1
21. Investment Tax Credit for Insurers	--	--	*	0.0	0.0	*	1
22. Long-Term Care Insurance Credit	--	--	0.0	0.0	0.0	*	1
23. Brownfields Tax Credits	--	--	--	--	--	*	4
24. Security Training Tax Credit	--	--	--	--	--	*	5
25. Fuel Cell Electricity Generating Equipment Credit	--	--	--	--	--	*	5

Tax Item	History 2000	2001	2002	2003	2004	Forecast 2008	Reliability Level
Corporate Exemptions							
26. Exemption from Article 33 for Specific Types of Entities Engaged in an Insurance Business	277.2	262.5	246.5	221.3	224.5	267.1	4
Preferential Tax Rates							
27. Preferential Tax Treatment for Captive Insurance Companies	*	*	0.9	4.2	7.7	20.0	2

[1] Tax expenditure item applies only to life insurance corporations.

[2] Prior to this year's report, EZ and QEZE data was reported in the aggregate for those two groups, respectively. Starting with this year's report, credit-specific amounts are available in the descriptions of each credit.

* 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, 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. Effective for taxable years beginning on or after January 1, 2007, the exclusion does not apply to certain amounts attributable to Real Estate Investment Trusts (REITs) and Regulated Investment Companies (RICs).
   Estimates: 2004: $1.2 million — 2008: $1.3 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: 2004: $2.0 million — 2008: $2.0 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:

- 7.1 percent of allocated entire net income;
- 0.0016 of allocated business and investment capital;
- 9 percent on 30 percent of allocated entire net income plus salaries of certain and shareholders; and
- 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: 2004: Minimal — 2008: 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: 2004: $11.1 million — 2008: $11.4 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: 2004: $2.8 million — 2008: $2.8 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: 2004: $8.5 million — 2008: $8.5 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: 2004: $240.8 million — 2008: $239.8 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: 2004: $128.1 million — 2008: $118.9 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 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: 2004: $40.2 million — 2008: $52.2 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: 2004: $58.0 million — 2008: $59.7 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: 2004: $0.0 million — 2008: 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: 2004: $0.0 million — 2008: $0.0 million
Data Source: State Insurance Department
Reliability: Level 4

14. **Empire Zone (EZ) and Qualified Empire Zone Enterprise (QEZE) Tax Credits**

Empire Zone and Zone Equivalent Area Tax Credits

a. **EZ and Zone Equivalent Area Wage Tax Credit**

Citation: Section 1511(g)
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 Empire Zones (EZ-WTC). The wage tax credit has two components. The credit equals the product of the average number of targeted EZ employees receiving EZ wages multiplied by $3,000. The corresponding credit amount for other employees is $1,500. Taxpayers certified in Investment Zones 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 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.
Estimates: 2004: $2.1 million — 2008: $2.0 million
Data Source: Insurance Tax Study File
Reliability: Level 1

b. **EZ Capital Credit**
Citation: Section 1511(h)
Effective Date: Effective for tax years beginning on or after January 1, 1986
Description: Taxpayers may qualify for a credit for direct equity investments in certified zone businesses and contributions to community development projects (EZ capital 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.
Estimates: 2004: $0.0 million — 2008: Minimal
Data Source: Insurance Tax Study File
Reliability: Level 1

"New business" taxpayers or taxpayers designated as owners of a qualified investment project (QUIP) or a significant capital investment project (SCIP) may elect to have 50 percent of their unused EZ-WTC or ZEA-WTC for the tax year refunded, in lieu of carryover.

Qualified Empire Zone Enterprise (QEZE) Credits

c. **QEZE Real Property Tax Credit**
Citation: Sections 14, 15, 1511(r)
Effective Date: Effective for tax years beginning on or after January 1, 2001
Description: For taxpayers certified prior to April 1, 2005, the QEZE real property tax credit (RPTC) is the product of three factors. The benefit period factor is 1.0 in the first ten years of certification, declining by 0.02 each year thereafter. The employment increase factor is based upon the QEZE's job growth. The final factor is the QEZE's real property taxes for the current tax year.

For taxpayers certified on or after April 1, 2005 and located in an Investment Zone (IZ), the credit equals 25 percent of the wages and health and retirement benefits of net new employees. Taxpayers located in a Development Zone (DZ) use the same formula but include an additional factor, the DZ employment increase factor (EIF), scaled to reward greater job increases. The credit can exceed these amounts if the capital investment limitation is greater, but the credit is capped at the amount of real property taxes.

The QEZE RPTC may not be used against the fixed dollar minimum tax but is fully refundable.
Estimates: 2004: $0.1 million — 2008: $0.1 million
Data Source: Insurance Tax Study File
Reliability: Level 1

d. **QEZE Tax Reduction Credit**
Citation: Sections 14, 16, 1511(s)
Effective Date: Effective for tax years beginning on or after January 1, 2001
Description: The QEZE tax reduction credit is the product of four factors: the benefit period factor, the employment increase factor, the zone allocation factor, and the tax factor. The first two factors are discussed above. The Zone allocation factor measures the QEZE's economic presence in the zone. The tax factor is the greater of the QEZE's tax on the ENI or AMT bases. The tax reduction credit cannot be applied against the fixed dollar minimum tax.

Estimates: 2004: $14.9 million — 2008: $18.1 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: 2004: $0.0 million — 2008: 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 four times since its enactment, to a combined statewide cap for all four programs of $400 million, effective January 1, 2007
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 $400 million on the total amount of investments for which credits may be claimed. The total for all four programs may not exceed $40 million in any year.
Estimates: 2004: $20.0 million — 2008: $40.0 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. If 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 law applies to contributions made on or after January 1, 2000.
Estimates: 2004: $0.0 million — 2008: Minimal
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 $160 million, or $16 million each year.
Estimates: 2004: $0.0 million — 2008: 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: 2004: Minimal — 2008: 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 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 January 1, 2001 to 2004. Phase II 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: 2004: $0.0 million — 2008: 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 October 1, 2008.
Estimates: 2004: $0.0 million — 2008: Minimal
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: 2004: $0.0 million — 2008: Minimal
Data Source: Insurance Tax Study File
Reliability: Level 1

23. **Brownfields Tax Credits**
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, 2010.

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: 2004: Not Applicable — 2008: 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: 2004: Not Applicable - 2008: 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: 2004: Not Applicable — 2008: 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 corporate 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. (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))
- A town or county cooperative insurance corporation exempt from tax under Section 187 of the Tax Law as it existed prior to 1974. (1512(a)(7))
- 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))
- Any nonprofit property/casualty insurance company organized pursuant to Section 6703 of the Insurance Law (1512(a)(9))
- Entities conducting insurance business as a member of the New York Insurance Exchange. (1512 (c))

Estimates: 2004: $224.5 million — 2008: $267.1 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 at lower rates than the premiums tax that applies 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: 2004: $7.7 million — 2008: $20.0 million
Data Source: Captive Tax Return Data
Reliability: Level 2

CORPORATION TAX

This section of the report provides descriptions of 56 separate tax expenditure provisions of the Article 9 tax. The list of tax expenditures is based on the Tax Law as of January 1, 2008. 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 no longer applies to inter-exchange carriers, but 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 inter-exchange 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 in the History portion of the following Table 7, the tax rate was reduced to 2.5 percent effective January 1, 2000. The tax is now 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. Tax expenditures 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 2003-2004 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 2004 to 2008 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
2008 New York State Corporation and Utilities (Article 9) Tax Expenditure Estimates
(2004 Corporation and Utilities Tax Liability = $697.8 Million)
(Millions of Dollars)

	History					Forecast	Reliability
Tax Item	2000	2001	2002	2003	2004	2008	Level
Section 181 - License and Maintenance Fees on Foreign Corporations							
New York Modifications							
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 Credit	*	0.0	0.0	0.0	0.0	*	2
3. Credit for Employment of Persons with Disabilities	*	0.0	0.0	0.0	0.0	*	4
4. Green Building Credit	--	0.0	0.0	0.0	0.0	*	4
5. Credit for Transportation Improvement Contributions	0.0	0.0	0.0	0.0	0.0	*	2
6. Long-Term Care Insurance Credit	--	--	0.0	0.0	0.0	*	4
7. Brownfields Tax Credits	--	--	--	--	--	*	4
8. Alternative Fuels Credit	--	--	--	*	0.0	*	5
9. Fuel Cell Electricity Generating Equipment Credit	--	--	--	--	--	*	5
10. Security Training Credit	--	--	--	--	--	*	5
11. Biofuel Production Credit	--	--	--	--	--	*	5
Corporate Exemptions							
12. Ferry Companies	N/A	N/A	N/A	N/A	N/A	N/A	5
13. Taxicabs and Omnibuses	*	*	*	*	*	*	2
14. Railroads and Vessels Engaged in Interstate or Foreign Commerce	N/A	N/A	N/A	N/A	N/A	N/A	5
15. Corporations Principally Engaged in Providing Telecommunications for Air Safety and Navigation Purposes	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							
16. Exclusion of Interstate and Foreign Income	N/A	N/A	N/A	N/A	N/A	N/A	5
17. Exclusion of Receipts from InterLATA, Interstate, and International Telephone Services	1.1	7.8	2.8	3.5	2.9	6.0	2
18. Exclusion of Thirty Percent of Receipts from IntraLATA Toll Telephone Services	2.0	2.3	2.6	3.2	2.4	3.0	2
Credits							
19. Special Additional Mortgage Recording Tax Credit	0.0	0.0	0.0	0.0	0.0	*	2
20. Credit for Employment of Persons with Disabilities	0.0	*	*	0.0	0.0	*	4
21. Green Building Credit	--	0.0	0.0	0.0	0.0	*	4
22. Credit for Transportation Improvement Contributions	0.0	0.0	0.0	0.0	0.0	0.0	2
23. Long-Term Care Insurance Credit	--	--	--	0.0	0.0	*	4
24. Brownfields Tax Credits	--	--	--	--	--	*	4
25. Alternative Fuels Credit	--	--	--	0.0	0.0	*	5
26. Fuel Cell Electricity Generating Credit	--	--	--	--	--	*	5
27. Security Training Credit	--	--	--	--	--	*	5

Tax Item	History 2000	2001	2002	2003	2004	Forecast 2008	Reliability Level
Corporate Exemptions							
28. Foreign Commerce	N/A	N/A	N/A	N/A	N/A	N/A	5
29. Ferry Companies	N/A	N/A	N/A	N/A	N/A	N/A	5
30. Railroad Leasing	N/A	N/A	N/A	N/A	N/A	N/A	5
31. Foreign Taxicabs and Omnibuses	*	*	*	*	*	*	3
32. Corporations Principally Engaged in Providing Telecommunications for Air Safety and Navigation Purposes	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							
33. Special Additional Mortgage Recording Tax Credit	*	0.0	0.0	0.0	0.0	*	2
34. Credit for Employment of Persons with Disabilities	0.0	0.0	0.0	0.0	0.0	*	4
35. Green Building Credit	--	0.0	0.0	0.0	0.0	*	4
36. Credit for Transportation Improvement Contributions	0.0	0.0	0.0	0.0	0.0	*	2
37. Long-Term Care Insurance Credit	--	--	--	0.0	0.0	*	4
38. Brownfields Tax Credits	--	--	--	--	--	*	4
39. Alternative Fuels Credit	--	--	--	0.0	0.0	*	5
40. Empire Zone EZ) and Qualified Empire zone Enterprise (QEZE) Credits[1]							
Empire Zone and Zone Equivalent Area Tax Credits	--	--	--	--	0.0	*	1
Qualified Empire Zone Enterprise Tax Credit	--	--	--	--	0.0	*	1
41. Fuel Cell Electricity Generating Credit	--	--	--	--	--	*	5
42. Security Training Tax Credit	--	--	--	--	--	*	5
43. Biofuel Production Credit	--	--	--	--	--	*	5
Section 186 – Franchise Tax on Water-Works Companies, Gas Companies, and Electric or Steam Heating, Lighting, and Power Companies							
Credits							
44. Special Additional Mortgage Recording Tax Credit	0.0	0.0	0.0	0.0	0.0	*	2
45. Credit for Employment of Persons with Disabilities	0.0	0.0	0.0	0.0	0.0	*	2
Section 186-a – Tax on the Furnishing of Utility Services Credits							
46. Power for Jobs Tax Credit	90.1	79.9	59.1	52.8	49.0	20.0	4
47. Long-Term Care Insurance Credit	--	--	--	0.0	0.0	*	4
Exemptions							
48. Exempt Companies	N/A	N/A	N/A	N/A	N/A	N/A	5
49. Exempt Organizations	N/A	N/A	N/A	N/A	N/A	N/A	5
50. Water Pollution Facilities	N/A	N/A	N/A	N/A	N/A	N/A	5
51. Commercial, Industrial, and Not-For-Profit Relief	--	--	N/A	N/A	N/A	N/A	5
Section 186-e - Excise Tax on Telecommunications Services							
New York Modifications to Gross Income							
52. Exclusion of Cable Television Service	65.4	72.5	82.1	91.3	95.5	104.0	3
53. Exclusion of Receipts from Certain Telecommunications Services for Air Safety and Navigation Purposes	N/A	N/A	N/A	N/A	N/A	N/A	5

Tax Item	History 2000	2001	2002	2003	2004	Forecast 2008	Reliability Level
Credits							
54. Credit for Tax Paid in Another Jurisdiction	*	*	*	0.0	0.0	*	2
55. Long-Term Care Insurance Credit	--	--	--	0.0	0.0	*	4
Exemptions							
56. Exempt Organizations	N/A	N/A	N/A	N/A	N/A	N/A	5

[1] Prior to this year's report, EZ and QEZE data was reported in the aggregate for those two groups, respectively. Starting with this year's report, credit-specific amounts are available in the descriptions of each credit.

* 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: 2004: $0.0 million — 2008: 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: 2004: $0.0 million — 2008: 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 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: 2004: $0.0 million — 2008: 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. If 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 law applies to contributions made on or after January 1, 2000.
Estimates: 2004: $0.0 million — 2008: 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, or continuing coverage under, long-term care insurance, as defined in the Insurance Law. Any unused credit may be carried forward.
Estimates: 2004: $0.0 million — 2008: Minimal
Data Source: New York State Department of Insurance
Reliability: Level 4

7. **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 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, 2010.

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: 2004: Not Applicable — 2008: Minimal
Data Source: New York State Department of Environmental Conservation
Reliability: Level 4

8. **Alternative Fuels Credit**
Citation: Section 187-b
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. Prior to January 1, 2005, the credit was also allowed, for hybrid, electric, and alternative fuel vehicles.
Estimates: 2004: $0.0 million — 2008: Minimal
Data Source: Research File
Reliability: Level 5

9. **Fuel Cell Electricity Generating Equipment Credit**
Citation: Section 187-n
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: 2004: Not Applicable — 2008: 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: 2004: Not Applicable — 2008: Minimal
Data Source: New York State Office of Homeland Security
Reliability: Level 5

11. **Biofuel Production Credit**
Citation: Sections 28, 187-c
Effective Date: Effective for taxable years beginning on or after 2006 and before January 1, 2013
Description: Taxpayers may claim a refundable tax credit for the production of biofuel. Biofuel is defined as fuel which includes biodiesel and ethanol. Biodiesel is fuel comprised exclusively of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100, which meets the specifications of American Society of Testing and Materials designated D 6751. The credit equals 15 cents per gallon after the production of the first 40,000 gallons per year presented to market. The credit is capped at $2.5 million per taxpayer per year for up to four consecutive years per biofuel plant.

Estimates: 2004: Not Applicable — 2008: Minimal
Data Source: New York State Division of the Budget
Reliability: Level 5

Corporate Exemptions

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

12. **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

13. **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: 2004: Minimal — 2008: Minimal
Data Source: Article 9-A Study File
Reliability: Level 2

14. **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 it maintains an office or otherwise employs capital in New York.
Estimate: No data available
Reliability: Level 5

15. **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

16. **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

17. **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: 2004: $2.9 million — 2008: $6.0 million
Data Source: Business Tax Files
Reliability: Level 2

18. **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: 2004: $2.4 million — 2008: $3.0 million
Data Source: Business Tax Files
Reliability: Level 2

Credits

19. **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: 2004: $0.0 million — 2008: Minimal
Data Source: Business Tax Files
Reliability: Level 2

20. **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: 2004: $0.0 million — 2008: Minimal
Data Source: Research File
Reliability: Level 4

21. **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: 2004: $0.0 million — 2008: Minimal
Data Source: Statutory limitation
Reliability: Level 4

22. **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. If 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 law applies to contributions made on or after January 1, 2000.
Estimates: 2004: $0.0 million — 2008: $0.0 million
Data Source: Research File
Reliability: Level 2

23. **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, or continuing coverage under, long-term care insurance, as defined in the Insurance Law. Any unused credit may be carried forward.
Estimates: 2004: $0.0 million — 2008: Minimal
Data Source: New York State Department of Insurance
Reliability: Level 4

24. **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, 2010.

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: 2004: Not Applicable — 2008: Minimal
Data Source: New York State Department of Environmental Conservation
Reliability: Level 4

25. **Alternative Fuels Credit**
Citation: Section 187-b
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. Prior to January 1, 2005, the credit was also allowed for hybrid, electric, and alternative fuel vehicles.
Estimates: 2004: $0.0 million — 2008: Minimal
Data Source: Research File
Reliability: Level 5

26. **Fuel Cell Electricity Generating Equipment Credit**
Citation: Section 187-n
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: 2004: Not Applicable — 2008: Minimal
Data Source: Research File
Reliability: Level 5

27. **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: 2004: Not Applicable — 2008: Minimal
Data Source: New York State Office of Homeland Security
Reliability: Level 5

Corporate Exemptions

Certain companies are exempt from the Section 184 tax.

28. **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

29. **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

30. **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

31. **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: 2004: Minimal — 2008: Minimal
Data Source: Article 9-A Study File
Reliability: Level 3

32. **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

33. **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: 2004: $0.0 million — 2008: Minimal
Data Source: Business Tax Files
Reliability: Level 2

34. **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: 2004: $0.0 million — 2008: Minimal
Data Source: Research File
Reliability: Level 4

35. **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: 2004: $0.0 million — 2008: Minimal
Data Source: Statutory limitation
Reliability: Level 4

36. **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. If 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 law applies to contributions made on or after January 1, 2000.
Estimates: 2004: $0.0 million — 2008: Minimal
Data Source: Research File
Reliability: Level 2

37. **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, or continuing coverage under, long-term care insurance, as defined in the Insurance Law. Any unused credit may be carried forward.
Estimates: 2004: $0.0 million — 2008: Minimal
Data Source: New York State Department of Insurance
Reliability: Level 4

38. **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 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, 2010.

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: 2004: Not Applicable — 2008: Minimal
Data Source: New York State Department of Environmental Conservation
Reliability: Level 4

39. **Alternative Fuels Credit**
Citation: Section 187-b
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. Prior to January 1, 2005, the credit was also allowed for hybrid, electric, and alternative fuel vehicles.
Estimates: 2004: $0.0 million — 2008: Minimal
Data Source: Research File
Reliability: Level 5

40. **Empire Zone (EZ) and Qualified Empire Zone Enterprise (QEZE) Credits**

Empire Zone and Zone Equivalent Area Tax Credits

a. **Empire Zone Investment Tax Credit**
Citation: Sections 187-k, 187-l
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 the 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.
Estimates: 2004: $0.0 million — 2008: Minimal
Data Source: Tax Study File
Reliability: Level 1

b. **EZ and Zone Equivalent Area Wage Tax Credit**
Citation: Section 187-m
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 Empire Zones (EZ-WTC). The wage tax credit has two components. The credit equals the product of the average number of targeted EZ employees receiving EZ wages multiplied by $3,000. The corresponding credit amount for other employees is $1,500. Taxpayers certified in Investment Zones 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 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.
Estimates: 2004: $0.0 million — 2008: Minimal
Data Source: Tax Study File
Reliability: Level 1

"New business" taxpayers or taxpayers designated as owners of a qualified investment project (QUIP) or a significant capital investment project (SCIP) 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. Owners of QUIPs or SCIPs may refund 50 percent of the EZ-EIC.

Qualified Empire Zone Enterprise (QEZE) Credits

c. **QEZE Real Property Tax Credit**
Citation: Sections 14, 15, 187-j
Effective Date: Effective for tax years beginning on or after January 1, 2001
Description: For taxpayers certified prior to April 1, 2005, the QEZE real property tax credit (RPTC) is the product of three factors. The benefit period factor is 1.0 in the first ten years of certification, declining by 0.02 each year thereafter. The employment increase factor is based upon the QEZE's job growth. The final factor is the QEZE's real property taxes for the current tax year.

For tax years beginning on or after January 1, 2005, this credit does not apply for Article 9 taxes.

The QEZE RPTC may not be used against the fixed dollar minimum tax but is fully refundable.
Estimates: 2004: $0.0 million — 2008: Not Applicable
Data Source: Tax Study File
Reliability: Level 1

d. **QEZE Tax Reduction Credit**
Citation: Sections 14, 16, 210(28)
Effective Date: Effective for tax years beginning on or after January 1, 2001
Description: The QEZE tax reduction credit is the product of four factors: the benefit period factor, the employment increase factor, the zone allocation factor, and the tax factor. The first two factors are discussed above. The Zone allocation factor measures the QEZE's economic presence in the zone. The tax factor is the greater of the QEZE's tax on the ENI or AMT bases. The tax reduction credit can be applied against the AMT and fixed dollar minimum tax, potentially reducing a taxpayer's liability to zero.
Estimates: 2004: $0.0 million — 2008: Minimal
Data Source: Tax Study File
Reliability: Level 1

41. **Fuel Cell Electricity Generating Equipment Credit**
Citation: Section 187-n
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: 2004: Not Applicable — 2008: Minimal
Data Source: Research File
Reliability: Level 5

42. **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: 2004: Not Applicable — 2008: Minimal
Data Source: New York State Office of Homeland Security
Reliability: Level 5

43. **Biofuel Production Credit**
Citation: Sections 28, 187-c
Effective Date: Effective for taxable years beginning on or after 2006 and before January 1, 2013.
Descrption: Taxpayers may claim a refundable tax credit for the production of biofuel . Biofuel is defined as fuel which includes biodiesel and ethanol. Biodiesel is fuel comprised exclusively of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100, which meets the specifications of American Society of Testing and Materials designated D 6751. The credit equals 15 cents per gallon after the production of the first 40,000 gallons per year presented to market. The credit is capped at $2.5 million per taxpayer per year for up to four consecutive years per biofuel plant.
Estimates: 2004: Not Applicable — 2008: Minimal
Data Source: New York State Division of the Budget
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

44. **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: 2004: $0.0 million — 2008: Minimal
Data Source: Business Tax Files
Reliability: Level 2

45. **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: 2004: $0.0 million — 2008: Minimal
Data Source: Research File
Reliability: Level 2

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

46. **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: 2004: $49.0 million — 2008: $20.0 million
Data Source: Public Service Commission staff
Reliability: Level 4

47. **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, or continuing coverage under, long-term care insurance, as defined in the Insurance Law. Any unused credit may be carried forward.
Estimates: 2004: $0.0 million — 2008: Minimal
Data Source: New York State Department of Insurance
Reliability: Level 4

Exemptions

48. **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

49. **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

50. **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

51. **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 was eliminated through a phased in exclusion according to the following schedule:

Calendar Year	2000	2001	2002	2003	2004	2005 and After
Exclusion	0%	0%	25%	50%	75%	100%

Estimate: No data available
Data Source: No data available
Reliability: Level 5

Section 186-e
Excise Tax on Telecommunications Services

New York Modifications to Gross Income

52. **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: 2004: $95.5 million — 2008: $104.0 million
Data Source: Annual Reports to the New York State Public Service Commission
Reliability: Level 3

53. **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

54. **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: 2004: $0.0 million — 2008: Minimal
Data Source: Business Tax Files
Reliability: Level 2

55. **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, or continuing coverage under, long-term care insurance, as defined in the Insurance Law. Any unused credit may be carried forward.
Estimates: 2004: $0.0 million — 2008: Minimal
Data Source: New York State Department of Insurance
Reliability: Level 4

Exemptions

56. **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 142 provisions of the Sales and Use Tax Law. The list of expenditures is based on the Tax Law in effect as of January 1, 2008. 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 2001 through 2005. Table 8 lists the tax expenditures and provides historical year and projected 2008 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.

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 5.0 percent. Communities within the Metropolitan Commuter Transportation District are subject to an additional 3/8 of 1 percent tax rate. In State fiscal year 2006-07, the Department collected about $10.2 billion for the State and approximately $11.9 billion for local governments from sales and use taxes.

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:

- Government publications and surveys such as the U.S. Census Bureau's *Economic Census*;

- Data compiled by individual New York State agencies; and

- Industry surveys and information, such as the information provided by General Aviation Manufacturers Association.

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 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 2008 levels. Historical estimates are projected to 2008 levels using the New York State Division of the Budget's 2007 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.

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.

Table 8
2008 New York State Sales and Use Tax Expenditure Estimates
(2006-07 Total NY Sales and Use Tax Liability = $10,194.0 Million)
(Millions of Dollars)

Tax Item	Data Source Year(s)	History 2001	2002	2003[3]	2004[4]	2005[5]	Forecast 2008	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, 2002	59.0	62.0	67.0	71.0	72.0	79.0	4B
5. Capital Improvement Installation Services	2001-2004	427.0	454.0	414.0	464.0	468.0	483.0	4C
6. Services Related to Railroad Rolling Stock	2001-2005	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	2001-2005	5.0	5.0	6.0	7.0	7.0	7.0	4A
9. Parking and Garaging at a Private Residence	2006	*	*	*	*	*	*	4A
10. Certain Protective and Detective Services	2001 – 2005	*	*	*	*	*	*	4A
11. Medical Emergency Alarm Call Services	1997, 2000-2004	*	*	*	*	*	*	4C
12. Coin-Operated Car Wash Services	1995, 2002, 2003	2.0	2.0	2.0	2.0	2.0	3.0	4C
13. Trash Removal from a Waste Transfer Facility[2]	2002	--	--	--	--	1.0	4.0	4B
Food								
14. Certain Food Products	2001-2004	1,006.0	976.0	1,009.0	1,093.0	1,129.0	1,298.0	4B
15. Food Sold to Airlines	2001-2004	6.0	6.0	5.0	6.0	6.0	6.0	4A
16. Food Sold at School Cafeterias	2000, 2004	64.0	69.0	70.0	82.0	83.0	90.0	4A
17. Food Purchased with Food Stamps	2001-2005	55.0	59.0	69.0	80.0	88.0	100.0	4A
18. Water Delivered Through Mains or Pipes	2001-2004	56.0	58.0	61.0	65.0	64.0	66.0	4B
19. Mandatory Gratuity Charges	2001-2004	20.0	21.0	22.0	24.0	24.0	25.0	4A
20. Wine Used for Wine Tastings	2001-2004	*	*	*	*	*	*	4A
21. Vending Machine Sales of Hot Drinks and Certain Foods[1]	2001-2005	17.0	17.0	19.0	20.0	21.0	24.0	4C
22. Vending Machine Sales of Candy, Juice and Soft Drinks[1]	2001-2005	17.0	16.0	15.0	14.0	13.0	15.0	4C
23. Food Sold at Senior Citizen Housing Communities	2000	*	*	*	*	*	*	4B
Medical								
24. Drugs, Medicine, and Medical Supplies	2001-2004	536.0	592.0	671.0	748.0	766.0	884.0	4C
25. Eyeglasses, Hearing Aids and Prosthetic Aids	2001-2004	84.0	86.0	89.0	95.0	96.0	102.0	4C
26. Veterinarian Services	1997, 2001, 2004	22.0	21.0	20.0	20.0	20.0	21.0	4B
27. Service Dogs	1998, 2003	*	*	*	*	*	*	4B
Energy								
28. Residential Energy	2001-2005	489.0	436.0	575.0	599.0	694.0	793.0	3
29. Fuel, Gas, Electricity, Refrigeration, and Steam Used in Research and Development and Production	2000-2004	234.0	189.0	229.0	256.0	271.0	287.0	4C

Tax Item	Data Source Year(s)	History 2001	2002	2003[3]	2004[4]	2005[5]	Forecast 2008	Reliability Level
30. Fuel, Gas, Electricity, Refrigeration, and Steam Used in Farming and Commercial Horse Boarding	2000-2005	7.0	8.0	7.0	9.0	12.0	14.0	4B
31. Reduced Rate on Gas and Electric Delivery	2000-2004	2.0	6.0	19.0	64.0	75.0	128.0	4B
32. Gas and Electricity Used in Transmission, Distribution and Storage	2000-2004	2.0	2.0	2.0	2.0	3.0	3.0	4C
33. Residential Solar Energy Systems[2]	2004, 2006	--	--	--	--	*	*	4B
34. Electricity, Refrigeration, and Steam Sold by Certain Cooperative Corporations	2006	--	--	--	--	--	*	4C
35. Automotive Fuel Receipts Exceeding Two Dollars Per Gallon	2006	--	--	--	--	--	198.0	4C
36. Alternative Fuels	2006	--	--	--	--	--	*	4C
37. B2O Bio-Diesel Fuel	2006	--	--	--	--	--	*	4C
Transportation								
38. Commercial Vessels		N/A	N/A	N/A	N/A	N/A	N/A	5
39. Barge Repairs	1997, 2002	*	*	*	*	*	*	4C
40. Commercial Aircraft	2000-2004	20.0	14.0	14.0	14.0	14.0	14.0	4C
41. Fuel Sold to Airlines	2000-2004	48.0	42.0	53.0	81.0	95.0	115.0	4A
42. Parts for Foreign Aircraft		N/A	N/A	N/A	N/A	N/A	N/A	5
43. Services to Private Aircraft[2]	2000	--	--	--	*	2.0	2.0	4C
44. Intra-family Sales of Motor Vehicles		N/A	N/A	N/A	N/A	N/A	N/A	5
45. Motor Vehicles and Vessels Sold to Nonresidents		N/A	N/A	N/A	N/A	N/A	N/A	5
46. Rental of Trucks in Certain Cases		N/A	N/A	N/A	N/A	N/A	N/A	5
47. Tractor-Trailer Combinations	2002, 2003	14.0	14.0	15.0	16.0	16.0	14.0	4A
48. Sales of Property by Railroads in Reorganization	2000-2004	0.0	0.0	0.0	0.0	0.0	0.0	4A
49. Commercial Buses	1999, 2005	5.0	5.0	5.0	5.0	5.0	5.0	4A
50. Marine Terminal Facility Equipment	2005	--	--	--	--	*	*	4B
Communication and Media								
51. Interstate or International Telephone and Telegraph Service	2000, 2002, 2003, 2004	303.0	339.0	276.0	273.0	239.0	256.0	4A
52. Internet Access Service	2001-2005	28.0	50.0	60.0	71.0	76.0	96.0	4C
53. Cable Television Service[1]	2001-2004	143.0	153.0	170.0	195.0	207.0	259.0	4C
54. Newspapers and Periodicals	2001-2005	71.0	72.0	72.0	65.0	65.0	62.0	4B
55. Shopping Papers	2001-2003	2.0	2.0	2.0	2.0	2.0	2.0	4C
56. Telephone Service Used by the Media	2001-2005	*	*	*	*	*	*	4A
57. Certain Coin-Operated Telephone Charges	1999, 2005	5.0	4.0	3.0	3.0	2.0	1.0	4C
58. Telecommunications and Internet Equipment	2000-2004	99.0	90.0	69.0	74.0	77.0	86.0	4B
59. Internet Data Centers	2002, 2007	9.0	9.0	10.0	10.0	10.0	11.0	4C
60. Radio and Television Broadcasting	2001-2005	6.0	3.0	4.0	5.0	4.0	5.0	4C
61. Film Production		--	N/A	N/A	N/A	N/A	N/A	5
62. Certain Mobile Telecommunication Services[2]	2001-2004	--	3.0	8.0	8.0	9.0	10.0	4B
Industry								
63. Tools and Supplies Used in Production		N/A	N/A	N/A	N/A	N/A	N/A	5
64. Farm Production and Commercial Horse Boarding	2001-2005	56.0	60.0	61.0	62.0	52.0	42.0	4B
65. Research and Development Property	2002-2004	63.0	54.0	50.0	45.0	40.0	48.0	4B

	Tax Item	Data Source Year(s)	History 2001	2002	2003[3]	2004[4]	2005[5]	Forecast 2008	Reliability Level
66.	Machinery and Equipment Used in Production	1997, 2002	281.0	262.0	252.0	249.0	263.0	276.0	4B
67.	Services to Machinery and Equipment Used in Production	1997, 2002	14.0	14.0	15.0	15.0	15.0	16.0	4B
68.	Wrapping and Packaging Materials		N/A	N/A	N/A	N/A	N/A	N/A	5
69.	Milk Crates[1]		--	--	--	--	--	*	4C
70.	Commercial Fishing Vessels	2001-2005	*	*	*	*	*	*	4B
71.	Certain Services Used in Gas or Oil Production	2005	*	*	*	*	*	*	4C
72.	Pollution Control Equipment[2]	2001-2003	4.0	5.0	5.0	5.0	5.0	5.0	4C
73.	Property Manufactured by the User	2001-2005	*	*	*	*	*	*	4B
Miscellaneous									
74.	Certain Property Sold Through Vending Machines	2001-2005	1.0	1.0	1.0	1.0	1.0	1.0	4C
75.	Trade-in Allowance	1997-2001	625.0	658.0	682.0	711.0	703.0	659.0	4B
76.	Certain Hotel Room Rent		N/A	N/A	N/A	N/A	N/A	N/A	5
77.	Dues for Fraternal Societies	2001-2005	11.0	14.0	15.0	15.0	16.0	17.0	4C
78.	Homeowner Association Dues		N/A	N/A	N/A	N/A	N/A	N/A	5
79.	Homeowner Association Parking Services		N/A	N/A	N/A	N/A	N/A	N/A	5
80.	Excise Taxes Imposed on the Consumer	2001-2005	35.0	41.0	31.0	23.0	22.0	26.0	4A
81.	Property Sold by Morticians	2002-2004	9.0	9.0	10.0	10.0	10.0	10.0	4C
82.	Flags		N/A	N/A	N/A	N/A	N/A	N/A	5
83.	Military Decorations	2006	--	--	--	--	--	*	4C
84.	Garage Sales		N/A	N/A	N/A	N/A	N/A	N/A	5
85.	New Mobile Homes	2000-2005	2.0	2.0	2.0	2.0	2.0	2.0	4A
86.	Used Mobile Homes		N/A	N/A	N/A	N/A	N/A	N/A	5
87.	Registered Race Horses		N/A	N/A	N/A	N/A	N/A	N/A	5
88.	Race Horses Purchased Through Claiming Races		N/A	N/A	N/A	N/A	N/A	N/A	5
89.	Race Horses Purchased Out of State		N/A	N/A	N/A	N/A	N/A	N/A	5
90.	Training and Maintaining Race Horses	2000, 2003	3.0	3.0	3.0	3.0	3.0	3.0	4C
91.	Property Sold to Contractors for Capital Improvements or Repairs for Exempt Organizations	2001-2004	68.0	71.0	62.0	61.0	61.0	70.0	4C
92.	Property Donated by a Manufacturer to an Exempt Organization		N/A	N/A	N/A	N/A	N/A	N/A	5
93.	Sales and Use Tax Paid to Other States		N/A	N/A	N/A	N/A	N/A	N/A	5
94.	Precious Metal Bullion and Coins		163.0	111.0	126.0	157.0	171.0	180.0	4C
95.	Computer Software Transferred to Affiliated Corporations		N/A	N/A	N/A	N/A	N/A	N/A	5
96.	Services to Computer Software		N/A	N/A	N/A	N/A	N/A	N/A	5
97.	Self-use of Prewritten Software by its Author		N/A	N/A	N/A	N/A	N/A	N/A	5
98.	Computer System Hardware	2001-2005	14.0	9.0	9.0	14.0	13.0	14.0	4C
99.	Promotional Materials Mailed Out of State		N/A	N/A	N/A	N/A	N/A	N/A	5
100.	Printed Promotional Materials	2000-2003	27.0	27.0	28.0	29.0	29.0	28.0	4C
101.	U.S. Postage Used in the Distribution of Promotional Materials		N/A	N/A	N/A	N/A	N/A	N/A	5
102.	Clothing and Footwear	2000	602.0	612.0	225.0	--	--	691.0	4B

Tax Item	Data Source Year(s)	History 2001	2002	2003[3]	2004[4]	2005[5]	Forecast 2008	Reliability Level
103. Coin-Operated Photocopying Machines	2000-2003	*	*	*	*	*	*	4C
104. Luggage Carts	1997	*	*	*	*	*	*	4C
105. Emissions Testing Equipment	1998	*	*	*	*	*	*	4A
106. College Textbooks	1999	22.0	21.0	21.0	22.0	22.0	21.0	4B
107. Live Dramatic or Musical Arts Production[2]	1998, 1999	2.0	3.0	3.0	3.0	3.0	4.0	4A
108. Qualified Empire Zone Enterprises[2]	1998	31.0	57.0	67.0	73.0	76.0	71.0	4C
109. Lower Manhattan Commercial Office Space[2]	2004	--	--	--	--	7.0	13.0	4B
Exempt Organizations								
110. New York State Agencies and Political Subdivisions	1996-1998	829.0	845.0	889.0	935.0	938.0	977.0	4C
111. Industrial Development Agencies	1999-2002	98.0	86.0	85.0	96.0	100.0	136.0	4A
112. Federal Agencies	1998	151.0	155.0	163.0	172.0	171.0	175.0	4B
113. United Nations		N/A	N/A	N/A	N/A	N/A	N/A	5
114. Diplomats and Foreign Missions		N/A	N/A	N/A	N/A	N/A	N/A	5
115. Charitable Organizations	2000-2003	309.0	333.0	361.0	381.0	378.0	388.0	4C
116. Veterans Posts or Organizations	1999	*	*	*	*	*	*	4C
117. Veterans Home Gift Shops	2006	--	--	--	--	--	*	4C
118. Indian Nations and Members of Such Indian Nations	1999	2.0	2.0	2.0	2.0	2.0	2.0	4C
119. U.S. Military Base Post Exchanges	1999-2001	7.0	7.0	8.0	9.0	9.0	10.0	4A
120. Nonprofit Health Maintenance Organizations	1997	3.0	3.0	3.0	4.0	4.0	4.0	4A
121. Nonprofit Medical Expense Indemnity or Hospital Service Corporations	1999, 2000	8.0	8.0	9.0	9.0	9.0	9.0	4A
122. Nonprofit Property/Casualty Insurance Companies		--	N/A	N/A	N/A	N/A	N/A	5
123. Certain State Credit Unions	2006	--	--	--	--	--	1.0	4C
124. Rural Electric Cooperatives	1996-1999	*	*	*	*	*	*	4A
125. Municipal Trash Removal Services	1999-2002	34.0	34.0	36.0	37.0	36.0	36.0	4B
Exempt Admission Charges								
126. Certain Admission Charges	1997, 2002	52.0	55.0	60.0	65.0	66.0	71.0	4B
127. Amusement Park Admissions[2]	2002	--	--	--	*	1.0	1.0	4A
128. 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
129. Events Given for the Benefit of Certain Orchestras and Opera Companies		N/A	N/A	N/A	N/A	N/A	N/A	5
130. National Guard Organization Events		N/A	N/A	N/A	N/A	N/A	N/A	5
131. Municipal Police and Fire Department Events		N/A	N/A	N/A	N/A	N/A	N/A	5
132. Certain Athletic Games		N/A	N/A	N/A	N/A	N/A	N/A	5
133. Carnivals or Rodeos for Certain Charitable Organizations	2002	*	*	*	*	*	*	4B
134. Agricultural Fairs	2000-2004	*	*	*	*	*	*	4A
135. Historical Homes, Gardens, Sites, and Museums		N/A	N/A	N/A	N/A	N/A	N/A	5
136. Performances at a Roof Garden or Cabaret	2006	--	--	--	--	--	2.0	4C

Tax Item	Data Source Year(s)	History 2001	2002	2003[3]	2004[4]	2005[5]	Forecast 2008	Reliability Level
Credits								
137. Sales Tax Vendor Credit	2000-2004	34.0	49.0	48.0	49.0	49.0	54.0	3
138. Tangible Property Sold by Contractors in Certain Situations		N/A	N/A	N/A	N/A	N/A	N/A	5
139. Veterinary Drugs		N/A	N/A	N/A	N/A	N/A	N/A	5
140. Construction Materials Used in Empire Zones		N/A	N/A	N/A	N/A	N/A	N/A	5
141. Bus Companies Providing Local Transit Service	1999-2002	*	*	*	*	*	*	4A
142. 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%.

[4] The 2004 estimate reflects the temporary sales tax rate of 4.25%.

[5] The 2005 estimates are computed at a blended State sales tax rate of 4.125% reflecting a rate of 4.25% in effect until June 1, 2005. The State's sales tax rate reverted to 4% on June 1, 2005.

-- 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: Charges for laundering, dry cleaning, tailoring, weaving, pressing, shoe repairing, and shoe shining are excluded from tax.
   Estimates: 2005: $72.0 million - 2008: $79.0 million
   Data Source: U.S. Census Bureau, *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: 2005: $468.0 million - 2008: $483.0 million

Data Source: U.S. Census Bureau, *Census of Construction*; U.S. Census Bureau, *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: 2005: $2.0 million — 2008: $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: 2005: $7.0 million — 2008: $7.0 million
Data Source: New York State Office of the Comptroller; City of New York Office of Management and Budget
Reliability: Level 4A

9. **Parking and Garaging at a Private Residence**
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: 2005: Minimal — 2008: Minimal
Data Source: US Census Bureau
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 port watchman licensed by the Waterfront Commission of New York Harbor are exempt from tax.

Estimates: 2005: Minimal — 2008: 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.
Estimates: 2005: Minimal — 2008: Minimal
Data Source: Journal of Applied Gerontology, US Census Bureau; New York State Office for the Aging; New York State Department of Health
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: 2005: $2.0 million — 2008: $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: 2005: $1.0 million — 2008: $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: 2005: $1,129.0 million — 2008: $1,298.0 million

Data Source: U.S. Department of Labor, *Consumer Expenditure Survey: 2000-2004;* U.S. Census Bureau
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: 2005: $6.0 million — 2008: $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: 2005: $83.0 million — 2008: $90.0 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: 2005: $88.0 million — 2008: $100.0 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: 2005: $64.0 million — 2008: $66.0 million
Data Source: New York State Department of Public Service; New York State Office of the State Comptroller; New York City Water and Sewer System
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: 2005: $24.0 million — 2008: $25.0 million
Data Source: New York State Department of Taxation and Finance; 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: 2005: Minimal — 2008: 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: 2005: $ 21.0 million — 2008: $24.0 million
Data Source: Vending Times; U.S. Census Bureau
Reliability: Level 4C

22. **Vending Machine Sales of Candy, Juice and Soft Drinks**
Citation: Section 1115(a)(1)
Effective Date: September 1, 2000
Description: Candy, fruit drinks, and soft drinks sold for 75 cents or less through a vending machine are exempt from tax.
Estimates: 2005: $13.0 million — 2008: $15.0 million
Data Source: Vending Times; U.S. Census Bureau
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: 2005: Minimal — 2008: Minimal
Data Source: New York State Department of Taxation and Finance
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: 2005: $766.0 million — 2008: $884.0 million
Data Source: U.S. Department of Commerce, *Survey of Current Business;* U.S. Census Bureau, *Economic Census*
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: 2005: $96.0 million — 2008: $102.0 million
Data Source: U.S. Department of Commerce, *Survey of Current Business;* U.S. Census Bureau, *Economic Census*
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.
Estimates: 2005: $20.0 million — 2008: $21.0 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: The sale 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 is exempt.

Estimates: 2005: Minimal — 2008: 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. **Residential Energy**
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: 2005: $694.0 million — 2008: $793.0 million
Data Source: New York State Department of Taxation and Finance; New York State Energy Research and Development Authority; and the U.S. Census Bureau
Reliability: Level 3

29. **Fuel, Gas, Electricity, Refrigeration, and Steam Used in Research and 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: 2005: $271.0 million — 2008: $287.0 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.
Estimates: 2005: $12.0 million — 2008: $14.0 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 was 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: 2005: $75.0 million — 2008: $128.0 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: 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 is exempt.
Estimates: 2005: $3.0 million — 2008: $3.0 million
Data Source: New York State Energy Research and Development Authority; New York State Public Service Commission; U.S. Department of Energy, Energy Information Administration
Reliability: Level 4C

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 is exempt from tax.
Estimate: 2005: Minimal — 2008: Minimal
Data Source: New York State Energy Research and Development Authority; U.S. Department of Energy, Energy Information Administration
Reliability: Level 4B

34. **Electricity, Refrigeration, and Steam Sold by Certain Cooperative Corporations**
Citation: Section 1115(b)(iii)
Effective Date: March 1, 2006
Description: Exempt from tax are electricity, steam, and refrigeration produced by a cogeneration facility owned and operated by certain cooperative corporations and distributed to tenants.
Estimate: 2005: Not Applicable — 2008: Minimal
Data Source: New York State Division of the Budget
Reliability: Level 4C

35. **Automotive Fuel Receipts Exceeding Two Dollars Per Gallon**
Citation: Section 1111(m)
Effective Date: June 1, 2006
Description: Certain motor fuel and diesel motor fuel sales are subject to tax at the rate of 8 cents per gallon. This effectively exempts the portion of the taxable receipt exceeding two dollars per gallon.
Estimate: 2005: Not Applicable — 2008: $198.0 million
Data Source: New York State Division of the Budget
Reliability: Level 4C

36. **Alternative Fuels**
Citation: Section 1115(a)(42)
Effective Date: September 1, 2006
Description: E85, CNG, or hydrogen is exempt from sales tax when used directly and exclusively in the engine of a motor vehicle.
Termination Date: Expires August 31, 2011
Estimate: 2005: Not Applicable — 2008: Minimal
Data Source: New York State Division of the Budget
Reliability: Level 4C

37. **B20 Bio-Diesel Fuel**
Citation: Section 1111(n)
Effective Date: September 1, 2006
Description: Bio-diesel fuel which is B20 is exempt from 20 percent of the cents-per-gallon sales tax rate imposed on certain sales of diesel motor fuel.
Termination Date: Expires August 31, 2011
Estimate: 2005: Not Applicable — 2008: Minimal
Data Source: New York State Division of the Budget
Reliability: Level 4C

Transportation

38. **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. Services rendered with respect to commercial vessels are also exempt.
Estimates: No data available.
Reliability: Level 5

39. **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: 2005: Minimal — 2008: Minimal
Data Source: U.S. Department of Commerce, Economic and Statistics Administration; U.S. Army Corps of Engineers
Reliability: Level 4C

40. **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: 2005: $14.0 million — 2008: $14.0 million
Data Source: U.S. Census Bureau, *Annual Capital Expenditures Report*
Reliability: Level 4C

41. **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: 2005: $95.0 million — 2008: $115.0 million
Data Source: New York State Energy Research and Development Authority
Reliability: Level 4A

42. **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

43. **Services to Private Aircraft**
Citation: Section 1115(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: 2005: $2.0 million — 2008: $2.0 million
Data Source: General Aviation Manufacturers Association
Reliability: Level 4C

44. **Intra-family Sales of Motor Vehicles**
Citation: Section 1115(a)(14)
Effective Date: September 1, 1969 for transactions between spouses, and 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

45. **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

46. **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

47. **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: 2005: $16.0 million — 2008: $14.0 million
Data Source: New York State Department of Motor Vehicles; U.S. Census Bureau, *Truck Inventory and Use Survey*
Reliability: Level 4A

48. **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 reorganization plan.
Estimates: 2005: $0.0 million — 2008: $0.0 million
Data Source: New York State Department of Transportation
Reliability: Level 4A

49. **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: 2005: $5.0 million — 2008: $5.0 million
Data Source: New York State Department of Motor Vehicles; The Bus Association of New York State
Reliability: Level 4A

50. **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: 2005: Minimal — 2008: Minimal
Data Source: New York State Division of the Budget
Reliability: Level 4B

Communication and Media

51. **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: 2005: $239.0 million — 2008: $256.0 million
Data Source: New York State Department of Taxation and Finance
Reliability: Level 4A

52. **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, and news headlines when offered in conjunction with Internet access are considered part of the exempt service.

Estimates: 2005: $76.0 million — 2008: $96.0 million
Data Source: U.S. Census Bureau
Reliability: Level 4C

53. **Cable Television Service**
Citation: Section 1105(c)(9)
Effective Date: September 1, 1990
Description: Cable television service is exempt from tax.
Estimates: 2005: $207.0 million — 2008: $259.0 million
Data Source: U.S. Census Bureau
Reliability: Level 4C

54. **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: 2005: $65 million — 2008: $62.0 million
Data Source: U.S. Census Bureau, *Service Annual Survey*
Reliability: Level 4B

55. **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 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: 2005: $2.0 million — 2008: $2.0 million
Data Source: U.S. Census Bureau, *Statistical Abstract of the United States*
Reliability: Level 4C

56. **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: 2005: Minimal — 2008: Minimal
Data Source: New York State Department of Taxation and Finance
Reliability: Level 4A

57. **Certain Coin-Operated Telephone Charges**
Citation: Section 1115(e)
Effective Date: September 1, 1998
Description: Coin-operated telephone charges of 25 cents or less are exempt.

Estimates: 2005: $2.0 million — 2008: $1.0 million
Data Source: U.S. Federal Communications Commission; and New York State Public Service Commission
Reliability: Level 4C

58. **Telecommunications and Internet Equipment**
Citation: Sections 1115(a)(12-a), 1105(c)(3)(x)
Effective Date: September 1, 2000
Description: Exempt from tax is 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: 2005: $77.0 million — 2008: $86.0 million
Data Source: New York State Public Service Commission; CTIA – The Wireless Association
Reliability: Level 4B

59. **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: 2005: $10.0 million — 2008: $11.0 million
Data Source: The Uptime Institute
Reliability: Level 4C

60. **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: 2005: $4.0 million — 2008: $5.0 million
Data Source: U.S. Census Bureau, *Economic Census*
Reliability: Level 4C

61. **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

62. **Certain Mobile Telecommunication Services**
Citation: Section 1115(cc)
Effective Date: August 1, 2002
Description: The sale of mobile telecommunication services by a home service provider is exempt from tax if the mobile telecommunications customer's place of primary use is outside of New York State.
Estimate: 2005: $9.0 million — 2008: $10.0 million
Data Source: U.S. Census Bureau, *Statistical Abstract of the United States*
Reliability: Level 4B

Industry

63. **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

64. **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.
Estimates: 2005: $52.0 million — 2008: $42.0 million

Data Source: U.S. Department of Agriculture, Economic Research Service; New York State Department of Agriculture and Markets, U.S. Agriculture Statistics Service
Reliability: Level 4B

65. **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: 2005: $40.0 million — 2008: $48.0 million
Data Source: National Science Foundation
Reliability: Level 4B

66. **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: 2005: $263.0 million — 2008: $276.0 million
Data Source: U.S. Census Bureau, *Economic Census*
Reliability: Level 4B

67. **Services to Machinery and Equipment Used in Production**
Citation: Section 1105-B(b)
Effective Date: March 1, 1981
Description: The services of installing, repairing, maintaining, or servicing exempt production machinery and equipment or exempt parts, tools, and supplies are exempt.
Estimates: 2005: $15.0 million — 2008: $16.0 million
Data Source: U.S. Census Bureau, *Economic Census*
Reliability: Level 4B

68. **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

69. **Milk Crates**
Citation: Section 1115(a)(19-a)
Effective Date: September 1, 2007

Description: Exempt from tax are milk crates purchased by a dairy farmer or licensed milk distributor used exclusively and directly for packaging and delivering milk and milk products to customers.
Estimates: 2005: Not Applicable — 2008: Minimal
Data Source: New York State Division of the Budget
Reliability: Level 4C

70. **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: 2005: Minimal — 2008: Minimal
Data Source: National Marine Fisheries Services
Reliability: Level 4B

71. **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: 2005: Minimal — 2008: Minimal
Data Source: U.S. Department of Commerce, Bureau of Economic Analysis
Reliability: Level 4C

72. **Pollution Control Equipment**
Citation: Section 1115(a)(40)
Effective Date: March 1, 2001
Description: Machinery or equipment used directly and predominantly in the control, prevention, or abatement of pollution or contaminants from manufacturing or industrial facilities is exempt to the extent not exempted under expenditure item number 66.
Estimates: 2005: $5.0 million — 2008: $5.0 million
Data Source: U.S. Census Bureau
Reliability: Level 4C

73. **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: 2005: Minimal — 2008: Minimal
Data Source: New York State Department of Taxation and Finance
Reliability: Level 4B

Miscellaneous

74. **Certain Property Sold Through Vending Machines**
Citation: Section 1115(a)(13), (13-a)
Effective Date: August 1, 1965 (Section 1115(a)(13)); (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: 2005: $1.0 million — 2008: $1.0 million
Data Source: Vending Times; U.S. Census Bureau
Reliability: Level 4C

75. **Trade-in Allowance**
Citation: Section 1101(b)(3)
Effective Date: August 1, 1965
Description: A credit 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: 2005: $703.0 million — 2008: $659.0 million
Data Source: National Automobile Dealers Association
Reliability: Level 4B

76. **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

77. **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: 2005: $16.0 million — 2008: $17.0 million
Data Source: U.S. Department of Commerce, *Survey of Current Business*
Reliability: Level 4C

78. **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

79. **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: No data available
Reliability: Level 5

80. **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: 2005: $22.0 million — 2008: $26.0 million
Data Source: New York State Department of Taxation and Finance; Internal Revenue Service
Reliability: Level 4A

81. **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.
Estimates: 2005: $10.0 million — 2008: $10.0 million
Data Source: National Funeral Directors' Association; Cremation Association of North America
Reliability: Level 4C

82. **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 exempt.
Estimate: No data available
Reliability: Level 5

83. **Military Decorations**
Citation: Section 1115(a)(11-a)
Effective Date: December 1, 2006
Description: Purchases of military decorations (e.g., ribbons, medals, and lapel pins) by a veteran or active member of the United States military are exempt from sales and use tax.
Estimate: 2005: Not Applicable — 2008: Minimal
Data Source: New York State Division of the Budget
Reliability: Level 4C

84. **Garage Sales**
Citation: Section 1115(a)(18)
Effective Date: September 1, 1973
Description: Certain sales of property 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, if no member of the household conducts a trade or business selling similar products, and the sale is not held to liquidate an estate.
Estimate: No data available
Reliability: Level 5

85. **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: 2005: $2.0 million — 2008: $2.0 million
Data Source: U.S. Census Bureau
Reliability: Level 4A

86. **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

87. **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

88. **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

89. **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

90. **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: 2005: $3.0 million — 2008: $3.0 million
Data Source: American Horse Council Foundation; New York State Agricultural Statistics Service
Reliability: Level 4C

91. **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: 2005: $61.0 million — 2008: $70.0 million
Data Source: U.S. Census Bureau, *Economic Census*
Reliability: Level 4C

92. **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

93. **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

94. **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: 2005: $171.0 million — 2008: $180.0 million
Data Source: New York Mercantile Exchange
Reliability: Level 4C

95. **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

96. **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.
Estimate: No data available
Reliability: Level 5

97. **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

98. **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: 2005: $13.0 million — 2008: $14.0 million
Data Source: U.S. Census Bureau
Reliability: Level 4C

99. **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

100. **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: 2005: $29.0 million — 2008: $28.0 million
Data Source: U.S. Census Bureau
Reliability: Level 4C

101. **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

102. **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: 2005: Not Applicable — 2008: $691.0 million
Data Source: New York State Division of the Budget; New York State Department of Taxation and Finance
Reliability: Level 4B

103. **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: 2005: Minimal — 2008: Minimal
Data Source: *Vending Times*
Reliability: Level 4C

104. **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: 2005: Minimal — 2008: Minimal
Data Source: New York State Department of Taxation and Finance
Reliability: Level 4C

105. **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: 2005: Minimal — 2008: Minimal
Data Source: New York State Department of Environmental Conservation
Reliability: Level 4A

106. **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: 2005: $22.0 million — 2008: $21.0 million
Data Source: New York State Department of Education
Reliability: Level 4B

107. **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: 2005: $3.0 million — 2008: $4.0 million
Data Source: New York State Division of the Budget
Reliability: Level 4A

108. **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 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: 2005: $76.0 million — 2008: $71.0 million
Data Source: New York State Division of the Budget
Reliability: Level 4C

109. **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 eligible areas in Lower Manhattan.
Estimate: 2005: $7.0 million — 2008: $13.0 million
Data Source: New York State Division of the Budget
Reliability: Level 4B

Exempt Organizations

110. **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 NewYork, 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: 2005: $938.0 million — 2008: $977.0 million
Data Source: New York State Division of the Budget; U.S. Department of Commerce
Reliability: Level 4C

111. **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: 2005: $100.0 million — 2008: $136.0 million
Data Source: New York State Department of Taxation and Finance
Reliability: Level 4A

112. **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: 2005: $171.0 million — 2008: $175.0 million
Data Source: U.S. Census Bureau
Reliability: Level 4B

113. **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

114. **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

115. **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: 2005: $378.0 million — 2008: $388.0 million
Data Source: U.S. Department of Commerce, *Survey of Current Business*
Reliability: Level 4C

116. **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: 2005: Minimal — 2008: Minimal
Data Source: New York State Department of Taxation and Finance; Food Institute, *Food Industry Review*
Reliability: Level 4C

117. **Veterans Homes Gift Shops**
Citation: Section 1115(ff)
Effective Date: December 1, 2006
Description: Sales of tangible personal property by any gift shop located in a veterans home are exempt.
Estimate: 2005: Not Applicable — 2008: Minimal
Data Source: New York State Division of the Budget
Reliability: Level 4C

118. **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: 2005: $2.0 million — 2008: $2.0 million
Data Source: U.S. Census Bureau; U.S. Bureau of Indian Affairs
Reliability: Level 4C

119. **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: 2005: $9.0 million — 2008: $10.0 million
Data Source: Regional sales offices of U.S. Armed Services
Reliability: Level 4A

120. **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: 2005: $4.0 million — 2008: $4.0 million
Data Source: New York State Health Department
Reliability: Level 4A

121. **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: 2005: $9.0 million — 2008: $9.0 million
Data Source: New York State Insurance Department
Reliability: Level 4A

122. **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

123. **Certain State Credit Unions**
Citation: Section 1116(a)(9)
Effective Date: March 1, 2006
Description: New York State chartered credit unions are exempt from tax if they had converted to a State charter from a federal charter on or after January 1, 2006.
Estimate: 2005: Not Applicable — 2008: $1.0 million
Data Source: New York State Division of the Budget
Reliability: Level 4C

124. **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: 2005: Minimal — 2008: Minimal
Data Source: Rural Electric Cooperatives Association; U.S. Department of Agriculture
Reliability: Level 4A

125. **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: 2005: $36.0 million — 2008: $36.0 million
Data Source: New York State Office of the State Comptroller
Reliability: Level 4B

Admission Charges

126. **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: 2005: $66.0 million — 2008: $71.0 million
Data Source: U.S. Census Bureau, *Economic Census*
Reliability: Level 4B

127. **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.
Estimate: 2005: $1.0 million — 2008: $1.0 million
Data Source: New York State Department of Taxation and Finance
Reliability: 4A

128. **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

129. **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

130. **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

131. **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

132. **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

133. **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: 2005: Minimal — 2008: Minimal
Data Source: U.S. Census Bureau, *Economic Census*
Reliability: Level 4B

134. **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: 2005: Minimal — 2008: Minimal
Data Source: New York State Department of Agriculture
Reliability: Level 4A

135. **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

136. **Performances at a Roof Garden or Cabaret**
Citation: Section 1123
Effective Date: December 1, 2006
Description: The admission charge to a roof garden, cabaret, or similar place to attend a dramatic or musical arts performance is exempt from tax when separate from other charges such as charges for food or drink.
Estimate: 2005: Not Applicable — 2008: $2.0 million

Data Source: New York State Division of the Budget
Reliability: Level 4C

Credits

137. **Sales Tax Vendor Credit**
Citation: Section 1137(f)
Effective Date: September 1, 1994; September 1, 2006 for increased rates
Description: A vendor allowance 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 five percent of State and local taxes remitted up to $200 per return. Effective September 1, 2006 through March 1, 2007, the cap was $175. Prior to September 1, 2006, the credit equaled three and one-half percent of the State sales tax collected, up to a maximum credit of $150 per return.
Estimates: 2005: $49.0 million — 2008: $54.0 million
Data Source: New York State Division of the Budget
Reliability: Level 3

138. **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

139. **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

140. **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

141. **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: 2005: Minimal — 2008: Minimal
Data Source: New York State Department of Taxation and Finance
Reliability: Level 4A

142. **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: 2005: Minimal — 2008: Minimal
Data Source: New York City Department of Transportation
Reliability: 4B

PETROLEUM BUSINESS TAX

This section provides tax expenditure estimates for 33 provisions of the Petroleum Business Tax. Table 9 provides a list of expenditures based on the Tax Law as of January 1, 2008. The estimates are based on data for the 2006 calendar year (the latest complete year for which tax return data is available) and then extrapolated to the 2008 calendar year. Total Petroleum Business Tax liability for calendar 2006 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, 2008. 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 16.4 cents per gallon consists of a 9.9 cents per gallon basic tax and a 6.5 cents per gallon supplemental tax.

Data Sources

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

- Petroleum Business Tax (PBT) Master File for 2002-2006. 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.

- Refund data from the Department's Audit Division.

- 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 2006 to 2008 are based, where possible, on forecasted consumption of various petroleum products. These forecasts were produced by the New York State Energy Research and Development Authority (NYSERDA). 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, 2008
(Cents-Per-Gallon)

Product	Base Tax	Supplemental Tax	Total Tax
Taxes:			
Motor Fuel and Aviation Gasoline	9.9	6.5	16.4
Automotive Diesel Fuel	9.9	4.75	14.65
Railroad Diesel	8.6	—	8.6
Kero-jet Fuel	6.5	—	6.5
Non-automotive Type Diesel Fuel	8.9	6.5	15.4
Residual Petroleum Product	6.8	6.5	13.3
	Base Credit	**Supplemental Credit**	**Total Credit**
Credits/Reimbursements:			
Electric Utility Credit/Reimbursement			
Unenhanced Diesel Fuel (Primarily No. 2 Fuel Oil)	5.95	—	5.95
Residual Fuel	5.91	—	5.91
Manufacturing Reimbursement[1]			
Unenhanced Diesel Motor Fuel (Primarily No. 2 Fuel Oil)	8.9	6.5	15.4
Residual Petroleum Product	6.8	6.5	13.3
Commercial Gallonage			
Unenhanced Non-automotive Type Diesel Fuel	—	6.5	6.5
Residual Petroleum Product	—	6.5	6.5
Non-residential Heating[4]			
Unenhanced Diesel Motor Fuel	4.1	—	4.1
Residual Petroleum Product	3.1	—	3.1
Railroad Gallonage	1.3	4.75	6.05
Farm Use Reimbursement[2]			
Motor Fuel	9.9	6.5	16.4
Commercial Fisherman Reimbursement			
Motor Fuel	9.9	6.5	16.4
Diesel Motor Fuel	9.9	4.75	14.65
Distributor of Aviation Gasoline Reimbursement	3.4	6.5	9.9
Not-for-Profit and Veterans' Group Credit/Reimbursement[3]			
Unenhanced Diesel Motor Fuel	8.9	6.5	15.4
Residual Petroleum Product	6.8	6.5	13.3
Alternative Fuels Reimbursements			
E-85 and CNG	9.9	6.5	16.4
B-20	2.0	0.97	2.97

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 8.9 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
2008 New York State Petroleum Business Tax Expenditure Estimates
(2006 Calendar Year Total Petroleum Business Tax Liability = $1,087.7 Million)
(Millions of Dollars)

	History					Forecast	Reliability
Tax Item	**2002**	**2003**	**2004**	**2005**	**2006**	**2008**	**Level**
Exemptions							
Products							
1. Kerosene	8.7	7.3	6.7	8.8	5.4	5.3	2
2. Bunker Fuel	33.8	30.5	33.3	27.7	41.9	38.9	2
3. Crude Oil and Liquid Petroleum Gases	48.3	45.5	44.9	49.0	44.7	47.0	4
4. CNG and Hydrogen[7]	--	--	--	--	*	0.2	2
5. E-85[7]	--	--	--	--	*	*	2
6. B-20[7]	--	--	--	--	*	0.1	2
Sales							
7. Governments	57.3	66.2	69.2	71.2	65.4	70.2	2
8. Residential Heating	252.3	274.7	277.5	268.5	229.3	236.8	2
9. Fuel Used for Manufacturing Purposes[1]	13.5	15.6	17.8	16.7	12.4	10.7	2
10. Fuel Used for Farm Production[2]	5.8	6.4	7.1	7.2	7.5	7.8	2
11. Not-for-Profit Organizations and Veterans Groups	10.5	14.5	14.2	14.0	10.0	10.1	2
12. Fuel Used for Railroad Purposes	2.0	2.0	2.1	2.2	1.7	1.7	2
13. Certain Commercial Gallonage	44.7	75.2	88.6	94.6	33.1	41.4	2
14. Fuel Used for Non-Residential Heating Purposes	11.3	15.1	13.9	14.1	11.0	12.4	2
Credit, Refund, or Reimbursement							
15. Residential Heating Fuel	*	*	0.1	*	*	*	2
16. Governments	1.8	1.7	1.1	1.1	1.1	1.2	2
17. Omnibus Carriers	5.6	4.6	4.3	4.3	4.1	4.2	2
18. Non-Public School Operators	*	*	*	*	*	*	2
19. Regulated Electric Utilities	*	*	*	0.2	0.4	0.3	2
20. Fuel Used for Manufacturing Purposes[3]	0.1	0.1	*	0.1	*	*	2
21. Certain Commercial Gallonage	2.5	2.7	*	*	*	*	2
22. Fuel Used by Commercial Fishers	0.6	0.5	0.2	0.2	0.3	0.3	2
23. Fuel Used for Farm Production[4]	0.3	*	0.6	0.3	0.3	0.3	2
24. Fuel Used for Railroad Purposes	0.5	0.6	*	*	*	*	2
25. Fuel Used for Non-Residential Heating Purposes[5]	*	*	*	*	*	*	2
26. Fuel Used for Mining or Extracting Purposes	0.2	0.5	0.9	0.7	1.5	1.0	2
27. Bad Debts	*	*	0.1	*	*	*	2
28. Not-for-Profit Organizations and Veterans Groups	*	*	*	*	*	*	2
29. Fuel Used by Passenger Commuter Ferries	0.2	0.3	0.2	0.2	0.3	0.3	2
30. E-85[7]	--	--	--	--	*	*	2
31. B-20[7]	--	--	--	--	*	*	2

	Tax Item	History 2002	2003	2004	2005	2006	Forecast 2008	Reliability Level
	Exempt Entities							
32.	Governments, the United Nations and Certain Not-for-Profit Organizations	*	*	*	*	*	*	4
33.	Certain Airlines[6]	--	--	--	0.9	1.6	1.3	2

[1] Non-automotive diesel fuel and residual petroleum product used and consumed directly and exclusively in the production for 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 for 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 for 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.

[7] Effective for sales beginning September 1, 2006.

* Less than $0.1 million.

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

N/A No data available.

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: 2006: $5.4 million — 2008: $5.3 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: 2006: $41.9 million — 2008: $38.9 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: 2006: $44.7 million — 2008: $47.0 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

4. **CNG and Hydrogen**
   Citation: Section 301-b(a)(8)
   Effective Date: September 1, 2006
   Description: Exemptions from tax apply to compressed natural gas (CNG) and hydrogen which are suitable for use in the engine of a motor vehicle. This provision sunsets on September 1, 2011.

Estimates: 2006: Minimal — 2008: $0.2 million
Data Source: PBT Master File
Reliability: Level 2

5. **E-85**
Citation: Section 301-b(a)(6)
Effective Date: September 1, 2006
Description: Exemptions from tax apply to sales of E-85 (85% ethanol and 15% motor fuel) provided the E-85 is delivered to and placed in a storage tank of a filling station to be dispensed directly into a motor vehicle for use in the operation of the motor vehicle. This provision sunsets on September 1, 2011.
Estimates: 2006: Minimal — 2008: Minimal
Data Source: PBT Master File
Reliability: Level 2

6. **B-20**
Citation: Section 301-b(a)(7)(i,ii)
Effective Date: September 1, 2006
Description: A partial exemption from tax applies to sales of B-20 (20% biodiesel and 80% diesel motor fuel). The partial exemption is equal to a 20 percent reduction of the otherwise applicable PBT rates on diesel motor fuel. This provision sunsets on September 1, 2011.
Estimates: 2006: Minimal — 2008: $0.1 million
Data Source: PBT Master File
Reliability: Level 2

Sales

7. **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: 2006: $65.4 million — 2008: $70.2 million
Data Source: PBT Master File and U.S. Department of Defense
Reliability: Level 2

8. **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: 2006: $229.3 million — 2008: $236.8 million
Data Source: PBT Master File
Reliability: Level 2

9. **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 item 20: "Fuel Used for Manufacturing Purposes" for reimbursement if the tax was paid on subsequent sales.)
Estimates: 2006: $12.4 million — 2008: $10.7 million
Data Source: PBT Master File
Reliability: Level 2

10. **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 item 23: "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: 2006: $7.5 million — 2008: $7.8 million
Data Source: PBT Master File
Reliability: Level 2

11. **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, non-automotive diesel fuel, or dyed diesel motor 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 item 28: "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: 2006: $10.0 million — 2008: $10.1 million
Data Source: PBT Master File
Reliability: Level 2

12. **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 item 24: "Fuel Used for Railroad Purposes" for refund/reimbursement of tax.)
Estimates: 2006: $1.7 million — 2008: $1.7 million
Data Source: PBT Master File and refund data from the Department of Taxation and Finance's Audit Division
Reliability: Level 2

13. **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 item 21: "Certain Commercial Gallonage" for refund/reimbursement of tax.)
Estimates: 2006: $33.1 million — 2008: $41.4 million
Data Source: PBT Master File
Reliability: Level 2

14. **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: 2006: $11.0 million — 2008: $12.4 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.

15. **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: 2006: Minimal — 2008: Minimal
Data Source: Refund data from the Department of Taxation and Finance's Audit Division
Reliability: Level 2

16. **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: 2006: $1.1 million — 2008: $1.2 million
Data Source: Refund data from the Department of Taxation and Finance's Audit Division
Reliability: Level 2

17. **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: 2006: $4.1 million — 2008: $4.2 million
Data Source: Refund data from the Department of Taxation and Finance's Audit Division
Reliability: Level 2

18. **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: 2006: Minimal — 2008: Minimal
Data Source: Refund data from the Department of Taxation and Finance's Audit Division
Reliability: Level 2

19. **Regulated Electric Utilities**
Citation: Section 301-d
Effective Date: September 1, 1990
Description: This section extends 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: 2006: $0.4 million — 2008: $0.3 million
Data Source: PBT Master File
Reliability: Level 2

20. **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 item 9: "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: 2006: Minimal — 2008: Minimal
Data Source: Refund data from the Department of Taxation and Finance's Audit Division
Reliability: Level 2

21. **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 item 13: "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: 2006: Minimal — 2008: Minimal
Data Source: Refund data from the Department of Taxation and Finance's Audit Division
Reliability: Level 2

22. **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: 2006: $0.3 million — 2008: $0.3 million
Data Source: Refund data from the Department of Taxation and Finance's Audit Division
Reliability: Level 2

23. **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 item 10: "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: 2006: $0.3 million — 2008: $0.3 million
Data Source: Refund data from the Department of Taxation and Finance's Audit Division
Reliability: Level 2

24. **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 item 12: "Fuel Used for Railroad Purposes" for the exemption from tax.)
Estimates: 2006: Minimal — 2008: Minimal
Data Source: Department of Taxation and Finance Audit Division
Reliability: Level 2

25. **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: 2006: Minimal — 2008: Minimal
Data Source: Department of Taxation and Finance Audit Division
Reliability: Level 2

26. **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: 2006: $1.5 million — 2008: $1.0 million
Data Source: Refund data from the Department of Taxation and Finance's Audit Division
Reliability: Level 2

27. **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: 2006: Minimal — 2008: Minimal
Data Source: Refund data from the Department of Taxation and Finance's Audit Division
Reliability: Level 2

28. **Not-for-Profit Organizations and Veterans Groups**
Citation: Section 301-c(h)
Effective Date: January 1, 1996
Description: Purchasers who subsequently sell residual fuel, non-automotive diesel fuel, or dyed diesel motor 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 item 8: "Not-for-Profit Organizations and Veterans Groups" for the full up-front exemption.)
Estimates: 2006: Minimal — 2008: Minimal
Data Source: Refund data from the Department of Taxation and Finance's Audit Division
Reliability: Level 2

29. **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: 2006: $0.3 million — 2008: $0.3 million
Data Source: Refund data from the Department of Taxation and Finance's Audit Division
Reliability: Level 2

30. **E-85**
Citation: Section 301-c(n)
Effective Date: September 1, 2006
Description: A reimbursement of tax applies for purchases of E-85 where the tax was paid by the purchaser and the E-85 was delivered to and placed in a storage tank of a filling station to be dispensed directly into a motor vehicle for use in the operation of the motor vehicle. This provision sunsets on September 1, 2011.
Estimates: 2006: Minimal — 2008: Minimal
Data Source: Department of Taxation and Finance Audit Division
Reliability: Level 2

31. **B-20**
Citation: 301-c(o)
Effective Date: September 1, 2006
Description: A partial reimbursement of tax applies for purchases of B-20 where the tax was paid by the purchaser and subsequently resold. The partial reimbursement is equal to 20 percent of the PBT tax paid on diesel motor fuel. This provision sunsets on September 1, 2011.

Estimates: 2006: Minimal — 2008: Minimal
Data Source: Department of Taxation and Finance Audit Division
Reliability: Level 2

Exempt Entities

32. **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, or veteran's groups; certain Indian nations or tribes; and certain not-for-profit health maintenance organizations.
Estimates: 2006: Minimal — 2008: Minimal
Data Source: PBT Master File
Reliability: Level 4

33. **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: 2006: $1.6 million — 2008: $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 17 separate provisions of the Real Estate Transfer Tax. Table 10 provides a list of expenditures based on the Tax Law as of January 1, 2008. The estimates are based on liability data from the 2005-06 fiscal year. Base year 2005-06 liability is also extrapolated to the 2008-09 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 2005-06 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 2008-09 levels using various economic forecast variables.

Table 10
2008 New York State Real Estate Transfer Tax Expenditure Estimates
(Fiscal Year 2006 Total Real Estate Transfer Tax Liability = $938.14 Million)
(Millions of Dollars)

	History				Forecast	Reliability
Tax Item	**2002-03**	**2003-04**	**2004-05**	**2005-06**	**2008-09**	**Level**
Exclusions						
1. Continuing Lien Deduction	2.5	4.5	2.8	2.3	2.7	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	2.3	6.4	7.5	6.6	6.5	2
5. Conveyances Which Secure a Debt or Other Obligation	0.3	0.4	1.2	0.5	0.7	2
6. Conveyances that Confirm, Correct, Modify, or Supplement a Prior Conveyance	0.2	0.2	0.3	0.4	0.3	2
7. Bona Fide Gifts and Conveyance Without Consideration	0.6	0.7	0.4	0.6	0.6	2
8. Tax Sale	0.2	0.2	1.1	0.3	0.4	2
9. Mere Changes of Identity	4.7	3.3	0.9	4.4	4.0	2
10. Deeds of Partition	*	*	*	*	*	2
11. Federal Bankruptcy Act	0.5	0.8	0.7	1.3	1.1	2
12. Contract to Sell or Option to Purchase Without Use	0.2	1.5	0.1	1.0	0.7	2
13. Option or Contract to Purchase With Right to Occupy	0.1	0.1	*	0.1	0.1	2
Credits						
14. Credit for Prior Transfer Tax Paid	2.2	0.9	0.2	0.5	0.8	2
15. Cooperative Housing Corporation Transfer Credit	0.9	0.6	0.5	0.4	0.6	2
Preferential Tax Rates						
16. Real Estate Investment Trust Transfers (Initial Formation REITS)	*	0.0	0.0	0.0	0.0	2
17. Real Estate Investment Trust Transfers (Existing REITS)	*	0.0	0.0	A/	0.5	2

* Minimal

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: FY2006: $2.3 million — FY2009: $2.7 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: FY2006: $6.6 million — FY2009: $6.5 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: FY2006: $0.5 million — FY2009: $0.7 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: FY2006: $0.4 million — FY2009: $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: FY2006: $0.6 million — FY2009: $0.6 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: FY2006: $0.3 million — FY2009: $0.4 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: FY2006: $4.4 million — FY2009: $4.0 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: FY2006: Minimal — FY2009: 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: FY2006: $1.3 million — FY2009: $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: FY2006: $1.0 million — FY2009: $0.7 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:

a. the consideration is less than $200,000;

b. such property or at least one unit of a two- or three-family house was used solely as the grantor's personal residence; and

c. 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: FY2006: $0.1 million — FY2009: $0.1 million
Data Source: RETT Database
Reliability: Level 2

Credits

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: FY2006: $0.5 million — FY2009: $0.8 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: FY2006: $0.4 million — FY2009: $0.6 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: FY2006: $0.0 million — FY2009: $0.0 million
Data Source: New York State Department of Taxation and Finance
Reliability: Level 2

17. **Real Estate Investment Trust Transfers (Existing REITs)**
Citation: Section 1402(b)
Effective Date: July 13, 1996
Description: The transfer tax rate is reduced to $1.00 per $500 (or fractional part thereof) on transfers of real property to existing REITs effected through qualifying "real estate investment trust transfers" occurring on or after July 13, 1996 and before September 1, 2008.
Estimates: FY2006: A/ — FY2009: $0.5 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 Corporate Franchise Tax. Table 11 lists tax expenditure provisions common to the Personal Income, Corporate Franchise, Bank, and Insurance taxes for the 2008 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 2008.

Table 11
2008 Tax Year
Selected Cross-Article Tax Expenditure Estimates
($ in millions)

	Personal Income Tax	Corporate Franchise Tax	Bank Tax	Insurance Tax
Additional Holocaust Tax Exemption[1]	*	*	--	--
Federal Flow-Through Provisions				
MACRS/ACRS Depreciation	$300.0	$308.0	$33.3	$2.8
Deferred Tax on Installment Sales	13.2	5.0	85.0	*
Expensing of Certain Depreciable Business Property	67.8	*	*	*
Expensing of Research and Development Costs	1.8	310.0	--	--
Amortization of Business Start-Up Costs	--	0.2	N/A	N/A
Deductibility of Charitable Contributions	710.0	40.0	42.8	*
State Credits				
Investment Tax Credit	26.0	56.0	--	--
Investment Tax Credit for the Financial Services Industry	0.7	13.0	7.5	*
Special Additional Mortgage Recording Tax Credit[2,3]	20.0	3.0	19.0	*
Empire Zone and QEZE Credits[4]	253.0	221.0	16.2	20.2
Credit for Employment of Persons With Disabilities[2]	*	0.1	*	*
Qualified Emerging Technology Companies Credits	3.2	8.2	--	--
Credit for Purchase of an Automated External Defibrillator	0.1	*	*	*
Green Building Credit[2]	3.0	2.0	*	*
Low-Income Housing Credit	15.0	5.0	*	*
Credit for Transportation Improvement Contributions[2]	0.0	0.0	*	*
Long-Term Care Insurance Credit[2]	145.0	*	*	*
Brownfields Tax Credits[2]	153.0	102.0	*	*
Empire State Film Production Credit	48.0	17.0	--	--
Fuel Cell Electricity Generating Equipment Credit[2]	*	2.0	*	*
Farmers' School Property Tax Credit	30.0	0.9	--	--
Security Training Tax Credit[2]	2.0	3.0	*	*
Alternative Fuels Credit[2]	*	0.7	--	--
Empire State Commercial Production Credit	6.0	1.0	--	--
Biofuel Production Credit[2]	10.0	*	--	--
Handicapped Accessible Taxicabs and Livery Service Vehicles Credit	2.0	1.0	--	--
Rehabilitation of Historic Properties Credit	5.0	8.0	--	--
Land Conservation Easement Credit	3.0	*	--	--

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 $71.0 million.

* Less than $1 million.

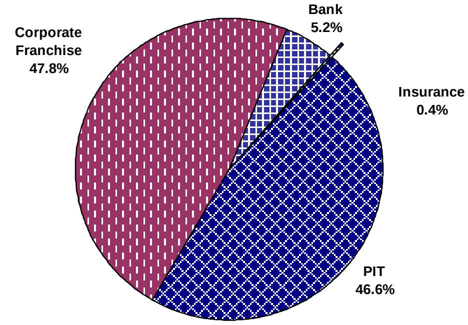
N/A No data available

-- The tax expenditure is not applicable.

Share of Selected State Special Tax Expenditures by Tax Article for 2008 Tax Year

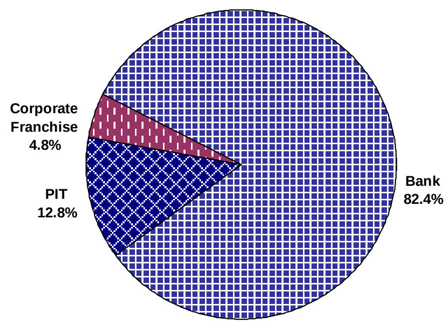
MACRS/ACRS Depreciation

The total value of the tax expenditure is $644.1 million



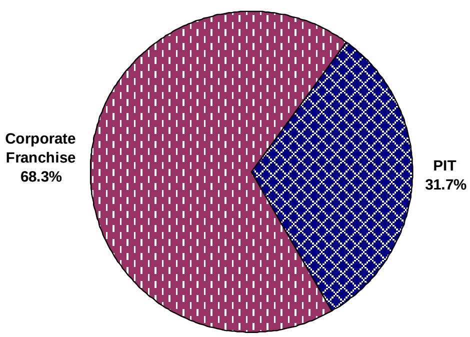
Deferred Tax on Installment Sales

The total value of the tax expenditure is $103.2 million



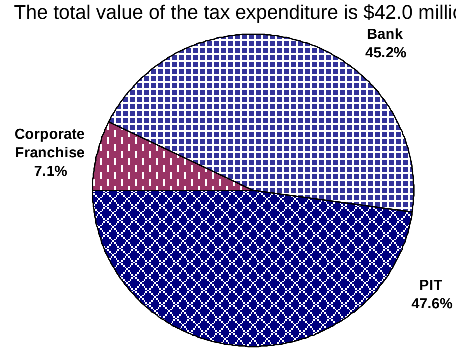
Investment Tax Credit

The total value of the tax expenditure is $82.0 million



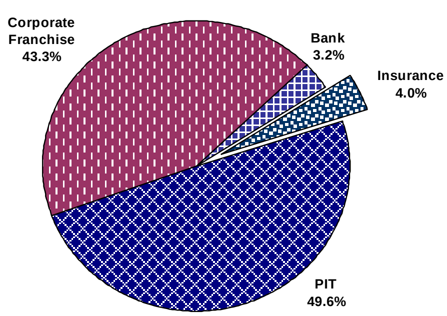
Special Additional Mortgage Recording Tax Credit

The total value of the tax expenditure is $42.0 million



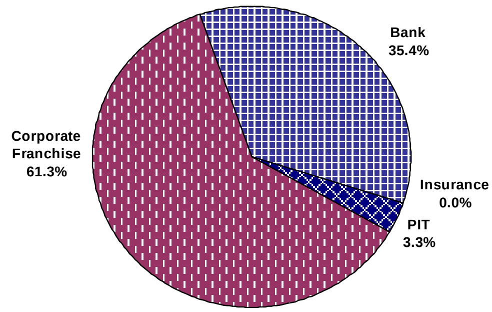
Empire Zone/QEZE Credits

The total value of the tax expenditure is $510.4 million



Investment Tax Credit for the Financial Services Industry

The total value of the tax expenditure is $21.2 million



2008-09 EXECUTIVE BUDGET
TAX EXPENDITURE PROPOSALS

This section describes the proposals contained in the 2008-09 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
2008-09 Executive Budget Proposals Affecting Tax Expenditures
(Millions of Dollars)

	2008-09 Fiscal Year Estimate
Personal Income Tax	
Extend the Tax Credit for Taxicabs Accessible by Persons with Disabilities[1]	$0.0
Reinstitute the Clean Heating Fuel (Bioheat) Credit[1]	0.0
Enhance the Low-Income Housing Tax Credit[2]	(4.0)
Corporate Franchise Tax	
Reduce the Capital Base Rate and Eliminate the Liability Cap for Non-Manufacturers	98.0
Decouple from IRC 199 Qualified Production Activity Income (QPAI) Deduction[3]	56.0
Reform the Brownfield Redevelopment Credit and Brownfield Cleanup Program (BCP) – Part D[4]	0.0
Reform the Brownfield Redevelopment Credit and Brownfield Cleanup Program (BCP) – Part E[4]	0.0
Expand the Empire State Film Production Tax Credit[3]	(5.0)
Bank Tax	
Make Technical Corrections Relating to REITs and RICs[5]	0.0
Corporation Tax	
Extend the Power for Jobs Program (PFJ)	(15.0)
Sales and Use Tax	
Sales Tax Collection by Non-Profit Organizations	7.5
Sales Tax Abusive Schemes	4.0
Petroleum Business Tax	
Reform Motor Fuel Taxes	13.0

[1] Also applies to Corporate Franchise Tax.
[2] Also applies to Corporate Franchise, Bank, and Insurance Taxes.
[3] Also applies to Personal Income Tax.
[4] Also applies to Personal Income, Bank, and Insurance Taxes.
[5] Also applies to Corporate Franchise and Insurance Taxes.

NOTE: The revenue estimates above do not include the impact on receipts from the MTA surcharge.

1. **Proposal to Extend the Tax Credit for Taxicabs Accessible by Persons with Disabilities**
   Background: Chapter 522 of the Laws of 2006 created a tax credit for taxicabs and livery service vehicles accessible by individuals with disabilities. Taxpayers providing taxicab or livery services can claim a tax credit equal to the incremental cost associated with upgrading a vehicle so that it is accessible by individuals with disabilities. The credit is limited to $10,000 per vehicle. Accessible vehicles for individuals with disabilities must comply with the Americans with Disabilities Act and other Federal regulations. The credit was initially effective beginning January 1, 2006 and deemed repealed after December 31, 2008.
   Proposal: The Governor's Executive Budget proposal extends the availability of the credit through December 31, 2010.
   Discussion: This bill extends for two years the incentive for taxicab and livery companies to make vehicles in their fleets accessible by individuals with disabilities. In many rural and suburban areas of the state, public transportation, while improving, remains less than optimal for most people, and is far worse for people with a disability. Additionally, even in urban areas, public transportation can be difficult to use. This credit is intended to provide an incentive to existing private transportation companies and should ease the burden of finding independent and accessible transportation for many people with disabilities.
   Estimate: The proposal would have no impact on revenues in SFY2008-09, reduce revenues by $3 million annually during SFY2009-10 through SFY2011-12, and have no impact in subsequent fiscal years.

2. **Proposal to Reinstitute the Clean Heating Fuel (Bioheat) Credit**
   Background: Chapter 35 of the Laws of 2006 created the clean heating fuel (bioheat) credit for corporate and personal income taxpayers that purchased bioheat to be used for space heating or hot water production for residential purposes. The credit was equal to $0.01 per gallon for each percent of biodiesel included in the bioheat, not to exceed twenty cents per gallon, purchased by the taxpayer. The credit was in effect for bioheat purchases made during the period July 1, 2006 through June 30, 2007.
   Proposal: This proposal reinstitutes the clean heating fuel credit for purchases of bioheat made during the period commencing January 1, 2008 and ending December 31, 2011.
   Discussion: Reinstituting the clean heating fuel credit will provide homeowners and owners of residential properties with incentives to purchase clean fuel for their space heating or hot water production needs. The longer time frame for the credit will also allow taxpayers more time to adjust their purchase contracts to include more bioheat.
   Estimate: The proposal would have no impact on revenues in SFY2008-09, reduce revenues by $1 million annually during SFY2009-10 through SFY2012-13, and have no impact in subsequent fiscal years.

3. **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 the credit currently available is $160 million, or $16 million per year. This was increased from $120 million ($12 million per year) in the enacted State budget from 2007-2008.

Proposal: This proposal increases the aggregate dollar amount of low-income housing tax credit the Commissioner of Housing and Community Renewal may allocate from $16 million to $20 million for tax year 2008.

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: The proposal would decrease revenues in SFY2008-09 by $4 million.

4. **Proposal to Reduce the Capital Base Rate and Eliminate the Liability Cap for Non-Manufacturers**

   Background: Article 9-A taxpayers are required to compute their tax liability under four different bases and pay the highest resulting tax. Currently, the capital base tax is assessed at a rate of .178 percent on each dollar of capital with a limitation on liability of $350,000 for manufacturers and $1 million for non-manufacturers. The entire net income base rate reduction enacted at part of the 2007-08 Executive Budget created a definition of *manufacturer* that differs from the definition under the capital base. The result is that the same taxpayer may be considered a manufacturer for one base but not the other.

   Proposal: This proposal reduces the capital base tax rate to .15 percent and removes the current liability cap for non-manufacturers. Additionally, the proposal amends the definition of *manufacturer* for capital base tax purposes to conform to the definition of *manufacturer* for entire net income tax purposes.

   Discussion: This proposal would provide further tax relief to corporations with capital base liability below $1 million and manufacturers doing business in New York State. Additionally, it would increase the tax on large companies who previously benefited from the $1 million cap.

   Estimate: The proposal would increase revenues in SFY2008-09 by $98 million.

5. **Proposal to Decouple from IRC Section 199 Qualified Production Activities Income (QPAI) Deduction**

   Background: The American Jobs Creation Act of 2004 created a federal tax deduction for QPAI. The deduction started at 3% of QPAI in 2005 and rises to 9% by 2010 when it is fully effective. Unlike other deductions used in the computation of taxable income wherein there is an actual expenditure of money, time, labor, or resources matched or charged against revenue, this federal deduction is a deduction of income itself, a deduction that excludes a percentage of income from taxation.

   Proposal: This bill would decouple from IRC Section 199 to require taxpayers to add back the QPAI deduction to federal taxable income (i.e. the starting point for New York taxable income).

Discussion: Although intended to benefit traditional manufacturing activity, the deduction is allowed on a vast array of activities that go beyond the familiar concept of manufacturing. Additionally, it is possible that a multi-state firm could use the deduction earned for activity occurring in another state to reduce its New York taxes without having a single production employee in the state or increasing its business activity in New York. This deduction will cause a significant revenue loss to the State with no guaranteed commensurate benefit. As of January 2008, 18 states had already decoupled from the deduction.
Estimate: The proposal would increase revenues in SFY2008-09 by $56 million.

6. **Proposal to Reform the Brownfield Redevelopment Credit and Brownfield Cleanup Program (BCP) - Part D**
Background: The refundable tax credits currently available for participation in the BCP range from 10 percent to 22 percent of eligible cleanup and redevelopment costs, and are not capped. This structure has resulted in excessively large tangible personal property (TPP) credits for developers who invest relatively little to remediate a site, or would redevelop a site in the absence of tax credits
Proposal: This proposal caps the TPP component of the credit at $10 million per site for taxpayers entering the program on or after July 1, 2007. Additionally, for taxable years beginning on or after January 1, 2008, the proposal specifies that a Certificate of Completion (COC) may only be transferred to a taxpayer that has not previously claimed the TPP component, and prohibits the recipient taxpayer from any subsequent transfers. Lastly, the proposal grants the Department of Environmental Conservation (DEC) the authority to protect against site segmentation intended to evade the TPP cap and to reject a BCP application if DEC determines that reuse or redevelopment of the site would likely occur without tax credits.
Discussion: This bill will allow the State to better control the costs associated with the TPP credit by excluding projects that would likely be redeveloped in the absence of tax credits, and capping the amount of the TPP credit. The proposal will result in some administrative savings, but have no immediate impact on tax receipts. However, substantial savings would accrue to the State financial plan in future fiscal years. Even with these reforms, the State's BCP will still be among the most generous brownfield remediation programs in the nation. It should be noted that the Executive Budget includes an alternative brownfield redevelopment tax credit and BCP reform proposal (Part E), but only one of these proposals will be enacted.
Estimate: The proposal would have no effect on revenues in SFY2008-09.

7. **Proposal to Reform the Brownfield Tax Credits and the Brownfield Cleanup Program (BCP) – Part E**
Background: The refundable brownfield redevelopment tax credit currently available for participation in the BCP ranges from 10 percent to 22 percent of eligible cleanup and redevelopment costs, and is not capped. This structure has resulted in excessively large tangible personal property (TPP) credits for developers who invest relatively little to remediate a site, or would redevelop a site in the absence of tax credits.
Proposal: This proposal makes the following significant changes to the BCP and the related tax credits:

- Creates new rates for the brownfield redevelopment tax credit as follows:

- Site preparation component - maximum 75% rate

Soil Cleanup Level	Credit Rate
Unrestricted use	75%
Residential use	60%
Residential use, Track 4	35%
Commercial use	50%
Commercial use, Track 4	30%
Industrial use	40%
Industrial use, Track 4	25%
Additional 10% bonus on residential, commercial, or industrial rates where best possible cleanup has been achieved for the site (Department of Environmental Conservation determination).	

- On-site groundwater remediation component - maximum 75% rate

Groundwater Cleanup Level	Credit Rate
Base rate	50%
Best possible cleanup achieved	+10%*
Cleanup to unrestricted use	+25%*
**Rates are mutually exclusive*	

- Tangible property component - maximum 50% rate; $15m cap

Component Categories	Credit Rate
Base rate	15%
Additional rates	
Located in an En-Zone	+10%
Located in a qualified census tract	+5%
Located in a brownfield opportunity area (BOA)	+10%
Smart growth criteria (max. 10%)	
Green buildings	+2.5%
Use existing water, sewer, energy systems	+2.5%
Use/generate renewable energy	+2.5%
Development near public transit	+2.5%
The total amount of this component is capped at $15 million.	

- Specifies that Certificates of Completion (COC) may only be transferred to a taxpayer that has not previously claimed the TPP component, and prohibits the recipient taxpayer from any subsequent transfers;
- Requires the Tax Department to produce an annual report of taxpayers claiming brownfield tax credits;
- Makes technical amendments regarding the eligibility of condominium and co-op projects to earn credits, treatment of TPP placed in service prior to the issuance of a COC, and the definition of eligible *site preparation costs*;
- Contains Department of Environmental Conservation (DEC) administrative provisions, the most notable of which grants DEC the ability to reject an application to the BCP if it is determined that the reuse or redevelopment of the site would likely occur without tax credits.

Discussion: This bill will allow the State to better control the costs associated with the brownfield redevelopment credit by excluding projects that would likely be redeveloped in the absence of tax credits, and capping the amount of the TPP credit.

The proposal will result in some additional administrative costs because more sites will enter the BPC, but will have no immediate impact on tax receipts. However, substantial savings will accrue to the State financial plan in future fiscal years. Even with these reforms, the State's BCP will still be among the most generous brownfield remediation programs in the nation. The bill also promotes better cleanups by providing enhanced tax credits for developers who agree to remediate sites to higher standards. In addition, while the bill provides a basic redevelopment tax credit equal to 15 percent of development costs, it provides a range of enhanced redevelopment credits (2.5 percent to 35 percent) to encourage the redevelopment of sites in areas which may present challenges to redevelopment, and to reward projects that comply with other specific "smart growth" criteria. Finally, this bill will result in more cleanups by allowing applicants that do not want tax credits to participate in the BCP, remediate a site under DEC oversight, and receive liability protection.
Estimate: The proposal would not affect revenues in SFY2008-09.

8. **Proposal to Expand the Empire State Film Production Tax Credit**
Background: This credit was originally enacted in 2004 to promote the film and television industry in New York State. Taxpayers meeting certain threshold levels of film and television production activity in the state can apply for a tax credit equal to ten percent of qualified costs. The credit is 50 percent refundable in the first year it is claimed with the remainder fully refundable in the second year. The credit is administered by the Governor's Office for Motion Picture and Television Development.
Proposal: This proposal expands the credit by increasing the rate from 10 percent to 15 percent of qualified production costs and expanding the base to cover "above-the-line costs," such as wages, salaries, or other compensation for writers, directors, producers and performers (currently, such costs are specifically excluded). Additionally, it increases the amount of credit eligible for a refund from 50 percent to 100 percent, thereby allowing a full refund in the first year the credit is claimed. Lastly the aggregate program cap increases from $60 million in 2007 to $65 million in 2008, $70 million in 2009, and $75 million in 2010 and 2011.
Discussion: As other states have enacted or enriched their own incentives for film and television production, New York stands to lose a share of this activity. These amendments keep New York State's program competitive and are viewed by the Governor's Office for Motion Picture and Television Development as essential to fostering the State's burgeoning entertainment industry.
Estimate: The proposal would decrease revenues in SFY2008-09 by $5 million.

9. **Proposal to Make Technical Corrections Relating to REITs and RICs**
Background: New York enacted legislation in 2007 that partially addressed tax avoidance through the use of controlled (captive) REITs and RICs by corporate taxpayers. This legislation required a REIT or RIC, 80% or more of whose voting stock was owned by a corporation that was subject to tax under Article 9-A or included in a combined return under that article, to file a combined return under Article 9-A with its parent corporation.
The legislation took a different approach to controlled REITs and RICs that were directly or indirectly owned by banking corporations taxable under Tax Law Article 32. Distributions from these REIT or RIC subsidiaries directly to their banking

corporation shareholder, or from a holding company shareholder of the REIT or RIC to its banking corporation parent, were considered "disallowed investment proceeds." These disallowed investment proceeds were subject to a phased-in disqualification from the 60% exclusion from entire net income for dividends from subsidiaries.

Similarly, gains or losses realized from the disposition of a REIT or RIC subsidiary of a banking corporation were considered disallowed investment proceeds that were subject to a similar disqualification from the 60% exclusion for net gains from subsidiaries. The REIT and RIC provisions for insurance corporations also disallowed (over a phase-in period) any deduction of dividends paid by a REIT or RIC (or a holding company that controlled these entities) or gains or losses from the disposition of a REIT or RIC subsidiary.

Proposal: This proposal would require all captive real estate investment trusts (REITs) and captive regulated investment companies (RICs) to file a combined return with the closest corporation that directly or indirectly owns or controls the captive.

Discussion: The 2007 legislation does not sufficiently prevent the use of controlled REITs and RICs to avoid New York tax. The combined reporting requirement in Article 9-A still allows these entities to avoid combination when the parent company is not subject to tax or otherwise required to file a combined return with other affiliates.

The REIT and RIC provisions in Article 32 still allow the parent banking corporation to avoid taxation of the income earned by a REIT or RIC by forming an out-of-state subsidiary holding company to own the stock of the REIT or RIC and to accumulate the distributions from the REIT or RIC. Since the Article 32 provisions dealing with REITs and RICs disallow the deduction of dividends from these entities, the accumulation of the dividends in an out-of-state holding company, without any subsequent payment to the parent banking corporation, avoids any taxation of the REIT or RIC earnings by New York. The same avoidance of taxation through the use of non-taxpayer holding companies occurs under the Article 33 provisions for insurance company-controlled REITs and RICs.

The amendments in this bill address the loopholes that remain under the earlier legislation. These amendments also simplify the approach to controlled REITs and RICs by eliminating the dividend disallowance provisions in Article 32 and 33 and adopting a combined reporting requirement for all the corporation tax articles (9-A, 32 and 33).

Estimate: The proposal preserves current revenues.

10. **Proposal to Extend the Power for Jobs Program (PFJ)**

Background: Currently, the PFJ program is administered by the New York Power Authority (NYPA). The credits were originally created to repay the energy utilities for their loss of sales to the large energy user customers that would now receive part of their needed load from NYPA.

Proposal: Extend PFJ for one year, making the new sunset date June 30, 2009.

Discussion: In recent years, the program has provided an optional mechanism whereby NYPA can reimburse an energy consumer that has a PFJ energy allotment for the difference between the program contract price and a market price paid by the program participant. This is a more direct approach, removing the layers of complexity involved with the tax credits. However, the participant consumer does

not gain an immediately reduced price for that portion of its energy needs covered by its allotment, but must wait for reimbursement from the Authority.
Estimate: The proposal would decrease revenues in SFY2008-09 by $15 million.

11. **Sales Tax Collection by Non-Profit Organizations**
Background: Generally, tax-exempt nonprofit organizations do not have to collect tax on their sales of tangible personal property or enumerated taxable services. However, these organizations must collect tax on tangible personal property they sell at a shop or store.
Proposal: This proposal would require tax-exempt nonprofit organizations to collect sales tax on retail sales made via mail-order catalog, electronic commerce, or by auction. It would also require the collection of tax on certain services and on rentals or leases of tangible personal property in New York.
Discussion: Selling tangible personal property by remote means, such as mail order or electronic commerce may be just as effective of a means to make sales as a traditional shop or store and is equally in competition with private businesses. These organizations also conduct auctions, sell certain services, and lease property similar to for-profit enterprises.
Estimate: The proposal would increase State revenues in SFY2008-09 by $7.5 million.

12. **Sales Tax Abusive Schemes**
Background: Two common sales and use tax avoidance schemes use newly-formed or affiliated business entities to avoid payment of sales or use tax on purchases of motor vehicles, yachts or corporate aircraft.
Proposal: This proposal narrows the sales tax exemption for commercial aircraft and the use tax exemption for motor vehicles, vessels, and aircraft to curtail these abusive sales and use tax avoidance schemes.
Discussion: Certain business entities take advantage of the commercial aircraft exemption to avoid sales tax on their purchases of aircraft used primarily to transport corporate executives. The proposal would end this method of avoiding sales tax by providing that an aircraft used primarily to transfer the purchaser's personnel or those of an affiliated entity does not qualify for the exemption. Under the second scheme, some New York residents are using the "new resident" use tax exemption in Tax Law section 1118(2) to avoid the sales tax on motor vehicles, vessels and aircraft. The proposal thwarts this means of tax avoidance by narrowing the "new resident" use tax exemption.
Estimate: The proposal would increase State revenues in SFY2008-09 by $4.0 million.

13. **Proposal to Reform Motor Fuel Taxes**
Background: With the enactment of Chapter 35 of the Laws of 2006 capping the State's sales tax on motor fuels at 8 cents per gallon (effective June 1, 2006), and the choice of most localities to continue to tax motor fuels on a percentage of price basis, New York State's taxing system on motor fuels is now arguably the most complicated and burdensome on industry in the country. This bill would fundamentally reform the State's method of taxing motor fuel and diesel motor fuel.

Proposal: The Budget bill would repeal the State's current motor fuel excise tax and prepaid sales taxes on motor fuels and exempt these fuels from State and local retail sales tax. The proposal would provide for State and local sales taxes on motor fuels and provide for a unified petroleum business tax on motor fuels. The PBT would impose one tax rate per gallon on motor fuel and one tax rate per gallon on diesel motor fuel. The proposal would also expand the current exemptions under the PBT to include additional use categories. These exemptions include motor fuel and diesel motor fuel used by not-for profit organizations, by certain school bus operators and by Qualified Empire Zone Enterprises. The bill would also impose a new local excise tax per gallon on motor fuel and diesel motor fuel sold in counties and in New York City, with rates varying by jurisdiction.

Discussion: The reform proposal addresses industry concerns by creating a new unified State PBT to be imposed on motor fuel and diesel motor fuel used in highway vehicles. The new tax would be imposed on a unified base, require one tax rate and allow fuel distributors to file one tax return.

Estimate: The proposal would increase revenues in SFY2008-09 by $13 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 include 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, Corporate 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, 2008. Therefore, estimates for the 2001-2005 tax years (2000-2004 for Corporate 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

Provision	2001	2002	2003	2004	2005	2008
Personal Income Tax						
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.	76.3	82.0	107.8	114.3	127.3	181.8
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.	55.8	55.3	63.2	65.5	56.8	63.8
3. ***Limited Exception to Passive Loss Rules on Rental Real Estate*** Taxpayers may deduct up to $25,000 of passive losses attributable to rental real estate against active income.	116.0	120.5	118.7	154.0	149.7	171.4
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.	400.8	427.6	530.0	856.7	801.4	898.3
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.	2.0	2.7	3.8	4.8	5.5	7.5
6. ***Exclusion of Scholarship and Fellowship Income*** Scholarship and fellowship income may be excluded from a student's Federal gross income.	25.9	26.6	31.2	32.9	40.4	45.1
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.	15.1	16.5	19.1	20.2	20.2	22.2
8. ***Exclusion of Public Assistance Benefits*** Public assistance benefits are excluded from Federal gross income.	7.7	8.4	9.7	10.2	10.2	11.2
9. ***Exclusion of Veterans' Benefits*** Various benefits received by veterans or their beneficiaries are tax-exempt.	68.3	75.1	84.5	86.4	90.2	100.1
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.	2,018.7	2,151.0	2,413.2	2,819.0	2,840.2	3,950.7
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.	2,080.4	2,343.5	2,235.0	2,096.5	2,040.4	2,068.2
12. ***Exclusion of Workers' Compensation Benefits*** Amounts received under workers' compensation acts, accident and health insurance, and similar plans are excluded from gross income.	117.2	128.7	129.6	137.4	128.6	130.2
13. ***Exclusion of Employer-Provided Tuition Assistance*** Employees may exclude up to $5,250 of employer-paid tuition for undergraduate and graduate college education.	8.2	10.6	12.5	13.3	13.4	15.2
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).	14.1	12.5	14.2	14.5	15.0	23.8

Provision	2001	2002	2003	2004	2005	2008
Personal Income Tax						
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.	47.3	51.7	68.0	73.1	75.0	87.6
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.	44.6	46.6	58.1	71.2	70.4	76.6
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
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.	32.6	52.8	77.9	76.2	86.3	107.8
19. ***Exclusion of Employer-Provided Adoption Assistance*** Taxpayers may exclude up to $10,960 per child of qualified adoption expenses provided by their employers.	2.9	4.6	10.6	8.6	12.3	12.8
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.	41.0	43.9	56.4	55.2	58.8	60.1
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.	324.4	354.8	444.2	415.2	400.0	500.5
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.	414.9	449.3	512.8	534.4	424.0	501.4
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.	*	*	*	*	*	*
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.	113.0	123.3	124.1	188.8	225.0	300.0
. ***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.	548.0	559.7	571.1	638.4	672.6	808.5
26. ***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.	26.1	26.0	18.9	24.5	24.3	25.5

Provision	2001	2002	2003	2004	2005	2008
Personal Income Tax						
27. ***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.	*	*	*	*	*	*
28. ***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	*	*	2.4	3.4	1.8
29. ***Expensing up to $125,000 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 $125,000 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 $500,000.	0.0	10.3	15.9	70.1	70.0	67.8
30. ***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.	359.6	371.3	398.1	412.0	413.6	451.0
31. ***Deferred Tax on Installment Sales*** Non-dealer taxpayers may report certain sales using the installment method of accounting as provided by IRC Section 453.	8.2	10.6	9.4	12.0	11.4	13.2
32. ***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).	9.2	15.4	17.9	18.6	18.2	18.3
33. ***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).	1.0	1.5	2.6	1.7	0.2	0.4
34. ***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	12.0	16.0	19.8
35. ***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	9.5	15.5	20.0
36. ***Qualified Production Activity Income (QPAI) Deduction*** The *American Jobs Creation Act of 2004* created a tax deduction for QPAI, effective for taxable years beginning after December 31, 2004. The deduction is 3 percent of QPAI in 2005 and 2006, rises to 6 percent in 2007 through 2009, and is 9 percent when fully effective in 2010. Qualified production activity income is equal to domestic production gross receipts minus the sum of the costs of goods sold allocable to such receipts, other deductions, expenses, or losses directly allocable to such receipts, and a portion of other deductions, expenses, or losses not directly allocable to such receipts or another class of income.	--	--	--	--	6.9	15.3

Provision	2000	2001	2002	2003	2004	2008
Corporate Franchise Tax						
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 $125,000 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 $125,000 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 $500,000.	*	1.1	3.1	4.8	3.2	*
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 1, 2003.	149.0	227.2	390.0	172.2	188.4	308.0
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	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.	48.8	47.2	42.3	44.2	54.6	310.0
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	5.0
8. ***Deductibility of Charitable Contributions*** Taxpayers may deduct charitable contributions, not exceeding 10 percent of taxable income computed as specified, from gross income.	21.8	23.7	25.7	28.3	29.9	40.0
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.	*	*	*	*	*	*
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	1.4	1.4	1.4	1.4	4.0
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

Provision	2000	2001	2002	2003	2004	2008
Corporate Franchise Tax						
12. ***Qualified Production Activity Income (QPAI) Deduction*** The *American Jobs Creation Act of 2004* created a tax deduction for QPAI, effective for taxable years beginning after December 31, 2004. The deduction is 3 percent of QPAI in 2005 and 2006, rises to 6 percent in 2007 through 2009, and is 9 percent when fully effective in 2010. Qualified production activity income is equal to domestic production gross receipts minus the sum of the costs of goods sold allocable to such receipts, other deductions, expenses, or losses directly allocable to such receipts, and a portion of other deductions, expenses, or losses not directly allocable to such receipts or another class of income.	--	--	--	--	--	40.0

Provision	2000	2001	2002	2003	2004	2008
Bank Tax						
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.	118.9	131.5	131.5	146.3	154.0	33.3
2. ***Expensing up to $125,000 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 $125,000 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 $500,000.	*	*	*	*	*	*
3. ***Deductibility of Charitable Contributions*** A corporation may deduct charitable contributions, not exceeding 10 percent of taxable income computed as specified, from gross income.	38.0	40.4	44.0	42.8	45.2	42.8
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.	10.0	30.0	30.0	35.0	30.0	85.0

Provision	2000	2001	2002	2003	2004	2008
Insurance Tax						
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.	18.2	20.1	20.1	12.3	12.9	2.8
2. ***Expensing up to $125,000 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 $125,000 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 $500,000.	*	*	*	*	*	*
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 453.	*	*	*	*	*	*
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.	4.9	4.9	4.9	5.3	6.9	8.1
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.	2.0	2.0	2.0	2.1	2.1	3.9

* Less than $0.1 million.

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

N/A No data available.