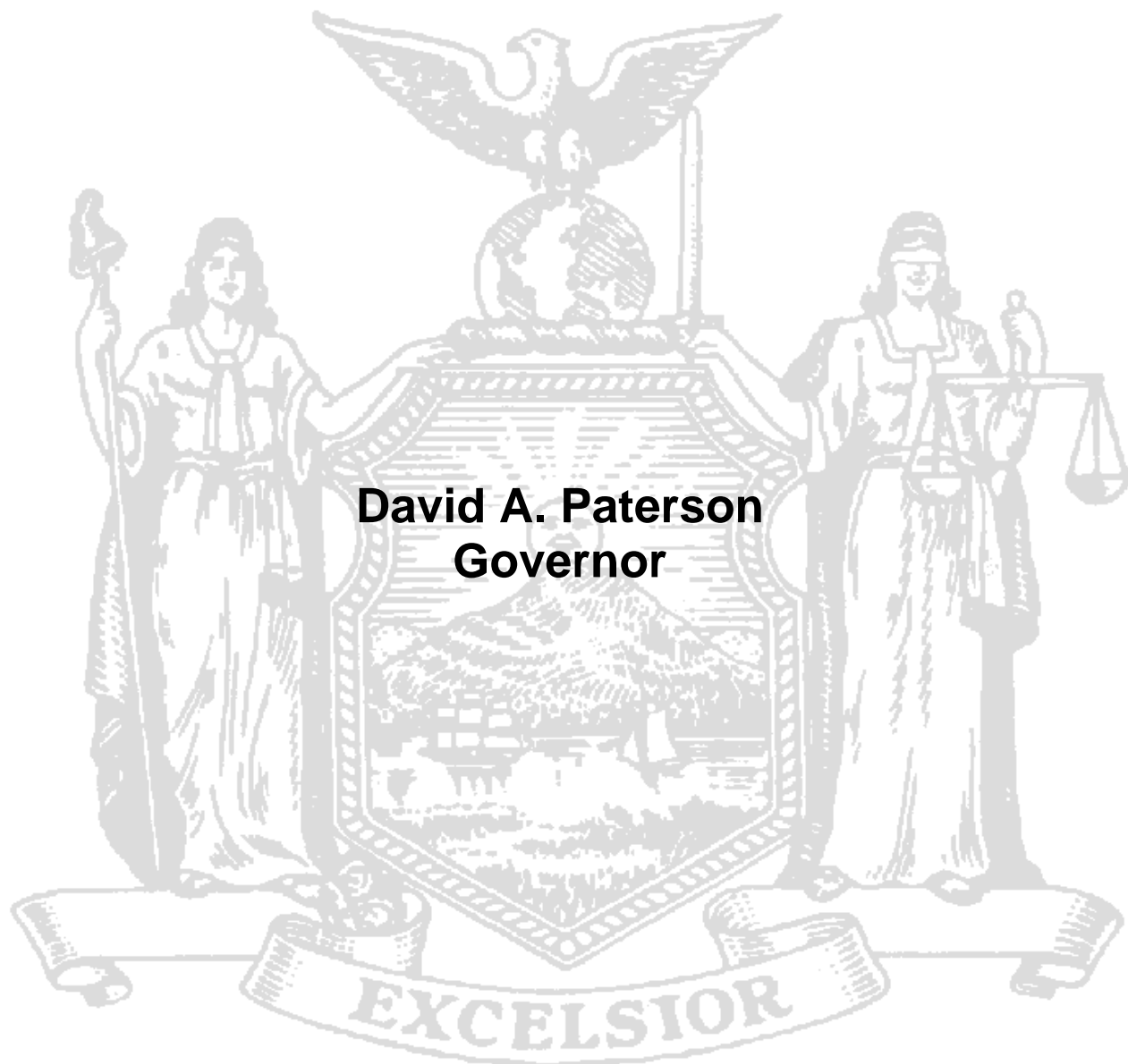


ANNUAL REPORT ON NEW YORK STATE TAX EXPENDITURES



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TAX EXPENDITURE REPORT

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INTRODUCTION

The nineteenth 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 years¹ (Section VII);
- An analysis of tax expenditure proposals included in the Governor’s 2009-10 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.

INTRODUCTION

- 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 revised estimation of Personal Income Tax non-refundable credits. (Section V);
- An expanded 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, 2009. 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	2002,2003, 2004, 2005, 2006	2009
Corporate Franchise Tax*	2001, 2002, 2003, 2004, 2005	2009
Sales and Use Tax	2002, 2003, 2004, 2005, 2006	2009
Corporation and Utilities	2001, 2002, 2003, 2004, 2005	2009
Bank Tax*	2001,2002, 2003, 2004, 2005	2009
Insurance Tax*	2001, 2002, 2003, 2004, 2005	2009
Petroleum Business Tax	2003, 2004, 2005, 2006, 2007	2009
Real Estate Transfer Tax	2002-03, 2003-04, 2004-05, 2005-06,2006-07	2009-10

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

² Section 181(a).

³ Section 181(b).

USE OF THIS REPORT AND DATA LIMITATIONS

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

USE OF THIS REPORT AND DATA LIMITATIONS

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.

IMPACT ON PERSONAL INCOME TAX LIABILITY

**Figure 1: Calculation of New York Personal Income Tax Liability
Tax Year 2009**

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
<i>minus</i>		
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
<i>equals</i>		
Federal Adjusted Gross Income		
<i>minus</i>		
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
	∇	Exclusion of Compensation for active service in a combat zone
	∇	Other subtractions
<i>plus</i>		
Positive Modifications	•	Interest on state and local bonds from other states
	•	Public employee retirement contributions
	•	Unqualified withdrawals from college choice savings accounts
	•	Other additions
<i>equals</i>		
New York Adjusted Gross Income		
<i>minus</i>		
Deductions	•	Standard deduction or
	∇	Itemized deductions
<i>minus</i>		
Exemptions	∇	Dependent exemptions

IMPACT ON PERSONAL INCOME TAX LIABILITY

<i>equals</i>		
New York Taxable Income	•	Multiplied by tax rate schedule
<i>yields</i>		
New York Tax Liability Before Credits		
<i>minus</i>		
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
	∇	Accessible taxicabs for individuals with disabilities credit
	∇	Rehabilitation of historic properties credit
	∇	Historic homeownership rehabilitation credit
	∇	Clean heating fuel credit
	•	Resident credit
<i>equals</i>		
New York Tax Liability After Credits		
∇ Tax expenditure		

IMPACT ON PERSONAL INCOME TAX LIABILITY

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

⁴Joint Committee on Taxation, *Estimates of Federal Tax Expenditures for Fiscal Years 2008-2012* (JCS-2-08), October 31, 2008.

⁵For 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.

SUMMARY OF TAX EXPENDITURES

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	2006	111 ¹	602.5
Sales and Use Tax	Federal Agencies	2006	113	285.0
Personal Income Tax	Exclusion of Interest on U.S. Obligations	2006	3	168.9
Petroleum Business Tax	Governments	2007	7	69.8
Sales and Use Tax	U.S. Military Post Exchanges	2006	120	7.0

General Science and Technology

Tax	Description	Base Year	Item #	Amount (\$ Millions)
Sales and Use Tax	Research and Development Property	2005	66	40.0
Personal Income Tax	QETC Facilities, Operations and Training Credit	2006	31c	2.3
Personal Income Tax	QETC Capital Tax Credit	2006	31a.	1.0
Personal Income Tax	QETC Employment Credit	2006	31b.	0.2
Corporate Franchise Tax	QETC Employment Credit	2005	14b.	1.2

Energy, Natural Resources, and Environment

Tax	Description	Base Year	Item #	Amount (\$ Millions)
Petroleum Business Tax	Residential Heating	2007	8	269.9
Petroleum Business Tax	Crude Oil and Liquid Petroleum Gases	2007	3	51.6
Petroleum Business Tax	Certain Commercial Gallonage	2007	13	42.5
Petroleum Business Tax	Fuel Used for Non-Residential Heating Purposes	2007	14	12.4
Petroleum Business Tax	Kerosene	2007	1	5.0

Agriculture

Tax	Description	Base Year	Item #	Amount (\$ Millions)
Sales and Use Tax	Farm Production and Commercial Horse Boarding	2005	65	52.0
Personal Income Tax	Farmers' School Property Tax Credit	2006	22	24.3
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	2007	10	7.6
Corporate Franchise Tax	Farmers School Property Tax Credit	2005	12	0.9

SUMMARY OF TAX EXPENDITURES

Economic Development

Tax	Description	Base Year	Item #	Amount (\$ Millions)
Corporate Franchise Tax	Exclusion of Interest, Dividends, and Capital Gains from Subsidiary Capital	2005	1	2,919.1
Personal Income Tax	Qualified Empire Zone Enterprise Credits	2006	37	145.6
Corporate Franchise Tax	Qualified Empire Zone Enterprise Credits	2005	10	110.6
Sales and Use Tax	Industrial Development Agencies	2006	112	81.0
Corporate Franchise Tax	Investment and Retail Enterprise Tax Credit, Employment Incentive Credit, and Rehabilitation Credit for Historic Barns	2005	7	102.4

Other Business and Commerce

Tax	Description	Base Year	Item #	Amount (\$ Millions)
Personal Income Tax	Miscellaneous Deductions Subject to 2 Percent of AGI Limitation	2006	117f.	337.4
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	67	263.0
Insurance Tax	Exclusion from the Premiums Tax of Premiums Written on Certain Reinsurance Policies	2005	7	231.6
Sales and Use Tax	Interstate or International Telephone and Telegraph Service	2005	52	239.0

Housing

Tax	Description	Base Year	Item #	Amount (\$ Millions)
Personal Income Tax	Interest Deduction	2006	17b.	1,175.4
Sales and Use Tax	Capital Improvement Installation Services	2005	5	468.0
Sales and Use Tax	New Mobile Homes	2005	86	2.0
Personal Income Tax	Low-Income Housing Credit	2006	35	*
Bank Tax	Low-Income Housing Credit	2005	19	.4

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	2007	2	66.8
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	2006	111 ¹	602.5
Personal Income Tax	Taxes Paid Deduction	2006	17e ⁴	390.0
Personal Income Tax	College Tuition Credit	2006	32	229.9
Personal Income Tax	Charitable Contribution Deduction	2006	17c ²	87.6
Sales and Use Tax	Food Sold at School Cafeterias	2005	16	83.0

SUMMARY OF TAX EXPENDITURES

Social Services

Tax	Description	Base Year	Item #	Amount (\$ Millions)
Personal Income Tax	Charitable Contribution Deduction	2006	17c ²	474.8
Personal Income Tax	Child and Dependent Care Credit	2006	25	352.3
Sales and Use Tax	Charitable Organizations	2006	116 ³	324.6
Personal Income Tax	Long-Term Care Insurance Credit	2006	38	56.9
Sales and Use Tax	Property Sold to Contractors for Capital Improvements or Repairs for Exempt Organizations	2005	92	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	2006	17a	100.7
Personal Income Tax	Charitable Contribution Deduction	2006	17c ²	60.8
Sales and Use Tax	Charitable Organizations	2006	116 ³	41.6

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	2006	20	759.7
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	2006	4	609.8
Personal Income Tax	Exclusion of Social Security and Tier I Railroad Retirement Benefits	2006	2	568.2

Veterans' Benefits and Services

Tax	Description	Base Year	Item #	Amount (\$ Millions)
Petroleum Business Tax	Not-For-Profit Groups and Veterans Organizations	2007	11	12.3
Petroleum Business Tax	Not-For-Profit Groups and Veterans Organizations	2007	28	*
Sales and Use Tax	Veterans Posts or Organizations	2006	117	*

General Purpose Fiscal Assistance

Tax	Description	Base Year	Item #	Amount (\$ Millions)
Personal Income Tax	Taxes Paid Deduction	2006	17e ⁴	260.0

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: REVISED REPORTING OF NON-REFUNDABLE PIT CREDITS

The SFY 2009-10 Tax Expenditure Report contains changes in the estimation of non-refundable credits under the personal income tax. Non-refundable credits are credits that allow the taxpayer to reduce liability to zero. For most of these credits, the taxpayer may carry forward unused credits to reduce tax in future years. This is in contrast to “refundable” credits, which allow the taxpayer to claim any credit in excess of tax due as a refund.

Beginning with the 2005 tax year, improvements in data collection for these credits have resulted in more comprehensive information being available for purposes of estimating the amount of credit. Historically, tax expenditure estimates for non-refundable income tax credits were based on estimates derived from partial credit information that was not available for inclusion in the personal income tax study files. These were estimates of credit amounts that taxpayers had “available” to reduce liability. This amount included credits earned in the tax year as well as any unused credit amounts that were “carried in” from prior years. In many cases, this amount overstated the actual fiscal impact in the tax year because taxpayers did not have sufficient liability to make use of the entire credit in that year. Because these credits are now included on the personal income tax study files, it is now possible to simulate the amount of credit that the taxpayer actually “used” to reduce liability for the tax year. This used amount represents the true fiscal impact of the credit for the tax year because it reflects the actual reduction in taxpayer liability.

The estimates for non-refundable income tax credits in the SFY 2009-10 Tax Expenditure Report for tax year 2006 represent the amounts of credit used to reduce liability and therefore reflect actual reductions in income tax liability. In addition, estimates shown for 2005 are revised from last year’s report to reflect non-refundable credits used.

The following tables present the “available” credit amounts reported last year for the 2005 tax year as well as the new “credit-used” estimates. Available credit amounts for 2006 are also shown to illustrate how they differ from the credit-used numbers that will be presented in the report going forward annually. The credit-used estimates for 2005 and 2006 are verified for computational accuracy. However, the available credit amounts for 2005 are only partially verified and the 2006 available amounts were not verified for accuracy.

It is important to note that the amounts in these tables represent the non-refundable portions of the Empire Zone and Special Additional Mortgage Recording Tax Credits. Tax expenditure estimates shown for these credits in the personal income tax section are larger because they include the refundable portions of these credits. For empire zone credits, these are the refundable amounts allowed to new businesses that claim these credits. The special additional mortgage recording tax can be carried forward as a non-refundable credit or can be fully refunded at the option of the taxpayer.

REVISED REPORTING OF NON-REFUNDABLE PIT CREDITS

Table 2A

**Non-Refundable Personal Income Tax Credits
Available Versus Used Credit Amounts
2005
(Millions of Dollars)**

	Credit Available	Credit Used
Empire Zone, Zone Equivalent, & Qualified Empire Zone Credits:		
-QEZE Tax Reduction	\$55.5	\$39.2
-EZ Investment/Employment Inc.	\$44.5	\$8.3
-EZ Wage	\$26.6	\$21.2
-EZ Capital	\$3.4	\$2.0
-ZEA Wage	\$1.4	\$1.4
-EZ Financial Services ITC	\$1.1	\$0.1
Other Credits:		
-Long Term Care Insurance	\$84.6	\$47.3
-Special Add. Mortgage Recording	\$8.8	\$3.5
-Green Buildings	\$2.1	\$0.7
-Low Income Housing	\$1.4	\$0.1
-Accumulation Distribution	\$0.5	\$0.2
-Employment of Disabled Persons	\$0.1	Minimal

**Non-Refundable Personal Income Tax Credits
Available Versus Used Credit Amounts
2006
(Millions of Dollars)**

	Credit Available	Credit Used
Empire Zone, Zone Equivalent, & Qualified Empire Zone Credits:		
-EZ Investment/Employment Inc.	\$67.8	\$12.2
-QEZE Tax Reduction	\$55.0	\$41.8
-EZ Wage	\$38.0	\$21.9
-EZ Capital	\$2.0	\$2.0
-ZEA Wage	\$1.3	\$1.3
-EZ Financial Services ITC	\$1.1	\$0.1
Other Credits:		
-Long Term Care Insurance	\$105.8	\$56.9
-Special Add. Mortgage Recording	\$12.2	\$6.7
-Green Buildings	\$1.7	\$0.8
-QETC Capital	\$1.1	\$1.0

REVISED REPORTING OF NON-REFUNDABLE PIT CREDITS

Reporting of Empire Zone Credit Amounts For Tax Expenditures

This section illustrates the difference between “available” credit amounts and “used” credit amounts by comparing the two with respect to 2005 Empire Zone personal income tax credits. As mentioned earlier, the tax year 2005 non-refundable credit amounts reported last year for the personal income tax have been revised to reflect credit amounts used by the taxpayer to reduce liability. These estimates are generally less than the amounts that the taxpayer has available to use to reduce liability.

The first table on the following page illustrates the cost of the Empire Zone Program using the available amounts of non-refundable credit under the personal income tax. The second table presents the revised cost of the program when utilizing the amounts of non-refundable personal income tax credits actually used by taxpayers to reduce 2005 liability. The refundable portions of the personal income tax credits, the used and refunded amounts of corporation tax credits, and the sales tax portion of the empire zone program are unaffected by this revision.

As the tables indicate, the total cost of the Empire Zone program using the credit available amounts under the personal income tax equals \$513.2 million for 2005. Conversely, the cost of the program when incorporating only the credit-used portion of the personal income tax non-refundable credit amounts is \$452.9 million. The difference of \$60.3 million is attributable to the downward revision of the non-refundable income tax credits from \$132.5 million to \$72.2 million.

REVISED REPORTING OF NON-REFUNDABLE PIT CREDITS

Table 2B

***Empire Zones Program : Historical Credit Reporting
Tax Year 2005
(Millions of Dollars)***

Tax Expenditure :	---- Personal Income Tax ----		Corporation Taxes Used & Refunded	Total
	Available Non-Refundable	Refundable		
EZ/ZEA Wage Credit	\$28.0	\$9.1	\$44.7	\$81.8
EZ Capital Corporation Credit	\$3.4	\$0.0	\$0.1	\$3.5
EZ ITC / EZ Financial Service ITC	\$45.6	\$3.5	\$22.2	\$71.3
QEZE Real Property Credit	\$0.0	\$81.4	\$85.3	\$166.7
QEZE Tax Reduction Credit	\$55.5	\$0.0	\$53.4	\$108.9
Total PIT/ Corporation :	\$132.5	\$94.0	\$205.7	\$432.2
QEZE Sales Tax Exemption :				<u>\$81.0</u>
Grand Total:				\$513.2

***Empire Zones Program : Revised Credit Reporting
Tax Year 2005
(Millions of Dollars)***

Tax Expenditure :	---- Personal Income Tax ----		Corporation Taxes Used & Refunded	Total
	Credit Used Non-Refundable	Refundable		
EZ/ZEA Wage Credit	\$22.6	\$9.1	\$44.7	\$76.4
EZ Capital Corporation Credit	\$2.0	\$0.0	\$0.1	\$2.1
EZ ITC / EZ Financial Service ITC	\$8.4	\$3.5	\$22.2	\$34.1
QEZE Real Property Credit	\$0.0	\$81.4	\$85.3	\$166.7
QEZE Tax Reduction Credit	\$39.2	\$0.0	\$53.4	\$92.6
Total PIT/ Corporation :	\$72.2	\$94.0	\$205.7	\$371.9
QEZE Sales Tax Exemption :				\$81.0
Grand Total:				\$452.9

NOTE: The corporation tax information includes used and refunded amounts under the corporate franchise, insurance franchise, and bank franchise taxes.

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:

- The clean heating fuel credit was reinstated for period January 1, 2008 through December 31, 2011. Prior to January 1, 2008, the credit was allowed for bioheat purchased by the taxpayer on or after July 1, 2006 and before July 1, 2007.
- An exclusion from federal adjusted gross income is available under the personal income tax for compensation for service in the armed services in a combat zone.
- Section 1115(a)(43) adds a new sales tax exemption for ferry boats and property used in conjunction with exempt boats. This exemption took effect September 1, 2008.

Deletions:

- New York State decoupled from the Federal qualified production activity income deduction (IRC Section 199 deduction). Taxpayers must add back the deduction to federal taxable income when computing New York State taxable income. Since the deduction no longer flows through to New York State, the expenditure item has been removed from the Appendix.

Modifications:

- The low-income housing credit allocation pool was increased by \$4 million, raising the aggregate annual credit cap from \$16 million to \$20 million.
- Starting with the 2008 tax year, the credit rate for the Empire State film production tax credit was increased from 10 percent to 30 percent of below-the-line costs. Also, the credit refund was changed to allow a full refund in the year the credit is claimed. Previously, the credit was refundable over two years. Finally, the annual amount of credit that can be awarded was increased and the credit was extended to 2013.
- The financial services investment tax credit was extended from October 1, 2008 to October 1, 2011. Also, a third employment test was added and the credit was expanded to cover the provision of investment advisory services to regulated investment companies.
- The handicapped accessible taxicab and livery service credit was renamed the credit for accessible taxicabs for individuals with disabilities. The credit's sunset date was also extended for two years from December 31, 2008 to December 31, 2010.
- The capital base liability cap reduction available to manufacturers was extended to qualified emerging technology companies for tax years beginning on or after January 1, 2008. The capital base tax rate was also reduced from 0.00178 to 0.0015 and the

RECENT LEGISLATION

- cap was temporarily raised from \$1 million to \$10 million for tax years beginning on or after January 1, 2008 and before January 1, 2011.
- The brownfield redevelopment tax credit was amended to change the credit rates for the site preparation and groundwater remediation components, add a new 2 percent bonus rate category for the tangible property component, and impose a cap on the tangible property component at the lesser of a set dollar figure or a multiple of cleanup costs.
 - The preferential tax rate on conveyances of real property to existing real estate investment trusts (REITs) under the Real Estate Transfer Tax (RETT) was extended beyond the sunset date of September 1, 2008. This reduced tax rate now applies to all such conveyances occurring before September 1, 2011.

PERSONAL INCOME TAX

This section provides revenue estimates of tax expenditures for 55 provisions of the 2009 New York State Personal Income Tax. Tax expenditures are first estimated for the 2006 tax year (the latest year for which historical tax data are available) and then projected to the 2009 tax year. This section also provides historical estimates from 2002 through 2005 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 2006 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.

PERSONAL INCOME TAX

The descriptive paragraph on each income tax expenditure summarizes the provision as it appears in the Tax Law in effect as of January 1, 2009. It also includes any differences applicable between the 2006 and 2009 tax years. The listing does not include provisions repealed or sunsetted prior to 2009.

Data Sources

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

- 2006 Personal Income Tax Study File — A data file based on a statistical sample of approximately 675,000 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, beginning with the 2005 file, the sample size 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 2006 Personal Income Tax Study File. The PITCH data are extrapolated to 2009 together with the Personal Income Tax Study File.
- 2006 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 25,500 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 2009 *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 2008-2012*. The JCT publishes this pamphlet annually. Historical estimates are based on prior reports.

Methodology

For estimating tax expenditures in 2009, components of income, modifications, and itemized deductions on the 2006 sample return file are extrapolated to 2009 levels using growth assumptions based on the economic forecast provided by the Division of the Budget during December 2008. This data file is then used with the Personal Income Tax model revised to simulate 2009 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.

PERSONAL INCOME TAX

Table 3
2009 Personal Income Tax Expenditure Estimates
(2006 Total Personal Income Tax Liability = \$29,594 Million)
(Millions of Dollars)

Tax Item	History					Forecast	Reliability
	2002	2003	2004	2005	2006	2009	Level
New York Modifications							
1. Pension/Annuity Exclusion	349.1	359.6	371.6	434.4	472.1	521.0	1
2. Exclusion of Social Security and Tier I Railroad Retirement Benefits (Taxable Social Security for Federal Purposes but New York Exempt)	363.8	384.6	413.3	483.8	568.2	679.0	1
3. Exclusion of Interest on U.S. Obligations	123.6	106.2	95.2	127.2	168.9	119.0	1
4. Exclusion of Pensions, Annuities, Interest, and Lump Sum Payments Received by New York State and Municipal Retirees	427.7	453.3	510.7	575.7	609.8	776.0	1
5. Exclusion of Pensions, Annuities, Interest, and Lump Sum Payments by Federal Retirement Systems	89.2	93.5	104.6	117.9	123.6	156.0	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	23.4	31.4	37.6	40.1	44.9	50.0	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
15. Exclusion of Compensation for Service in a Combat Zone for Members of the Armed Services ¹	--	--	--	--	--	*	4
New York Itemized Deductions and Exemptions							
16. Value of Standard Deductions for Those Returns with Itemized Deductions in Excess of Standard Deduction	1,286.0	1,372.1	1,477.4	1,561.6	1,614.6	1,658.0	1
17. Itemized Deductions							
a. Medical/Dental Deduction	74.9	84.9	85.7	94.3	100.7	102.0	1
b. Interest Deduction	732.0	783.6	856.9	1,017.6	1,175.4	1,218.0	1
c. Charitable Contribution Deduction	424.1	477.8	556.5	624.1	623.2	648.0	1
d. Casualty/Theft Deduction	3.6	3.5	3.4	6.8	5.6	5.9	1
e. Taxes Paid Deduction	444.0	470.0	510.0	585.0	650.0	749.0	1
f. Miscellaneous Deductions Subject to 2 Percent of AGI Limitation	299.0	313.4	335.3	344.1	337.4	349.0	1
g. Other Miscellaneous Deductions	26.3	26.0	37.3	42.6	38.6	40.0	1
18. Dependent Exemptions	285.0	290.4	291.3	286.8	293.2	305.0	1
New York Credits							
19. Household Credit	101.8	99.2	96.6	96.2	95.9	97.0	1
20. Earned Income Credit	590.9	681.5	662.6	700.0	759.7	960.0	1
21. Real Property Tax Credit (Circuit Breaker)	31.2	32.6	29.9	29.6	26.8	26.0	1

PERSONAL INCOME TAX

Tax Item	History					Forecast	Reliability
	2002	2003	2004	2005	2006	2009	Level
22. Farmers' School Property Tax Credit	21.8	23.3	24.3	24.8	24.3	30.0	1
23. Investment Credit ²	27.9	28.4	28.1	24.0	23.1	25.0	1
24. Investment Credit for Financial Services Industry ²	0.5	0.5	0.2	0.3	0.3	0.2	1
25. Child and Dependent Care Credit	228.7	325.3	339.3	341.6	352.3	375.0	1
26. Accumulation Distribution Credit ²	*	*	*	0.2	0.2	0.2	1
27. Empire Zone and Zone Equivalent Areas Tax Credit ²	51.0	75.0	77.8	45.6	50.4	65.0	1
28. Special Additional Mortgage Recording Tax Credit Carryforward	2.3	2.3	1.2	*	*	*	2
29. Solar Energy System Equipment Credit ²	0.5	0.6	0.5	0.4	1.7	4.0	1
30. Credit for Employment of Persons with Disabilities ²	0.1	0.1	0.1	*	*	*	1
31. Qualified Emerging Technology Companies Credits							
a. QETC Capital Tax Credit ²	0.7	0.8	0.5	0.5	1.0	1.0	1
b. QETC Employment Credit ²	0.2	0.2	0.1	0.2	0.2	0.2	1
c. QETC Facilities, Operations and Training Credit	--	--	--	1.1	2.3	5.0	1
32. College Tuition Credit ³	61.7	129.6	205.8	209.5	229.9	237.0	1
33. Credit for Purchase of an Automated External Defibrillator ²	*	*	*	0.1	0.1	0.1	1
34. Green Building Credit ²	0.3	0.7	0.9	0.7	0.8	4.0	1
35. Low-Income Housing Credit ²	*	*	*	0.1	*	20.0	1
36. Credit for Transportation Improvement Contributions	0.0	0.0	0.0	0.0	0.0	0.0	2
37. Qualified Empire Zone Credits ²	30.1	78.8	100.7	120.6	145.6	175.0	1
38. Long-Term Care Insurance Credit ²	18.9	28.6	75.1	47.3	56.9	75.0	1
39. Fuel Cell Electricity Generating Equipment Credit ²	--	--	--	*	*	*	1
40. Empire State Film Production Credit ²	--	--	0.7	0.3	2.8	40.0	1
41. Brownfields Tax Credits	--	--	--	*	28.2	155.0	1
42. Nursing Home Assessment Tax Credit	--	--	--	5.3	8.4	14.0	1
43. Special Additional Mortgage Recording Tax Credit ^{2,4}	--	--	--	19.2	18.2	30.0	1
44. Security Training Tax Credit ²	--	--	--	*	*	2.0	1
45. Empire State Child Credit	--	--	--	--	642.3	665.0	1
46. Enhanced State Earned Income Tax Credit for Certain Non-Custodial Parents	--	--	--	--	2.1	2.0	1
47. Volunteer Firefighters and Ambulance Workers Credit	--	--	--	--	--	15.0	4
48. Alternative Fuels Credit ²	--	--	--	*	0.1	*	1
49. Empire State Commercial Production Credit	--	--	--	--	--	6.0	4
50. Biofuel Production Credit	--	--	--	--	*	10.0	1
51. Land Conservation Easement Credit	--	--	--	--	1.0	3.0	1
52. Credit for Accessible Taxicabs for Individuals with Disabilities ²	--	--	--	--	*	*	1
53. Rehabilitation of Historic Properties Credit	--	--	--	--	--	5.0	4
54. Historic Homeownership Rehabilitation Credit	--	--	--	--	--	3.0	4
55. Clean Heating Fuel Credit ⁵	--	--	--	--	0.3	1.0	1

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

² Beginning in 2005, credit estimates include non-refundable amount used to reduce current year tax liability. Figure also includes refundable amounts where applicable.

PERSONAL INCOME TAX

³ Estimate includes value of itemized deduction and credit.

⁴ Claims of this credit for tax years 2004 and 2005 were reported in aggregate on 2005 tax returns.

⁵ The clean heating fuel credit is reinstated for period January 1, 2008 through December 31, 2011. The clean heating fuel credit had expired on June 30, 2007.

* 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: 2006: \$472.1 million — 2009: \$521.0 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: 2006: \$568.2 million — 2009: \$679.0 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: 2006: \$168.9 million — 2009: \$119.0 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: 2006: \$609.8 million — 2009: \$776.0 million

PERSONAL INCOME TAX

- 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: 2006: \$123.6 million — 2009: \$156.0 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: 2006: Minimal — 2009: 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: 2006: \$44.9 million — 2009: \$50.0 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: 2006: Minimal — 2009: Minimal

Data Source: Industry Data

Reliability: Level 4

PERSONAL INCOME TAX

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: 2006: Minimal — 2009: 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: 2006: Minimal — 2009: 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: 2006: Not Applicable — 2009: Minimal

Data Source: Estimates from Division of the Budget

Reliability: Level 4

15. Exclusion of Compensation for Service in a Combat Zone for Members of the Armed Services of the United States

Citation: Section 612(c)(8-c)

Effective Date: Effective for taxable years beginning on or after January 1, 2008

Description: An individual who is a member of the armed services of the United States may subtract from federal adjusted gross income compensation received for performing active service in an area designated by the President of the United States by executive order as a "combat zone."

Estimates: 2006: Not Applicable — 2009: 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.

16. **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: 2006: \$1,614.6 million — 2009: \$1,658.0 million

Data Source: PIT Simulation Model

Reliability: Level 1

17. **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 2009 FAGI exceeds \$166,800 (\$83,400 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 were 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.

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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: 2006: \$100.7 million — 2009: \$102.0 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: 2006: \$1,175.4 million — 2009: \$1,218.0 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: 2006: \$623.2 million — 2009: \$648.0 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: 2006: \$5.6 million — 2009: \$5.9 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 2009 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: 2006: \$650.0 million — 2009: \$749.0 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: 2006: \$337.4 million — 2009: \$349.0 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: 2006: \$38.6 million — 2009: \$40.0 million

Data Source: PIT Simulation Model

Reliability: Level 1

18. **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: 2006: \$293.2 million — 2009: \$305.0 million

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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. Improvements in data sources and methodology now allow the reporting of credit claims by New York adjusted gross income class for many of the largest income tax credits for tax year 2006. Furthermore, the nonrefundable credit amounts reported for 2006 are credit "used" to reduce liability for the tax year.

19. Household Credit

Citation: Section 606(b)

Credit Type: Non-refundable/Non-carryforward

Effective Date: Effective for taxable years beginning on or after January 1, 1978

Description: Taxpayers with certain incomes may claim a credit as shown in the table below:

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

Estimates: 2006: \$95.9 million — 2009: \$97.0 million

Data Source: PIT Study File

Reliability: Level 1

20. Earned Income Credit

Citation: IRC Section 32, Tax Law Section 606(d)

Credit Type: Refundable (Residents only)

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:

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

The table below shows income eligibility parameters and maximum amounts for the 2009 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	\$ 8,950	34%	\$ 913	\$19,540	\$16,420	\$38,583	\$35,463
Taxpayers With 2 or More Children	\$12,570	40%	\$1,508	\$19,540	\$16,420	\$43,415	\$40,295
Taxpayers Age 25-64 Without Children	\$ 5,970	7.65%	\$ 137	\$10,590	\$ 7,470	\$16,560	\$13,440

* 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: 2006: \$759.7 million — 2009: \$ 960.0 million

Data Source: Earned Income Tax Credit Study

Reliability: Level 1

21. Real Property Tax Credit (Circuit Breaker)

Citation: Section 606(e)

Credit Type: Refundable

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.

Estimates: 2006: \$26.8 million — 2009: \$26.0 million

Data Source: Real Property Tax Credit Study

Reliability: Level 1

22. Farmers' School Property Tax Credit

Citation: Section 606(n)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after January 1, 1997

Description: Taxpayers primarily engaged in farming may claim a 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

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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: 2006: \$24.3 million — 2009: \$30.0 million

Data Source: PIT Study File

Reliability: Level 1

23. **Investment Credit**

Citation: Sections 606(a), a-1

Credit Type: Non-refundable/Carryforward

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: 2006: \$23.1 million — 2009: \$25.0 million

Data Source: PIT Study File

Reliability: Level 1

24. **Investment Credit for Financial Services Industry**

Citation: Section 606(a)(2)(A)

Credit Type: Non-refundable/Carryforward

Effective Date: Effective for property placed in service on or after October 1, 1998, and before October 1, 2011

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, registered investment advisor, or national securities exchange or board of trade, or property leased by a taxpayer to an affiliated regulated broker, dealer, registered investment advisor, 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 one of the following conditions is met:

- Eighty percent or more 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; OR
- The average number of the taxpayer's or affiliate's employees is equal to or greater than 95 percent of the average number of employees performing the

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administrative and support functions resulting from or related to the qualifying uses of such equipment and are located in New York State during the 36 months immediately preceding the year for which the credit is claimed; OR

- The number of employees located in New York State during the taxable year for which the credit is claimed is equal to or greater than 90 percent of the number of employees located in New York State on December 31, 1998 or, if the taxpayer was not a calendar year taxpayer in 1998, the last day of its first taxable year ending after December 31, 1998.

Estimates: 2006: \$0.3 million — 2009: \$0.2 million

Data Source: PIT Study File

Reliability: Level 1

25. **Child and Dependent Care Credit**

Citation: Section 606(c)

Credit Type: Refundable (Residents only)

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 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: 2006: \$352.3 million — 2009: \$375.0 million

Data Source: PIT Study File

Reliability: Level 1

26. **Accumulation Distribution Credit**

Citation: Sections 621 and 635

Credit Type: Non-refundable/Non-carryforward

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: 2006: \$0.2 million — 2009: \$0.2 million

Data Source: PIT Study File

Reliability: Level 1

27. Empire Zone (EZ) and Zone Equivalent Areas Tax Credits

a. EZ Investment Tax Credit and Employment Incentive Credit

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

Credit Type: Refundable to new business only

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.

Estimates: 2006: \$16.1 million — 2009: \$23.0 million

***EZ Investment Tax Credit & Employment Incentive Credit Claims in 2006
By New York Adjusted Gross Income***

NYAGI	Number of Claims	Amount Claimed (Millions \$)
Less than \$10,000	42	\$1.0
\$ 10,000 - \$24,999	29	(Under \$50,000)
\$ 25,000 - \$49,999	86	\$0.1
\$ 50,000 - \$99,999	292	\$0.7
\$100,000 - \$199,999	298	\$1.0
\$200,000 and over	757	\$13.3
Total:	1,504	\$16.1

Data Source: PIT Study File

Reliability: Level 1

b. EZ/ZEA Wage Tax Credit

Citation: Section 606(k)

Credit Type: Refundable to new business only

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.

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Estimates: 2006: \$32.3 million — 2009: \$40.0 million

EZ/ZEA Wage Tax Credit Claims in 2006 By New York Adjusted Gross Income

NYAGI	Number of Claims	Amount Claimed (Millions \$)
Less than \$10,000	155	\$1.0
\$ 10,000 - \$24,999	267	\$0.3
\$ 25,000 - \$49,999	347	\$0.5
\$ 50,000 - \$99,999	811	\$1.7
\$100,000 - \$199,999	1,169	\$3.4
\$200,000 and over	2,640	\$25.5
Total:	5,389	\$32.3

Data Source: PIT Study File

Reliability: Level 1

c. **EZ Capital Credit**

Citation: Section 606(l)

Credit Type: Non-refundable/Carryforward

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. 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: 2006: \$2.0 million — 2009: \$2.0 million

EZ Capital Credit Claims in 2006 By New York Adjusted Gross Income

NYAGI	Number of Claims	Amount Claimed (Millions \$)
Less than \$10,000	0	\$0.0
\$ 10,000 - \$24,999	36	(Under \$50,000)
\$ 25,000 - \$49,999	62	(Under \$50,000)
\$ 50,000 - \$99,999	150	(Under \$75,000)
\$100,000 - \$199,999	269	\$0.2
\$200,000 and over	544	\$1.7
Total:	1,062	\$2.0

Data Source: PIT Simulation Model

Reliability: Level 1

28. **Special Additional Mortgage Recording Tax Credit Carryforward**

Citation: Section 606(l)

Credit Type: Non-refundable/Carryforward

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. 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: 2006: Minimal — 2009: Minimal

Data Source: Personal Income Tax Clearing House data file

Reliability: Level 2

29. **Solar Energy System Equipment Credit**

Citation: Section 606(g-1)

Credit Type: Non-refundable/Carryforward

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 was 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: 2006: \$1.7 million — 2009: \$4.0 million

Data Source: PIT Study File

Reliability: Level 1

30. **Credit for Employment of Persons with Disabilities**

Citation: Section 606(o)

Credit Type: Non-refundable/Carryforward

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.

Estimates: 2006: Minimal — 2009: Minimal

Data Source: PIT Study File

Reliability: Level 1

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31. **Qualified Emerging Technology Companies Credits (QETC)**

a. **QETC Capital Tax Credit**

Citation: Section 606(r)

Credit Type: Non-refundable/Carryforward

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.

Estimates: 2006: \$1.0 million — 2009: \$1.0 million

Data Source: PIT Study File

Reliability: Level 1

b. **QETC Employment Credit**

Citation: Section 606(q)

Credit Type: Refundable

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.

Estimates: 2006: \$0.2 million — 2009: \$0.2 million

Data Source: PIT Study File

Reliability: Level 1

c. **QETC Facilities, Operations, and Training Credit**

Citation: Section 606(nn)

Credit Type: Refundable

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. The credit expires after December 31, 2011.

Estimates: 2006: \$2.3 million — 2009: \$5.0 million

Data Source: PIT Study File

Reliability: Level 1

32. College Tuition Credit/Deduction

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

Credit Type: Refundable

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

Description: A 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: 2006: \$229.9 million — 2009: \$237.0 million

*College Tuition Credit/Deduction in 2006
By New York Adjusted Gross Income*

NYAGI	Number of Taxpayers	Tax Expenditure (Millions \$)
Less than \$10,000	62,177	\$16.1
\$ 10,000 - \$24,999	134,053	\$32.1
\$ 25,000 - \$49,999	187,315	\$47.2
\$ 50,000 - \$99,999	195,005	\$64.3
\$100,000 - \$199,999	114,387	\$51.8
\$200,000 and over	38,531	\$18.4
Total:	731,468	\$229.9

Data Source: PIT Simulation Model

Reliability: Level 1

33. Credit for Purchase of an Automated External Defibrillator

Citation: Section 606(s)

Credit Type: Non-refundable/Non-carryforward

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: 2006: \$0.1 million — 2009: \$0.1 million

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Data Source: PIT Study File

Reliability: Level 1

34. **Green Buildings Credit**

Citation: Section 19 and Section 606(y)

Credit Type: Non-refundable/Carryforward

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: 2006: \$0.8 million — 2009: \$4.0 million

Data Source: PIT Study File

Reliability: Level 1

35. **Low-Income Housing Credit**

Citation: Sections 18, 606(x)

Credit Type: Non-refundable/Carryforward

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. The total amount of credit available is \$200 million, or \$20 million each year.

Estimates: 2006: Minimal — 2009: \$20.0 million

Data Source: PIT Study File

Reliability: Level 1

36. **Credit for Transportation Improvement Contributions**

Citation: Sections 20, 606(z)

Credit Type: Refundable

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: 2006: \$0.0 — 2009: \$0.0

Data Source: Personal Income Tax Clearing House data file

Reliability: Level 2

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

a. **QEZE Real Property Tax Credit**

Citation: Sections 15, 606(bb)

Credit Type: Refundable

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.

Estimates: 2006: \$103.8 million — 2009: \$130.0 million

QEZE Real Property Tax Credit Claims in 2006
By New York Adjusted Gross Income

NYAGI	Number of Claims	Amount Claimed (Millions \$)
Less than \$10,000	306	\$18.4
\$ 10,000 - \$24,999	136	\$1.3
\$ 25,000 - \$49,999	286	\$6.7
\$ 50,000 - \$99,999	555	\$6.4
\$100,000 - \$199,999	676	\$9.1
\$200,000 and over	2,044	\$61.8
Total:	4,003	\$103.8

Data Source: PIT Study File

Reliability: Level 1

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b. **QEZE Tax Reduction Credit**

Citation: Sections 16, 606(cc)

Credit Type: Non-refundable/Non-carryforward

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 2006, \$55.0 million was available to taxpayers and \$41.8 million was actually used to offset liability.

Estimates: 2006: \$41.8 million — 2009: \$45.0 million

*QEZE Tax Reduction Credit in 2006
By New York Adjusted Gross Income*

NYAGI	Number of Claims	Amount Claimed (Millions \$)
Less than \$10,000	17	(Under \$50,000)
\$ 10,000 - \$24,999	102	(Under \$50,000)
\$ 25,000 - \$49,999	50	(Under \$50,000)
\$ 50,000 - \$99,999	278	\$0.4
\$100,000 - \$199,999	651	\$2.1
\$200,000 and over	1,760	\$39.2
Total:	2,857	\$41.8

Data Source: PIT Study File

Reliability: Level 1

38. **Long-Term Care Insurance Credit**

Citation: Section 606(aa)

Credit Type: Non-refundable/Carryforward

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. For 2006, \$105.8 million was available to taxpayers and \$56.9 million was actually used to offset liability.

Estimates: 2006: \$56.9 million — 2009: \$75.0 million

*Long-Term Care Insurance Credit Claims in 2006
By New York Adjusted Gross Income*

NYAGI	Number of Claims	Amount Claimed (Millions \$)
Less than \$10,000	945	(Under \$50,000)
\$ 10,000 - \$24,999	12,965	\$2.8
\$ 25,000 - \$49,999	22,817	\$10.9
\$ 50,000 - \$99,999	30,593	\$16.6
\$100,000 - \$199,999	25,367	\$13.7
\$200,000 and over	19,856	\$12.9
Total:	112,543	\$56.9

- Data Source:** PIT Study File
Reliability: Level 1
39. **Fuel Cell Electricity Generating Equipment Credit**
Citation: Section 606 (g-2)
Credit Type: Non-refundable/Carryforward
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: 2006: Minimal — 2009: Minimal
Data Source: PIT Study File
Reliability: Level 1
40. **Empire State Film Production Credit**
Citation: Sections 24, 606(gg)
Credit Type: Refundable
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 30 percent of qualified production costs incurred in the production of films and certain television shows. Beginning in 2008, the entire amount of excess credit is allowed to be refunded in one year. Previously, fifty percent of excess credit was refundable in the first year, and any credit carried forward was fully refundable in the following year. The aggregate amount of credit available in 2008 equals \$65 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: 2006: \$2.8 million — 2009: \$40.0 million
Data Sources: PIT Study File
Reliability: Level 1
41. **Brownfields Tax Credits**
Citation: Sections 21, 22, 23, and 606(dd)(ee)(ff)
Credit Type: Refundable
Effective Date: Effective for tax years beginning on or after April 1, 2005
Description: Three 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. For sites accepted into the Brownfield Cleanup Program (BCP) prior to June 23, 2008, the credit equals 10 percent of costs associated with each component. The credit increases by two

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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.

Sites accepted into the BCP after June 23, 2008 are subject to a different credit calculation for the redevelopment credit. The site preparation and groundwater remediation component rates are as follows:

Cleanup Standard	Rate	Track 4
Soil cleanup for unrestricted use; protection of groundwater/ecological resources	50%	n/a
Residential use	40%	28%
Commercial use	33%	25%
Industrial Use	27%	22%

The rates for the tangible property component remain the same with a new 2 percent bonus rate available for sites redeveloped in conformity with the goals and priorities of the brownfield opportunity area in which the site is located. Also, sites are subject to a cap on the amount of tangible property component they can generate. The cap is the lesser of:

- \$35 million or three times the site preparation and groundwater component costs; or
- \$45 million or six times the site preparation and groundwater component costs if the site is to be used for manufacturing.

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: 2006: \$28.2 million — 2009: \$155.0 million

**Brownfields Tax Credit Claims in 2006
By New York Adjusted Gross Income**

NYAGI	Number of Claims	Amount Claimed (Millions \$)
Less than \$10,000	d/	d/
\$ 10,000 - \$24,999	d/	d/
\$ 25,000 - \$49,999	12	\$5.1
\$ 50,000 - \$99,999	4	\$1.1
\$100,000 - \$199,999	8	\$0.6
\$200,000 and over	111	\$12.6
Total:	139	\$28.2

d/ Tax Law secrecy provisions prohibit disclosure.

Data Source: PIT Study File

Reliability: Level 1

42. Nursing Home Assessment Tax Credit

Citation: Section 606 (hh)

Credit Type: Refundable

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

Description: Taxpayers may claim a 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: 2006: \$8.4 million — 2009: \$14.0 million

**Nursing Home Assessment Tax Credit Claims in 2006
By New York Adjusted Gross Income**

NYAGI	Number of Claims	Amount Claimed (Millions \$)
Less than \$10,000	917	\$3.1
\$ 10,000 - \$24,999	449	\$1.6
\$ 25,000 - \$49,999	395	\$1.5
\$ 50,000 - \$99,999	316	\$1.2
\$100,000 - \$199,999	135	\$0.6
\$200,000 and over	57	\$0.4
Total:	2,269	\$8.4

Data Source: PIT Study File

Reliability: Level 1

43. Special Additional Mortgage Recording Tax Credit

Citation: Section 606(f)(3)

Credit Type: Refundable or Non-refundable/Carryforward

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

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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: 2006: \$18.2 million — 2009: \$30.0 million

Data Source: PIT Study File

Reliability: Level 1

44. **Security Training Tax Credit**

Citation: Section 606(ii)

Credit Type: Refundable

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 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: 2006: Minimal — 2009: \$2.0 million

Data Source: PIT Study File

Reliability: Level 1

45. **Empire State Child Credit**

Citation: Section 606(c-1)

Credit Type: Refundable (Residents only)

Effective Date: Effective for taxable years beginning on or after January 1, 2006

Description: Resident taxpayers with children ages 4-16 may claim a 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: 2006: \$642.3 million — 2009: \$665.0 million

*Empire State Child Credit Claims in 2006
By New York Adjusted Gross Income*

NYAGI	Number of Claims	Amount Claimed (Millions \$)
Less than \$10,000	152,254	\$23.8
\$ 10,000 - \$24,999	418,497	\$113.5
\$ 25,000 - \$49,999	454,406	\$215.5
\$ 50,000 - \$99,999	437,525	\$226.3
\$100,000 - \$199,999	149,946	\$63.3
\$200,000 and over	148	(Under \$50,000)
Total:	1,612,776	\$642.3

Data Sources: PIT Study File

Reliability: Level 1

46. **Enhanced State Earned Income Tax Credit for Certain Non-Custodial Parents**

Citation: Section 606(d-1)

Credit Type: Refundable (Residents only)

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, 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: 2006: \$2.1 million — 2009: \$2.0 million

Data Source: PIT Study File

Reliability: Level 1

47. **Volunteer Firefighters and Ambulance Workers Credit**

Citation: Section 606(e-1)

Credit Type: Refundable

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 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. In the case of a husband and wife filing jointly who both qualify for the credit, the amount of the credit is \$400.

Estimates: 2006: Not Applicable — 2009: \$15.0 million

Data Source: New York State Office of Fire Prevention and Control

Reliability: Level 4

48. **Alternative Fuels Credit**

Citation: Section 606(p)

Credit Type: Non-refundable/Carryforward

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: 2006: \$0.1 million — 2009: Minimal

Data Sources: PIT Study File

Reliability: Level 1

49. **Empire State Commercial Production Credit**

Citation: Section 28 and Section 606(jj)

Credit Type: Refundable

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. The State credit is capped at \$7 million per year.

Estimates: 2006: Not Applicable — 2009: \$6.0 million

Data Source: New York State Division of the Budget

Reliability: Level 4

50. **Biofuel Production Credit**

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after 2006 and before January 1, 2013

Description: Taxpayers may claim a 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: 2006: Minimal — 2009: \$10.0 million

Data Source: PIT Study File

Reliability: Level 1

51. **Land Conservation Easement Credit**

Citation: Section 606(kk)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after January 1, 2006

Description: Taxpayers may claim a 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: 2006: \$1.0 million — 2009: \$3.0 million

Data Source: PIT Study File

Reliability: Level 1

52. **Credit for Accessible Taxicabs for Individuals with Disabilities**

Citation: Section 606(oo)

Credit Type: Non-refundable/Carryforward

Effective Date: Effective for taxable years beginning on or after January 1, 2006 and before January 1, 2011

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 accessible for individuals with disabilities. The credit is limited to \$10,000 per vehicle. Vehicles accessible for individuals with disabilities must comply with the Americans with Disabilities Act and other Federal regulations.

Estimates: 2006: Minimal — 2009: Minimal

Data Source: PIT Study File

Reliability: Level 1

53. **Rehabilitation of Historic Properties Credit**

Citation: Section 606(oo)

Credit Type: Non-refundable/Carryforward

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

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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: 2006: Not Applicable — 2009: \$5.0 million

Data Source: Internal Revenue Service

Reliability: Level 4

54. Historic Homeownership Rehabilitation Credit

Citation: Section 606(pp)

Credit Type: Non-refundable/Carryforward

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: 2006: Not Applicable — 2009: \$3.0 million

Data Source: NYS Historic Preservation Office

Reliability: Level 4

55. Clean Heating Fuel Credit

Citation: Section 606(mm)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after January 1, 2008 and before January 1, 2012.

Description: Taxpayers may claim a tax credit for bioheat used for space heating for hot water production for residential purposes within the state. The credit equals 1 cent per percent of biodiesel per gallon of bioheat purchased by the taxpayer and is capped at 20 cents per gallon. Biodiesel is defined as 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 D6751. In addition, bioheat means a fuel comprised of biodiesel blended with conventional home heating oil, which meets the specifications of the American Society of Testing and Materials designation D396 or D975. Prior to January 1, 2008, the credit was allowed for bioheat purchased by the taxpayer on or after July 1, 2006 and before July 1, 2007.

Estimates: 2006: \$0.3 million — 2009: \$1.0 million

Data Source: PIT Study File

Reliability: Level 1

CORPORATION FRANCHISE TAX

This section of the report provides tax expenditure estimates for 38 separate provisions of the Corporation Franchise Tax on general business corporations. It contains estimates of the tax expenditures for tax years 2002 through 2005 (2005 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, 2009. The estimates are also extrapolated to the 2009 tax year. The tax year refers to both the 2009 calendar year and fiscal years ending in 2010. Table 4 summarizes the tax expenditure estimates. It also includes total Article 9-A corporate franchise tax liability for the 2005 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 manufacturers and qualified emerging technology companies; 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 0.15 percent tax rate applies to allocated capital, and the maximum tax under this base is capped at \$350,000 for manufacturers and qualified emerging technology companies and \$10 million for all other taxpayers. The \$10 million cap reverts to \$1 million for tax years beginning on or after January 1, 2011.

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In taxable years beginning on or after January 1, 2008, the fixed dollar minimum tax ranges from \$25 to \$5,000 depending on the amount of New York receipts for the taxable year. Prior to the 2008 tax year, the fixed dollar minimum tax was based on a taxpayer's gross payroll. The amounts ranged from \$100 to \$1,500, although in the 2004 and 2005 tax years, the \$1,500 amount was temporarily raised to \$5,000 and \$10,000. Also in those two tax years, taxpayers with gross payroll between \$250,001 and \$500,000 paid \$100 instead of the \$225 amount in effect for tax years prior to 2004 and in 2006 and 2007.

Data Sources

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

- 2005 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 2005 to 2009 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 2005. 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.

CORPORATION FRANCHISE TAX

Table 4
2009 New York State Article 9-A Tax Expenditure Estimates
(2005 Total Corporate Franchise Tax Liability = \$2,276.5 Million)
(Millions of Dollars)

Tax Item	2001	History				Forecast	Reliability
		2002	2003	2004	2005	2009	Level
New York Modifications to Federal Taxable Income							
1. Exclusion of Interest, Dividends, and Capital Gains from Subsidiary Capital	2,290.0	1,410.3	1,517.5	1,521.8	2,919.1	2,470.0	1
2. Deduction of Fifty Percent of Dividends from Non-Subsidiary Corporations	36.4	61.9	34.4	62.4	67.1	54.0	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	5.0	5.4	5.6	3.9	4.9	6.0	1
Credits							
7. Investment and Retail Enterprise Tax Credit, Employment Incentive Credit, and Rehabilitation Credit for Historic Barns	94.9	76.3	86.2	92.4	100.4	67.0	1
8. Investment Tax Credit for the Financial Services Industry	17.4	33.3	15.4	9.5	13.2	15.0	1
9. Special Additional Mortgage Recording Tax Credit	0.8	4.6	6.2	3.0	5.4	5.0	1
10. Empire Zone (EZ) and Qualified Empire Zone Enterprise (QEZE) Credits ¹							
Empire Zone and Zone Equivalent Area Tax Credits	79.6	62.0	46.6	76.8	49.7	40.0	1
Qualified Empire Zone Enterprise Tax Credits	45.1	63.6	82.0	108.8	110.9	182.0	1
11. Credit for Servicing SONYMA Mortgages	0.0	*	*	*	*	*	1
12. Farmers' School Property Tax Credit	0.1	0.8	0.9	0.9	0.9	0.9	1
13. Credit for Employment of Persons with Disabilities	0.2	0.2	0.1	0.1	0.1	*	1
14. Qualified Emerging Technology Company (QETC) Credits							
a. QETC Capital Tax Credit	*	*	*	*	*	*	1
b. QETC Employment Credit	0.5	0.3	0.1	0.1	1.2	0.2	1
c. QETC Facilities, Operations, and Training Credits	--	--	--	--	5.1	10.0	1
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	4.0	1
17. Credit for Purchase of an Automated External Defibrillator	*	*	*	*	*	*	1
18. Green Building Credit	0.0	0.0	0.0	0.0	0.0	3.0	1
19. Long-Term Care Insurance Credit	--	*	*	*	0.1	*	1
20. Brownfields Tax Credits	--	--	--	--	0.0	200.0	1
21. Empire State Film Production Credit	--	--	--	0.4	14.2	35.0	1
22. Alternative Fuels Credit	0.2	0.5	1.1	0.7	0.9	0.8	1
23. Security Training Tax Credit	--	--	--	--	0.0	1.0	1
24. Fuel Cell Electricity Generating Equipment Credit	--	--	--	--	*	2.0	1
25. Land Conservation Easement Credit	--	--	--	--	--	*	5
26. Biofuel Production Credit	--	--	--	--	--	*	5
27. Empire State Commercial Production Credit	--	--	--	--	--	1.0	3

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Tax Item	History					Forecast	Reliability
	2001	2002	2003	2004	2005	2009	Level
28. Credit For Accessible Taxicabs and for Individuals with Disabilities	--	--	--	--	--	1.0	5
29. Credit for Rehabilitation of Historic Properties	--	--	--	--	--	8.0	3
30. Clean Heating Fuel Credit ²	--	--	--	--	--	*	5
Corporate Exemptions							
31. Exempt Companies	N/A	N/A	N/A	N/A	N/A	N/A	5
32. 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
33. Businesses Using Fulfillment Services	N/A	N/A	N/A	N/A	N/A	N/A	5
34. Corporate Parent with Bank and Insurance Subsidiaries or Gas and Electric Subsidiaries	10.1	3.2	5.1	7.8	5.3	5.0	1
35. Homeowners Association Exemption from Fixed Dollar Minimum Tax	*	*	*	*	*	*	2
Preferential Tax Rates							
36. Qualifying Small Business Corporations	12.1	4.5	0.0	1.5	9.4	5.0	1
37. Capital Base Liability Cap Reduction for Manufacturers and QETCs ⁴	--	--	--	--	2.0	17.0	1
38. Manufacturer and QETC Rate	--	--	--	--	--	3.0	2

1/ Prior to the 2008-09 report, EZ and QEZE data was reported in the aggregate for those two groups, respectively. Starting with the 2008-09 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.

4/ In 2005, the liability cap only applied to manufacturers. For tax years beginning on or after January 1, 2008, the cap was extended to QETCs.

* Less than \$0.1 million

-- The tax expenditure was not applicable for these years

N/A No data available

d/ Tax Law provisions prohibit disclosure of data

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: 2005: \$2,919.1million — 2009: \$2,470.0 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: 2005: \$67.1 million — 2009: \$54.0 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

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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: 2005: Minimal — 2009: 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: 2005: \$4.9 million — 2009: \$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 2005*.

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Article 9-A Tax Credits in 2005 (\$ in Millions)

	Credit Earned	Unused Credit from the Prior Year	Total Credit Available	Recaptured Credit	Total Credit Claimed	Credit Used	Refundable Credit ¹	Credit Carried Forward
Investment Tax Credit	\$203.2	\$1,311.8	\$1,509.1	\$12.5	\$1,496.6	\$97.5	\$2.9	\$1,396.2
Investment Tax Credit for the Financial Services Industry	32.1	225.6	257.7	0.7	257.0	13.2	0.0	243.8
Special Additional Mortgage Recording Tax Credit	7.6	3.1	10.8	0.0	10.8	2.8	2.6	5.3
Empire Zone/QEZE Credits	265.8	759.6	1,019.7	12.7	1,005.8	78.6	82.1	843.9
Credit for Servicing SONYMA Mortgages	d/	d/	d/	d/	d/	d/	d/	d/
Farmers' School Property Tax Credit	1.0	0.1	1.1	0.0	1.1	0.0	0.9	0.1
Credit for Employment of Persons with Disabilities	0.1	0.1	0.2	0.0	0.2	0.1	0.0	0.1
QETC Capital Credit	d/	d/	d/	d/	d/	d/	d/	d/
QETC Employment Credit	0.2	1.0	1.2	0.0	1.2	0.0	1.2	0.0
QETC Facilities, Operations, and Training Credit	5.1	0.0	5.1	0.0	5.1	0.2	4.9	0.0
Credit for Transportation Improvement Contributions	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Low-Income Housing Credit ²	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Credit for Purchase of an Automated External Defibrillator	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Green Building Credit ²	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Long-Term Care Insurance Credit	0.2	0.1	0.2	0.0	0.2	0.1	0.0	0.1
Brownfields Tax Credits ²	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Empire State Film Production Credit	25.1	d/	26.1	0.0	26.1	1.4	12.9	11.9
Alternative Fuels Credit	d/	d/	1.6	0.0	1.6	d/	0.0	d/
Security Training Tax Credit ²	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Fuel Cell Electricity Generating Equipment Credit	d/	d/	d/	d/	d/	d/	d/	d/
Total ³	\$542.0	\$2,303.1	\$2,833.4	\$25.9	\$2,806.4	\$195.0	\$107.8	\$2,502.4

¹Credit 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.

²No credit was claimed in 2005.

³Total now reflects the vertical summation of the individual credit components. Horizontal calculations within the column are not valid. Totals may not add due to rounding.

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)

Credit Type: Refundable to New Business Only

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.

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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 \$193.5 million in ITC in 2005.

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.

b. **Retail Enterprise Tax Credit**

Citation: Section 210(12)(k)

Credit Type: Refundable to New Business Only

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)

Credit Type: Nonrefundable/Carryforward

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 \$10.7 million in EIC in 2005.

d. Rehabilitation Credit for Historic Barns

Citation: Section 210(12)(l)

Credit Type: Refundable to New Business Only

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: 2005: \$100.4 million — 2009: \$67.0 million: Information on the ITC and EIC credits used in any year is not separately available

*Article 9-A ITC and EIC in 2005
By Size of Entire Net Income*

Size of Entire Net Income	Number of Taxpayers	Amount Used & Refunded (Millions \$)
Less than \$0	512	\$12.2
Zero	95	\$0.9
\$1 - \$49,999	391	\$0.6
\$50,000 - \$99,999	123	\$0.3
\$100,000 - \$499,999	163	\$1.7
\$500,000 - \$999,999	72	\$1.4
\$1,000,000 - \$4,999,999	135	\$4.1
\$5,000,000 - \$24,999,999	98	\$8.5
\$25,000,000 and over	113	\$70.8
Total:	1,702	\$100.4

Amounts do not add due to rounding

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

8. Investment Tax Credit for the Financial Services Industry

Citation: Section 210(12)

Credit Type: Refundable to New Business Only

Effective Date: Effective for property placed in service on or after October 1, 1998 and before October 1, 2011

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:

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- 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, registered investment advisor, or national securities exchange or board of trade, or property leased by a taxpayer to an affiliated regulated broker, dealer, registered investment advisor, or 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.

To be eligible for the credit, a taxpayer must satisfy an annual employment test that measures the taxpayer's employment in New York State in the current tax year against one of three base period standards.

Estimates: 2005: \$13.2 million — 2009: \$15.0 million

**Article 9-A Financial Services ITC and EIC in 2005
By Size of Entire Net Income**

Size of Entire Net Income	Number of Taxpayers	Amount Used & Refunded (Millions \$)
Less than \$0	8	\$1.2
\$0 - \$49,999	5	\$1.0
\$50,000 - \$99,999	d/	d/
\$100,000 - \$499,999	4	\$0.1
\$500,000 - \$999,999	d/	d/
\$1,000,000 - \$4,999,999	d/	d/
\$5,000,000 - \$24,999,999	4	\$0.1
\$25,000,000 and over	17	\$10.8
Total:	42	\$13.2

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

9. **Special Additional Mortgage Recording Tax Credit**

Citation: Section 210(17), (21)

Credit Type: Carryforward/Refundable for Residential Mortgages Only

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.

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: 2005: \$5.4 million — 2009: \$5.0 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)

Credit Type: EZ-ITC 50% Refundable to New Business Only/EZ-EIC – Non-refundable/Carryforward

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 of 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 located in an EZ that meet the qualifications for the financial services ITC may claim the EZ-ITC instead.

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 in 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 in which the original EZ-ITC was allowed. Taxpayers may apply the EZ-EIC against the alternative minimum tax base. Taxpayers earned \$71.9 million in EZ-ITC and \$38.4 million in EZ-EIC in 2005.

Estimates*: 2005: \$22.3 million — 2009: \$20.0 million

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Article 9-A EZ ITC and EIC in 2005
By Size of Entire Net Income*

Size of Entire Net Income	Number of Taxpayers	Amount Used & Refunded (Millions \$)
Less than \$0	96	\$4.0
Zero	15	\$0.3
\$1 - \$49,999	34	\$0.0
\$50,000 - \$99,999	24	\$0.1
\$100,000 - \$499,999	38	\$0.4
\$500,000 - \$999,999	20	\$0.3
\$1,000,000 - \$4,999,999	36	\$1.6
\$5,000,000 - \$24,999,999	18	\$1.1
\$25,000,000 and over	30	\$14.5
Total:	311	\$22.3

* 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)

Credit Type: 50% Refundable to New Business Only

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 full-time 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 EZ 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 EZ-WTC and the ZEA-WTC are available to a taxpayer for five years. The ZEA credit expired in 2004, but taxpayers are still allowed to use credit earned prior to expiration. The total wage tax credit used in any tax year cannot exceed 50 percent of tax due before credits.

Estimates: 2005: \$27.4 million — 2009: \$20.0 million

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Article 9-A EZ/ZEA Wage Tax Credit in 2005 By Size of Entire Net Income

Size of Entire Net Income	Number of Taxpayers	Amount Used & Refunded (Millions \$)
Less than \$0	202	\$4.6
Zero	30	\$1.5
\$1 - \$49,999	111	\$0.4
\$50,000 - \$99,999	50	\$0.2
\$100,000 - \$499,999	85	\$1.1
\$500,000 - \$999,999	29	\$0.4
\$1,000,000 - \$4,999,999	47	\$2.3
\$5,000,000 - \$24,999,999	26	\$1.8
\$25,000,000 and over	50	\$15.2
Total:	630	\$27.4

Amounts do not add due to rounding

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

c. **EZ Capital Credit**

Citation: Section 210(20)

Credit Type: Non-refundable/Carryforward

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 who previously claimed the credit based on investments in zone capital corporations may continue to carry forward unused amounts.

Estimates: 2005: \$0.1 million — 2009: \$ Minimal

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. 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)

Credit Type: Refundable

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

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factor is 1.0 in the first ten years of certification, declining by 0.2 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.

Estimates: 2005: \$82.5million — 2009: \$150.0 million

Article 9-A QEZE Real Property Tax Credit in 2005
By Size of Entire Net Income

Size of Entire Net Income	Number of Taxpayers	Amount Used & Refunded (Millions \$)
Less than \$0	126	\$26.2
Zero	17	\$19.8
\$1 - \$49,999	37	\$3.3
\$50,000 - \$99,999	26	\$0.5
\$100,000 - \$499,999	47	\$3.2
\$500,000 - \$999,999	15	\$0.4
\$1,000,000 - \$4,999,999	37	\$4.3
\$5,000,000 - \$24,999,999	12	\$1.2
\$25,000,000 and over	34	\$23.7
Total:	351	\$82.5

Amounts do not add due to rounding

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

e. **QEZE Tax Reduction Credit**

Citation: Sections 14, 16, 210(28)

Credit Type: Non-refundable/Non-carryforward

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: 2005: \$28.4 million — 2009: \$32.0 million

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Article 9-A QEZE Tax Reduction Credit in 2005 By Size of Entire Net Income

Size of Entire Net Income	Number of Taxpayers	Amount Used & Refunded (Millions \$)
Less than \$0	27	\$0.2
Zero	15	\$0.0
\$1 - \$49,999	49	\$0.0
\$50,000 - \$99,999	32	\$0.1
\$100,000 - \$499,999	64	\$0.6
\$500,000 - \$999,999	17	\$0.4
\$1,000,000 - \$4,999,999	45	\$2.5
\$5,000,000 - \$24,999,999	15	\$2.0
\$25,000,000 and over	39	\$22.6
Total:	303	\$28.4

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

11. Credit for Servicing SONYMA Mortgages

Citation: Section 210(21-a)

Credit Type: Non-refundable/Non-carryforward

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 the 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 its liability to zero.

Estimates: 2005: Minimal — 2009: Minimal

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

12. Farmers' School Property Tax Credit

Citation: Section 210(22)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after January 1, 1997

Description: Taxpayers primarily engaged in farming may claim a 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

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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: 2005: \$0.9 million — 2009: \$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)

Credit Type: Non-refundable/Carryforward

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: 2005: \$0.1 million — 2009: Minimal

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)

Credit Type: Non-refundable/Carryforward

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 used may not exceed fifty percent of the tax due before any credits.

Estimates: 2005: Minimal — 2009: Minimal

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

- b. **QETC Employment Credit**
 - Citation:** Section 210(12-E)
 - Credit Type:** Refundable
 - 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.
 - Estimates:** 2005: \$1.2 million — 2009: \$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)
 - Credit Type:** Refundable
 - 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. The credit expires after December 31, 2011.
 - Estimates:** 2005: \$5.1 million — 2009: \$10.0 million
 - Data Source:** Corporation Franchise Tax Study File
 - Reliability:** Level 1
15. **Credit for Transportation Improvement Contributions**
 - Citation:** Sections 20, 210(32)
 - Credit Type:** Refundable
 - 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:** 2005: \$0.0 — 2009: \$0.0
 - Data Source:** Corporation Franchise Tax Study File
 - Reliability:** Level 1

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16. **Low-Income Housing Credit**
Citation: Sections 18, 210(30)
Credit Type: Non-refundable/Carryforward
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.
Estimates: 2005: \$0.0 — 2009: \$4.0 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1
17. **Credit for Purchase of an Automated External Defibrillator**
Citation: Section 210(25)
Credit Type: Non-refundable/Non-carryforward
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: 2005: Minimal — 2009: Minimal
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1
18. **Green Building Credit**
Citation: Sections 19, 210(31)
Credit Type: Non-refundable/Carryforward
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 can be issued, but the amount on any one credit certificate is limited to \$2 million.
Estimates: 2005: \$0.0 — 2009: \$3.0 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1
19. **Long-Term Care Insurance Credit**
Citation: Section 210(25-a)
Credit Type: Non-refundable/Carryforward

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.

Estimates: 2005: \$0.1 million — 2009: Minimal

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

20. **Brownfields Tax Credits**

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

Credit Type: Refundable

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

Description: Three 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. For sites accepted into the Brownfield Cleanup Program (BCP) prior to June 23, 2008, 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.

Sites accepted into the BCP after June 23, 2008 are subject to a different credit calculation for the redevelopment credit. The site preparation and groundwater remediation component rates are as follows:

Cleanup Standard	Rate	Track 4
Soil cleanup for unrestricted use; protection of groundwater/ecological resources	50%	n/a
Residential use	40%	28%
Commercial use	33%	25%
Industrial Use	27%	22%

The rates for the tangible property component remain the same with a new 2 percent bonus rate available for sites redeveloped in conformity with the goals and priorities of the brownfield opportunity area in which the site is located. Also, sites are subject to a cap on the amount of tangible property component they can generate. The cap is the lesser of:

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- \$35 million or three times the site preparation and groundwater component costs; or
- \$45 million or six times the site preparation and groundwater component costs if the site is to be used for manufacturing.

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: \$0.0 — 2009: \$200.0 million

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

21. Empire State Film Production Tax Credit

Citation: Sections 24, 210 (36)

Credit Type: Refundable

Effective Date: Effective for tax years beginning on or after January 1, 2004, and expires after December 31, 2013

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. For tax years starting on or after January 1, 2008, any excess credit is fully refundable. Previously, the credit was refunded across two tax years.

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. The annual amount of credit that can be allocated by MP/TV is:

- \$65 million in 2008
- \$75 million in 2009
- \$85 million in 2010
- \$90 million in 2011 and 2012
- \$110 million in 2013

Estimates: 2005: \$14.2 million — 2009: \$35.0 million

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

22. **Alternative Fuels Credit**

Citation: Section 210(24)

Credit Type: Non-refundable/Carryforward

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: 2005: \$0.9 million — 2009: \$0.8 million

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

23. **Security Training Tax Credit**

Citation: Section 26, Section 210 (37)

Credit Type: Refundable

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.

Estimates: 2005: \$0.0 — 2009: \$1.0 million

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

24. **Fuel Cell Electricity Generating Equipment Credit**

Citation: Section 210(37)

Credit Type: Non-refundable/Carryforward

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.

Estimates: 2005: Minimal — 2009: \$2.0 million

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

25. **Land Conservation Easement Credit**

Citation: Section 210 (38)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after January 1, 2006

Description: Taxpayers may claim a tax credit equal to 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

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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: 2005: Not Applicable — 2009: Minimal

Data Source: New York State Division of the Budget

Reliability: Level 5

26. Biofuel Production Credit

Citation: Sections 28, 210 (38)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after 2006 and before January 1, 2013

Description: Taxpayers may claim a 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 — 2009: Minimal

Data Source: New York State Division of the Budget

Reliability: Level 5

27. Empire State Commercial Production Credit

Citation: Sections 28, 210(38)

Credit Type: Refundable – Over 2 Years

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. The credit is administered by the Governor's Office for Motion Picture and Television Development and is capped at \$7 million per year.

Estimates: 2005: Not Applicable — 2009: \$1.0 million

Data Source: Empire State Development Corporation, Industry Representatives

Reliability: Level 3

28. **Credit for Accessible Taxicabs for Individuals with Disabilities**
Citation: Section 210(40)
Credit Type: Non-refundable/Carryforward
Effective Date: Effective for taxable years beginning on or after January 1, 2006 and before January 1, 2011
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. The credit may be applied against the fixed dollar minimum and alternative minimum tax bases to reduce liability to zero.
Estimates: 2005: Not Applicable — 2009: \$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)
Credit Type: Non-refundable/Carryforward
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. The credit may be applied against the fixed dollar minimum and alternative minimum tax bases to reduce liability to zero.
Estimates: 2005: Not Applicable — 2009: \$8.0 million
Data Source: Internal Revenue Service
Reliability: Level 3
30. **Clean Heating Fuel Credit**
Citation: Section 606(mm)
Credit Type: Refundable
Effective Date: Effective for taxable years beginning on or after January 1, 2008 and before January 1, 2012.
Description: Taxpayers may claim a tax credit for bioheat used for space heating for hot water production for residential purposes within the state. The credit equals 1 cent per percent of biodiesel per gallon of bioheat purchased by the taxpayer and is capped at 20 cents per gallon. Biodiesel is defined as 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 D6751. In addition, bioheat means a fuel comprised of biodiesel blended with conventional home heating oil, which meets the specifications of the American Society of Testing and Materials designation D396 or D975. Prior

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to January 1, 2008, the credit was allowed for bioheat purchased by the taxpayer on or after July 1, 2006 and before July 1, 2007.

Estimates: 2005: Not Applicable — 2009: Minimal

Data Source: NYSERDA

Reliability: Level 5

Corporate Exemptions

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

31. 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

32. **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

33. **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

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Reliability: Level 5

34. **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: 2005: \$5.3 million — 2009: \$5.0 million

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

35. **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: 2005: Minimal — 2009: Minimal

Data Source: Research File

Reliability: Level 2

Preferential Tax Rates

36. **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 that qualify as small business taxpayers. The law defines a small business taxpayer as a taxpayer that meets the Federal definition of a small business (IRC Section 1244(c)(3)) and that 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 January 1, 2007, 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: 2005: \$9.4 million — 2009: \$5.0 million

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

37. **Capital Base Liability Cap Reduction for Manufacturers and QETCs**

Citation: Section 210(1)(6)

Effective Date: Effective for taxable years beginning on or after January 1, 2005; QETCs added from taxable years beginning on or after January 1, 2008.

Description: The maximum liability under the capital base is \$1 million, except taxpayers who are manufacturers or qualified emerging technology companies (QETCs) are subject to a lower cap of \$350,000. For taxable years beginning on or after January 1, 2008 and before January 1, 2011, the non-manufacturer/QETC cap is temporarily raised to \$10 million.

Estimates: 2005: \$2.0 million — 2009: \$17.0 million

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

38. **Manufacturer and QETC Rate**

Citation: Section 210(1)(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 from 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

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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: 2005: Not Applicable — 2009: \$3.0 million

Data Source: Corporation Franchise Tax Study File

Reliability: Level 2

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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, 2009. The estimates are based on data from the 2005 tax year, the latest year for which Article 32 tax return data are available. They are also extrapolated to the 2009 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 2005 and 2009 calendar tax years and fiscal tax years beginning in 2005 and 2009.

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.

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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:

- 2005 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 2005 to 2009 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
2009 New York State Bank Tax Expenditure Estimates
(2005 Total Bank Tax Liability = \$579.4 Million)
(Millions of Dollars)

Tax Item	History					Forecast	Reliability
	2001	2002	2003	2004	2005	2009	Level
New York Modifications to Federal Taxable Income							
1. Bad Debt Deduction for Commercial Banks	3.9	16.0	4.8	16.0	24.5	6.8	1
2. Bad Debt Deduction for Thrift Institutions	3.9	7.2	3.2	1.3	3.5	1.6	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	8.0	1.6	1.9	2.6	0.1	*	1
5. Deduction of 17 Percent of Interest Income from Subsidiary Capital	31.3	11.6	5.7	6.1	6.3	2.9	1
6. Deduction of 60 Percent of Dividend Income and Excess Gains from Subsidiary Capital	118.1	83.1	52.6	55.1	95.9	29.9	1
7. Deduction of 22.5 Percent of Interest Income from Government Obligations	21.4	8.9	9.2	5.3	12.2	5.0	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	18.5	17.1	20.2	26.7	26.8	14.8	1
11. Exclusion of Wages of Executive Officers in the Calculation of Entire Net Income, Alternative Entire Net Income, and Taxable Assets Allocation Percentages	N/A	N/A	N/A	N/A	N/A	N/A	5
12. IBF Formula Allocation Election	19.5	6.6	3.9	24.9	28.9	13.0	1
Credits							
13. Mortgage Servicing Tax Credit	9.9	11.1	8.0	7.0	7.1	3.2	1
14. Special Additional Mortgage Recording Tax Credit	17.3	19.9	28.0	25.9	19.9	10.0	1
15. Empire Zone (EZ) and Qualified Empire Zone Enterprise (QEZE) Credits ¹							
Empire Zone and Zone Equivalent Area Tax Credits	5.5	6.0	9.0	7.8	14.9	19.5	1
Qualified Empire Zone Enterprise Tax Credits	3.8	2.7	4.9	7.5	9.7	10.7	1
16. Credit for Employment of Persons with Disabilities	0.0	*	*	*	0.0	*	1
17. Investment Credit for Financial Services Industry	6.1	5.0	6.9	1.5	3.9	4.7	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	*	0.2	0.4	*	1
20. Credit for Purchase of Automated External Defibrillator	0.0	*	0.0	*	0.0	*	1
21. Green Buildings Credit	0.0	0.0	0.0	0.0	0.0	*	1
22. Long-Term Care Insurance Credit	--	*	*	*	*	*	1
23. Brownfields Tax Credits	--	--	--	--	0.0	*	1
24. Security Training Tax Credit	--	--	--	--	0.0	*	1
25. Fuel Cell Electricity Generating Equipment Credit	--	--	--	--	0.0	*	1

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Tax Item	History					Forecast	Reliability
	2001	2002	2003	2004	2005	2009	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	14.0	18.1	22.1	24.1	28.1	15.0	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: 2005: \$24.5 million — 2009: \$6.8 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: 2005: \$3.5 million — 2009: \$1.6 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: 2005: \$0.0 — 2009: 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 31, 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

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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: 2005: \$0.1 million — 2009: Minimal

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: 2005: \$6.3 million — 2009: \$2.9 million

Data Source: Bank Tax Study File

Reliability: Level 1

6. Deduction of 60 Percent of Dividend Income and Excess Gains from Subsidiary Capital

Citation: Section 1453(e)(11)(ii) and (iii)

Effective Date: Effective for taxable years beginning on or after January 1, 1985

Description: In computing New York entire net income, banks may deduct 60 percent of dividend income, gains, and losses from subsidiary capital. For purposes of calculating the amount of the deduction, dividend income from subsidiary capital is not reduced by expenses directly or indirectly attributable to subsidiary capital. Effective for taxable years beginning after January 1, 1994, taxpayers may deduct 60 percent of the excess of gains over losses from subsidiary capital. If losses exceed gains, taxpayers are not required to add back to entire net income 60 percent of net losses.

Estimates: 2005: \$95.9 million — 2009: \$29.9 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: 2005: \$12.2 million — 2009: \$5.0 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: 2005: Minimal — 2009: 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: 2005: \$0.0 — 2009: \$0.0

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

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York State for tax purposes could be reduced, depending on the corporation's particular circumstances.

Estimates: 2005: \$26.8 million — 2009: \$14.8 million

Data Source: Bank Tax Study File

Reliability: Level 1

11. **Exclusion of Wages of Executive Officers in the Calculation of Entire Net Income, Alternative Entire Net Income, and Taxable Assets Allocation Percentages**

Citation: Section 1454(a), (b), (c) and (d)

Effective Date: Effective for taxable years beginning on or after January 1, 1985

Description: The wages, salaries, and other personal service compensation paid to general executive officers are not included in the computation of a banking corporation's entire net income, alternative entire net income, and taxable asset allocation percentages. As a consequence of this exclusion, it is possible that the proportion of such income or assets which 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: 2005: \$28.9 million — 2009: \$13.0 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)

Credit Type: Non-refundable/Non-carryforward

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: 2005: \$7.1 million — 2009: \$3.2 million

Data Source: Bank Tax Study File

Reliability: Level 1

14. **Special Additional Mortgage Recording Tax Credit**

Citation: Section 1456(c)

Credit Type: Carryforward/Refundable for residential mortgages only

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. 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: 2005: \$19.9 million — 2009: \$10.0 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)

Credit Type: 50% Refundable for new businesses only

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 full-time 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 EZ 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 credit earned prior to expiration. The total wage tax credit used in any tax year cannot exceed 50 percent of tax due before credits. The EZ-WTC and the ZEA-WTC are available to a taxpayer for five years.

Estimates: 2005: \$14.9 million — 2009: \$19.3 million

Data Source: Bank Tax Study File

Reliability: Level 1

b. **EZ Capital Credit**

Citation: Section 1456(d)

Credit Type: Non-refundable/Carryforward

Effective Date: Effective for tax years beginning on or after January 1, 1986

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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: 2005: Minimal — 2009: \$0.2 million

Data Source: Bank Tax Study File

Reliability: Level 1

Qualified Empire Zone Enterprise (QEZE) Credits

c. QEZE Real Property Tax Credit

Citation: Sections 14, 15, 1456(o)

Credit Type: Refundable

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 0.2 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: 2005: \$2.7 million — 2009: \$2.2 million

Data Source: Bank Tax Study File

Reliability: Level 1

d. QEZE Tax Reduction Credit

Citation: Sections 14, 16, 1456(p)

Credit Type: Non-refundable/Non-Carryforward

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: 2005: \$6.9 million — 2009: \$8.4 million

Data Source: Bank Tax Study File

Reliability: Level 1

16. **Credit for Employment of Persons with Disabilities**

Citation: Section 1456(f)

Credit Type: Non-refundable/Carryforward

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: 2005: \$0.0 — 2009: Minimal

Data Source: Bank Tax Study File

Reliability: Level 1

17. **Investment Credit for Financial Services Industry**

Citation: Section 1456(i)

Credit Type: Refundable to new businesses only

Effective Date: Effective for property placed in service on or after October 1, 1998 and before October 1, 2011

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).

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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, regulation investment advisor, or national securities exchange or board of trade, or property leased by a taxpayer to an affiliated regulated broker, dealer, regulated investment advisor, or 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.

To be eligible for the credit, a taxpayer must satisfy an annual employment test that measures the taxpayer's employment in New York State in the current tax year against one of three base period standards.

Estimates: 2005: \$3.9 million — 2009: \$4.7 million

Data Source: Bank Tax Study File

Reliability: Level 1

18. Credit for Transportation Improvement Contributions

Citation: Section 1456(n)

Credit Type: Refundable

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: 2005: \$0.0 — 2009: Minimal

Data Source: Bank Tax Study File

Reliability: Level 1

19. Low-Income Housing Credit

Citation: Section 1456(l)

Credit Type: Non-refundable/Carryforward

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. The total amount of credit available is \$200 million, or \$20 million each year.
Estimates: 2005: \$0.4 million — 2009: Minimal
Data Source: Bank Tax Study File
Reliability: Level 1
20. **Credit for Purchase of Automated External Defibrillator**
Citation: Section 456(j)
Credit Type: Non-refundable/Non-Carryforward
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: 2005: \$0.0 — 2009: Minimal
Data Source: Bank Tax Study File
Reliability: Level 1
21. **Green Building Credit**
Citation: Section 1456(m)
Credit Type: Non-refundable/Carryforward
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 can be issued, but the amount on any one credit certificate is limited to \$2 million.
Estimates: 2005: \$0.0 — 2009: Minimal
Data Source: Bank Tax Study File
Reliability: Level 1
22. **Long-Term Care Insurance Credit**
Citation: Section 1456(k)
Credit Type: Non-refundable/Carryforward
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: 2005: Minimal — 2009: Minimal
Data Source: Bank Tax Study File
Reliability: Level 1

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23. **Brownfields Tax Credits**

Citation: Sections 21, 22, 23, 1456 (q)(r)(s)

Credit Type: Refundable

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. For sites accepted into the Brownfield Cleanup Program (BCP) prior to June 23, 2008, 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.

Sites accepted into the BCP after June 23, 2008 are subject to a different credit calculation for the redevelopment credit. The site preparation and groundwater remediation component rates are as follows:

Cleanup Standard	Rate	Track 4
Soil cleanup for unrestricted use; protection of groundwater/ecological resources	50%	n/a
Residential use	40%	28%
Commercial use	33%	25%
Industrial Use	27%	22%

The rates for the tangible property component remain the same with a new 2 percent bonus rate available for sites redeveloped in conformity with the goals and priorities of the brownfield opportunity area in which the site is located. Also, sites are subject to a cap on the amount of tangible property component they can generate. The cap is the lesser of:

- \$35 million or three times the site preparation and groundwater component costs; or
- \$45 million or six times the site preparation and groundwater component costs if the site is to be used for manufacturing.

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: \$0.0 — 2009: Minimal

Data Source: Bank Tax Study File

Reliability: Level 1

24. **Security Training Tax Credit**

Citation: Section 26 and Section 1456(t)

Credit Type: Refundable

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.

Estimates: 2005: \$0.0 — 2009: Minimal

Data Sources: Bank Tax Study File

Reliability: Level 1

25. **Fuel Cell Electricity Generating Equipment Credit**

Citation: Section 1456(t)

Credit Type: Non-refundable/Carryforward

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.

Estimates: 2005: \$0.0 — 2009: Minimal

Data Source: Bank Tax Study File

Reliability: Level 1

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: 2005: Minimal — 2009: Minimal

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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: 2005: \$28.1 million — 2009: \$15.0 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, 2009. The estimates are based on data from the 2005 tax year, the latest year for which Article 33 tax return data are available. They are also extrapolated to the 2009 tax year. The tax years refer to both the 2005 and 2009 calendar years and fiscal tax years beginning in 2005 and 2009. Total insurance tax liability for the 2005 tax year has been included to provide some perspective to the tax expenditure estimates.

It should be noted that base year numbers for 2003 through 2004, and 2009 projections may differ from the pattern of historical estimates shown for 2001 and 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.

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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:

- 2005 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 2005 to 2009 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.

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Table 6
2009 New York State Insurance Tax Expenditure Estimates
(2005 Total Insurance Tax Liability = \$881.9 Million)
(Millions of Dollars)

Tax Item	History				2005	Forecast	Reliability
	2001	2002	2003	2004		2009	Level
New York Modifications to Federal Taxable Income							
1. Exclusion of Interest, Dividends, and Capital Gains from Subsidiary Capital ¹	4.7	14.8	0.6	1.2	2.2	2.3	1
2. Deduction of 50 Percent of Dividends from Non-Subsidiary Corporations ¹	4.7	4.7	0.9	2.0	4.5	4.2	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	11.7	26.1	22.2	11.1	6.1	6.2	1
5. Exclusion from the Premiums Tax of Premiums Written on Certain Joint Underwriting Policies ¹	2.9	6.5	5.6	2.8	1.5	1.6	1
6. Exclusion from the Premiums Tax of Premiums Written on Marine Vessels	3.5	4.1	8.5	8.5	7.9	7.9	1
7. Exclusion from the Premiums Tax of Premiums Written on Certain Reinsurance Policies	50.8	58.8	218.0	240.8	231.6	230.8	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	NA	5
Limitation on Tax							
9. Limitation on Tax Liability ¹	134.7	143.5	51.0	128.1	70.9	63.6	1
Credits							
10. Fire Insurance Tax Credits - Credit for Taxes on Certain Fire Insurance Premiums	37.4	37.1	40.4	40.2	42.3	53.5	1
11. Retaliatory Tax Credit	19.1	20.0	51.4	58.0	42.9	46.6	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	0.0	0.6	0.8	2.1	2.4	3.1	1
Qualified Empire Zone Enterprise Tax Credits	0.0	0.3	0.2	15.0	18.3	22.2	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	12.4	23.0	25.6	20.0	25.7	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	*	*	*	0.0	*	1
20. Green Buildings Credit	0.0	0.0	0.0	0.0	0.0	*	1
21. Investment Tax Credit for Insurers	--	*	0.0	0.0	0.0	*	1
22. Long-Term Care Insurance Credit	--	0.0	0.0	0.0	0.0	*	1
23. Brownfields Tax Credits	--	--	--	--	0.0	*	1
24. Security Training Tax Credit	--	--	--	--	0.0	*	5
25. Fuel Cell Electricity Generating Equipment Credit	--	--	--	--	0.0	*	5

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Tax Item	History				Forecast		Reliability
	2001	2002	2003	2004	2005	2009	Level
Corporate Exemptions							
26. Exemption from Article 33 for Specific Types of Entities Engaged in an Insurance Business	262.5	246.5	221.3	224.5	239.4	276.7	4
Preferential Tax Rates							
27. Preferential Tax Treatment for Captive Insurance Companies	*	0.9	4.2	7.7	9.6	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.
Estimates: 2005: \$2.2 million — 2009: \$2.3 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: 2005: \$4.5 million — 2009: \$4.2 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.

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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: 2005: Minimal — 2009: 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: 2005: \$6.1 million — 2009: \$6.2 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: 2005: \$1.5 million — 2009: \$1.6 million

Data Source: Insurance Study File

Reliability: Level 1

6. Exclusion from the Premiums Tax of Premiums Written on Marine Vessels

Citation: Section 1510(c)(2)

Effective Date: Effective for taxable years beginning on or after January 1, 1974

Description: The base of the premiums-based tax does not include premiums for insurance upon marine vessels, freights or disbursements or upon personal property therein.

Estimates: 2005: \$7.9 million — 2009: \$7.9 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: 2005: \$231.6 million — 2009: \$230.8 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: 2005: \$70.9 million — 2009: \$63.6 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)

Credit Type: Non-refundable/Non-Carryforward

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.

Estimates: 2005: \$42.3 million — 2009: \$53.5 million

Data Source: Insurance Tax Study File

Reliability: Level 1

11. **Retaliatory Tax Credit**

Citation: Section 1511(c)

Credit Type: Refundable

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: 2005: \$42.9 million — 2009: \$46.6 million

Data Source: Insurance Tax Study File

Reliability: Level 1

12. **Special Additional Mortgage Recording Tax Credit**

Citation: Section 1511(e)

Credit Type: Carryforward/Refundable for residential mortgages only

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. Certain mortgages on property in a Metropolitan Commuter Transportation District or Erie County are ineligible for the credit.

Estimates: 2005: \$0.0 — 2009: 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)

Credit Type: Non-refundable/Carryforward

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.

Estimates: 2005: \$0.0 — 2009: \$0.0

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)

Credit Type: 50% refundable to new businesses only

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 full-time 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 EZ 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 credit earned prior to expiration. The total wage tax credit used in any tax year cannot exceed 50 percent of tax due before credits. The EZ-WTC and the ZEA-WTC are available to a taxpayer for five years.

Estimates: 2005: \$2.4 million — 2009: \$3.1 million

Data Source: Insurance Tax Study File

Reliability: Level 1

b. **EZ Capital Credit**

Citation: Section 1511(h)

Credit Type: Non-refundable/Carryforward

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

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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.

Estimates: 2005: \$0.0 — 2009: Minimal

Data Source: Insurance Tax Study File

Reliability: Level 1

Qualified Empire Zone Enterprise (QEZE) Credits

c. QEZE Real Property Tax Credit

Citation: Sections 14, 15, 1511(r)

Credit Type: Refundable

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 0.2 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: 2005: \$0.1 million — 2009: \$0.1 million

Data Source: Insurance Tax Study File

Reliability: Level 1

d. QEZE Tax Reduction Credit

Citation: Sections 14, 16, 1511(s)

Credit Type: Non-refundable/Non-carryforward

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: 2005: \$18.1 million — 2009: \$22.0 million

Data Source: Insurance Tax Study File

Reliability: Level 1

15. Credit for Employment of Persons with Disabilities**Citation:** Section 1511(j)**Credit Type:** Non-refundable/Carryforward**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: 2005: \$0.0 — 2009: Minimal**Data Source:** Insurance Tax Study File**Reliability:** Level 1**16. Credit for Investment in Certified Capital Companies****Citation:** Section 1511(k)**Credit Type:** Non-refundable/Carryforward**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:** 2005: \$25.7 million — 2009: \$40.0 million**Data Source:** Insurance Tax Study File**Reliability:** Level 1**17. Credit for Transportation Improvement Contributions****Citation:** Section 1511(p)**Credit Type:** Refundable**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

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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: 2005: \$0.0 — 2009: Minimal

Data Source: Insurance Tax Study File

Reliability: Level 1

18. Low-Income Housing Credit

Citation: Section 1511(n)

Credit Type: Non-refundable/Carryforward

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 \$200 million, or \$20 million each year.

Estimates: 2005: \$0.0 — 2009: Minimal

Data Source: Insurance Tax Study File

Reliability: Level 1

19. Credit for Purchase of Automated External Defibrillator

Citation: Section 1511(l)

Credit Type: Non-refundable/Non-carryforward

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: 2005: \$0.0 — 2009: Minimal

Data Source: Insurance Tax Study File

Reliability: Level 1

20. Green Building Credit

Citation: Section 1511(o)

Credit Type: Non-refundable/Carryforward

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: 2005: \$0.0 — 2009: Minimal

Data Source: Insurance Tax Study File

Reliability: Level 1

21. **Investment Tax Credit for Insurers**

Citation: Section 1511(q)

Credit Type: Refundable to new businesses only

Effective Date: Available for property placed in service between January 1, 2002 and October 1, 2011

Description: An insurance company which is a securities and commodities broker or regulated investment advisor 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, 2011. To be eligible for the credit, a taxpayer must satisfy an annual employment test that measures the taxpayer's employment in New York State in the current tax year against one of three base period standards..

Estimates: 2005: \$0.0 — 2009: Minimal

Data Source: Insurance Tax Study File

Reliability: Level 1

22. **Long-Term Care Insurance Credit**

Citation: Section 1511(m)

Credit Type: Non-refundable/Carryforward

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: 2005: \$0.0 — 2009: Minimal

Data Source: Insurance Tax Study File

Reliability: Level 1

23. **Brownfields Tax Credits**

Citation: Sections 21, 22, 23, 1511 (u)(v)(w)

Credit Type: Refundable

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.

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The brownfield redevelopment tax credit consists of three credit components relating to costs associated with: site preparation; tangible property; and on-site groundwater remediation. For sites accepted into the Brownfield Cleanup Program (BCP) prior to June 23, 2008, 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.

Sites accepted into the BCP after June 23, 2008 are subject to a different credit calculation for the redevelopment credit. The site preparation and groundwater remediation component rates are as follows:

Cleanup Standard	Rate	Track 4
Soil cleanup for unrestricted use; protection of groundwater/ecological resources	50%	n/a
Residential use	40%	28%
Commercial use	33%	25%
Industrial Use	27%	22%

The rates for the tangible property component remain the same with a new 2 percent bonus rate available for sites redeveloped in conformity with the goals and priorities of the brownfield opportunity area in which the site is located. Also, sites are subject to a cap on the amount of tangible property component they can generate. The cap is the lesser of:

- \$35 million or three times the site preparation and groundwater component costs; or
- \$45 million or six times the site preparation and groundwater component costs if the site is to be used for manufacturing.

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: \$0.0 — 2009: Minimal

Data Source: Insurance Tax Study File

Reliability: Level 1

24. **Security Training Tax Credit**

Citation: Section 26 and Section 1511(x)

Credit Type: Refundable

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: 2005: \$0.0 - 2009: Minimal

Data Sources: Insurance Tax Study File

Reliability: Level 1

25. **Fuel Cell Electricity Generating Equipment Credit**

Citation: Section 1511(x)

Credit Type: Non-refundable/Carryforward

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.

Estimates: 2005: \$0.0 — 2009: Minimal

Data Source: Insurance Tax Study File

Reliability: Level 1

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))

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- 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: 2005: \$239.4 million — 2009: \$276.7 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: 2005: \$9.6 million — 2009: \$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, 2009. 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

CORPORATION TAX

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 $\frac{3}{4}$ of 1 percent on gross earnings and $4\frac{1}{2}$ 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 2004-2005 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 2005 to 2009 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.

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Table 7
2009 New York State Corporation and Utilities (Article 9) Tax Expenditure Estimates
(2005 Corporation and Utilities Tax Liability = \$619.0 Million)
(Millions of Dollars)

Tax Item	History					Forecast	Reliability
	2001	2002	2003	2004	2005	2009	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	0.0	*	2
3. Credit for Employment of Persons with Disabilities	0.0	0.0	0.0	0.0	0.0	*	2
4. Green Building Credit	0.0	0.0	0.0	0.0	0.0	*	2
5. Credit for Transportation Improvement Contributions	0.0	0.0	0.0	0.0	0.0	0.0	2
6. Long-Term Care Insurance Credit	--	0.0	0.0	0.0	0.0	*	2
7. Brownfields Tax Credits	--	--	--	--	0.0	*	2
8. Alternative Fuels Credit	--	--	*	0.0	0.0	*	2
9. Fuel Cell Electricity Generating Equipment Credit	--	--	--	--	0.0	*	2
10. Security Training Credit	--	--	--	--	0.0	*	2
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	7.8	2.8	3.5	2.9	3.8	5.0	2
18. Exclusion of Thirty Percent of Receipts from IntraLATA Toll Telephone Services	2.3	2.6	3.2	2.4	3.6	5.0	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	*	2
21. Green Building Credit	0.0	0.0	0.0	0.0	0.0	*	2
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	0.0	*	2
24. Brownfields Tax Credits	--	--	--	--	0.0	*	2
25. Alternative Fuels Credit	--	--	0.0	0.0	0.0	*	2

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Tax Item	History					Forecast	Reliability
	2001	2002	2003	2004	2005	2009	Level
26. Fuel Cell Electricity Generating Credit	--	--	--	--	0.0	*	2
27. Security Training Credit	--	--	--	--	0.0	*	2
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	NA	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	0.0	*	2
34. Credit for Employment of Persons with Disabilities	0.0	0.0	0.0	0.0	0.0	*	2
35. Green Building Credit	0.0	0.0	0.0	0.0	0.0	*	2
36. Credit for Transportation Improvement Contributions	0.0	0.0	0.0	0.0	0.0	0.0	2
37. Long-Term Care Insurance Credit	--	--	0.0	0.0	0.0	*	2
38. Brownfields Tax Credits	--	--	--	--	0.0	*	2
39. Alternative Fuels Credit	--	--	0.0	0.0	0.0	*	2
40. Empire Zone EZ) and Qualified Empire zone Enterprise (QEZE) Credits							
Empire Zone and Zone Equivalent Area Tax Credits	--	--	--	0.0	0.0	*	1
Qualified Empire Zone Enterprise Tax Credit	--	--	--	0.0	0.0	*	1
41. Fuel Cell Electricity Generating Credit	--	--	--	--	0.0	*	2
42. Security Training Tax Credit	--	--	--	--	0.0	*	2
43. Biofuel Production Credit	--	--	--	--	--	*	2
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	79.9	59.1	52.8	49.0	25.3	10.0	2
47. Long-Term Care Insurance Credit	--	--	0.0	0.0	0.0	*	2
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	N/A	5

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Tax Item	History					Forecast	Reliability
	2001	2002	2003	2004	2005	2009	Level
Section 186-e - Excise Tax on Telecommunications Services							
New York Modifications to Gross Income							
52. Exclusion of Cable Television Service	72.5	82.1	91.3	95.5	99.8	115.0	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
Credits							
54. Credit for Tax Paid in Another Jurisdiction	*	*	0.0	0.0	0.0	*	2
55. Long-Term Care Insurance Credit	--	--	0.0	0.0	*	*	2
Exemptions							
56. Exempt Organizations	N/A	N/A	N/A	N/A	N/A	N/A	5

* 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

Credit Type: Carryforward/Refundable for Residential Mortgages Only

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: 2005: \$0.0 — 2009: Minimal

Data Source: Business Tax Files

Reliability: Level 2

3. **Credit for Employment of Persons with Disabilities**

Citation: Section 187-a

Credit Type: Non-refundable/carryforward

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: \$0.0 — 2009: Minimal

Data Source: Research File

Reliability: Level 4

4. **Green Building Credit**

Citation: Section 187-d

Credit Type: Non-refundable/Carryforward

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: 2005: \$0.0 — 2009: Minimal

Data Source: Statutory limitation

Reliability: Level 4

5. **Credit for Transportation Improvement Contributions**

Citation: Section 187-e

Credit Type: Refundable

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: 2005: \$0.0 — 2009: \$0.0

Data Source: Research File

Reliability: Level 2

6. Long-Term Care Insurance Credit

Citation: Section 190

Credit Type: Non-refundable/Carryforward

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: 2005: \$0.0— 2009: Minimal

Data Source: Research File

Reliability: Level 2

7. Brownfields Tax Credits

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

Credit Type: Refundable

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 (BCP).

For sites accepted into the Brownfield Cleanup Program prior to June 23, 2008, 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.

Sites accepted into the BCP after June 23, 2008 are subject to a different credit calculation for the redevelopment credit. The site preparation and groundwater remediation component rates are as follows:

Cleanup Standard	Rate	Track 4
Soil cleanup for unrestricted use; protection of groundwater/ecological resources	50%	n/a
Residential use	40%	28%
Commercial use	33%	25%
Industrial Use	27%	22%

CORPORATION TAX

The rates for the tangible property component remain the same with a new 2 percent bonus rate available for sites redeveloped in conformity with the goals and priorities of the brownfield opportunity area in which the site is located. Also, sites are subject to a cap on the amount of tangible property component they can generate. The cap is the lesser of:

- \$35 million or three times the site preparation and groundwater component costs; or
- \$45 million or six times the site preparation and groundwater component costs if the site is to be used for manufacturing.

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: \$0.0 — 2009: Minimal

Data Source: New York State Department of Environmental Conservation

Reliability: Level 2

8. **Alternative Fuels Credit**

Citation: Section 187-b

Credit Type: Non-refundable/Carryforward

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: 2005: \$0.0 — 2009: Minimal

Data Source: Research File

Reliability: Level 2

9. **Fuel Cell Electricity Generating Equipment Credit**

Citation: Section 187-n

Credit Type: Non-refundable/Carryforward

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: 2005: \$0.0 million — 2009: Minimal

Data Source: Research File

Reliability: Level 2

10. **Security Training Tax Credit**

Citation: Section 26

Credit Type: Refundable

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: 2005: \$0.0 million — 2009: Minimal

Data Source: Research File

Reliability: Level 2

11. **Biofuel Production Credit**

Citation: Sections 28, 187-c

Credit Type: Refundable

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 — 2009: 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

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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: 2005: Minimal — 2009: 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: 2005: \$3.8 million — 2009: \$5.0 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 intra-LATA toll services, including inter-region regional calling plan services, other than carrier access services.
Estimates: 2005: \$3.6 million — 2009: \$5.0 million
Data Source: Business Tax Files
Reliability: Level 2

Credits

19. **Special Additional Mortgage Recording Tax Credit**
Citation: Section 187
Credit Type: Carryforward/Refundable for Residential Mortgages Only
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: 2005: \$0.0 — 2009: 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: 2005: \$0.0 — 2009: Minimal
Data Source: Research File
Reliability: Level 2
21. **Green Building Credit**
Citation: Section 187-d
Credit Type: Non-refundable/Carryforward
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: 2005: \$0.0 million — 2009: Minimal
Data Source: Statutory limitation
Reliability: Level 2
22. **Credit for Transportation Improvement Contributions**
Citation: Section 187-e
Credit Type: Refundable
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: 2005: \$0.0 million — 2009: \$0.0 million

Data Source: Research File

Reliability: Level 2

23. **Long-Term Care Insurance Credit**

Citation: Section 190

Credit Type: Non-refundable/Carryforward

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: 2005: \$0.0 — 2009: Minimal

Data Source: Research File

Reliability:

24. **Brownfields Tax Credits**

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

Credit Type: Refundable

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 (BCP).

For sites accepted into the Brownfield Cleanup Program prior to June 23, 2008, 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.

Sites accepted into the BCP after June 23, 2008 are subject to a different credit calculation for the redevelopment credit. The site preparation and groundwater remediation component rates are as follows:

Cleanup Standard	Rate	Track 4
Soil cleanup for unrestricted use; protection of groundwater/ecological resources	50%	n/a
Residential use	40%	28%
Commercial use	33%	25%
Industrial Use	27%	22%

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The rates for the tangible property component remain the same with a new 2 percent bonus rate available for sites redeveloped in conformity with the goals and priorities of the brownfield opportunity area in which the site is located. Also, sites are subject to a cap on the amount of tangible property component they can generate. The cap is the lesser of:

- \$35 million or three times the site preparation and groundwater component costs; or
- \$45 million or six times the site preparation and groundwater component costs if the site is to be used for manufacturing.

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: \$0.0 — 2009: Minimal

Data Source: Research File

Reliability: Level 2

25. **Alternative Fuels Credit**

Citation: Section 187-b

Credit Type: Non-refundable/Carryforward

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 other 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: 2005: \$0.0 — 2009: Minimal

Data Source: Research File

Reliability: Level 2

26. **Fuel Cell Electricity Generating Equipment Credit**

Citation: Section 187-n

Credit Type: Non-refundable/Carryforward

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 carry forward any unused credit indefinitely.

Estimates: 2005: \$0.0 — 2009: Minimal

Data Source: Research File

Reliability: Level 2

27. **Security Training Tax Credit**

Citation: Section 26

Credit Type: Refundable

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: 2005: \$0.0 — 2009: Minimal

Data Source: Research File

Reliability: Level 2

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

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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: 2005: Minimal — 2009: 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
Credit Type: Carryforward/Refundable for Residential Mortgages Only
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: 2005: \$0.0 — 2009: Minimal
Data Source: Business Tax Files
Reliability: Level 2
34. **Credit for Employment of Persons with Disabilities**
Citation: Section 187-a
Credit Type: Non-refundable/Carryforward
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: \$0.0 — 2009: Minimal
Data Source: Research File
Reliability: Level 2
35. **Green Building Credit**
Citation: Section 187-d
Credit Type: Non-refundable/Carryforward
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: 2005: \$0.0 — 2009: Minimal
Data Source: Statutory limitation
Reliability: Level 2
36. **Credit for Transportation Improvement Contributions**
Citation: Section 187-e
Credit Type: Refundable
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

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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: 2005: \$0.0 — 2009: \$0.0

Data Source: Research File

Reliability: Level 2

37. **Long-Term Care Insurance Credit**

Citation: Section 190

Credit Type: Non-refundable/Carryforward

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: 2005: \$0.0 million — 2009: Minimal

Data Source: Research File

Reliability: Level 2

38. **Brownfields Tax Credits**

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

Credit Type: Refundable

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 (BCP).

For sites accepted into the Brownfield Cleanup Program prior to June 23, 2008, 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.

Sites accepted into the BCP after June 23, 2008 are subject to a different credit calculation for the redevelopment credit. The site preparation and groundwater remediation component rates are as follows:

Cleanup Standard	Rate	Track 4
Soil cleanup for unrestricted use; protection of groundwater/ecological resources	50%	n/a
Residential use	40%	28%
Commercial use	33%	25%
Industrial Use	27%	22%

to a cap on the amount of tangible property component they can generate. The cap is the lesser of:

- \$35 million or three times the site preparation and groundwater component costs; or
- \$45 million or six times the site preparation and groundwater component costs if the site is to be used for manufacturing.

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: \$0.0 — 2009: Minimal

Data Source: New York State Department of Environmental Conservation

Reliability: Level 2

39. **Alternative Fuels Credit**

Citation: Section 187-b

Credit Type: Non-refundable/Carryforward

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: 2005: \$0.0 — 2009: Minimal

Data Source: Research File

Reliability: Level 2

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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

Credit Type: EZ-ITC 50% Refundable to New Business Only/EZ-EIC
Non-Refundable/Carryforward

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: 2005: \$0.0 — 2009: Minimal

Data Source: Tax Study File

Reliability: Level 1

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

Citation: Section 187-m

Credit Type: 50% Refundable to New Business Only

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: 2005: \$0.0 — 2009: 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

Credit Type: Refundable

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: 2005: Not Applicable — 2009: Not Applicable

Data Source: Tax Study File

Reliability: Level 1

d. QEZE Tax Reduction Credit

Citation: Sections 14, 16, 210(28)

Credit Type: Non-refundable/Non-carryforward

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: 2005: \$0.0 million — 2009: Minimal

Data Source: Tax Study File

Reliability: Level 1

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41. **Fuel Cell Electricity Generating Equipment Credit**
Citation: Section 187-n
Credit Type: Non-refundable/Carryforward
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: 2005: \$0.0 — 2009: Minimal
Data Source: Research File
Reliability: Level 2
42. **Security Training Tax Credit**
Citation: Section 26
Credit Type: Refundable
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: 2005: \$0.0 — 2009: Minimal
Data Source: Research File
Reliability: Level 2
43. **Biofuel Production Credit**
Citation: Sections 28, 187-c
Credit Type: Refundable
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 — 2009: Minimal
Data Source: New York State Division of the Budget
Reliability: Level 2

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
Credit Type: Carryforward/Refundable for Residential Mortgages Only
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: 2005: \$0.0 — 2009: Minimal
Data Source: Business Tax Files
Reliability: Level 2
45. **Credit for Employment of Persons with Disabilities**
Citation: Section 187-a
Credit Type: Non/refundable/Carryforward
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: \$0.0 — 2009: 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

Credit Type: Non-refundable

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: 2005: \$25.3 million — 2009: \$10.0 million

Data Source: Public Service Commission staff

Reliability: Level 2

47. **Long-Term Care Insurance Credit**

Citation: Section 190

Credit Type: Non-refundable/Carryforward

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: 2005: \$0.0 million — 2009: Minimal

Data Source: Research File

Reliability: Level 2

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:
- | <u>Calendar Year</u> | <u>2000</u> | <u>2001</u> | <u>2002</u> | <u>2003</u> | <u>2004</u> | <u>2005 and After</u> |
|----------------------|-------------|-------------|-------------|-------------|-------------|-----------------------|
| 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: 2005: \$99.8 million — 2009: \$115.0 million
Data Source: Annual Reports to the New York State Public Service Commission

CORPORATION TAX

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)

Credit Type: Non-refundable/Non-Carryforward

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: 2005: \$0.0 — 2009: Minimal

Data Source: Business Tax Files

Reliability: Level 2

55. **Long-Term Care Insurance Credit**

Citation: Section 190

Credit Type: Non-refundable/Carryforward

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: 2005: Minimal — 2009: Minimal

Data Source: Research File

Reliability: Level 2

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 143 provisions of the Sales and Use Tax Law. The list of expenditures is based on the Tax Law in effect as of January 1, 2009. 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 2002 through 2006. Table 8 lists the tax expenditures and provides historical year and projected 2009 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 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 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 4.75 percent. Communities within the Metropolitan Commuter Transportation District are subject to an additional 3/8 of 1 percent tax rate. In State fiscal year 2007-08, the Department collected about \$10.6 billion for the State and approximately \$12.5 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. 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.

SALES AND USE TAX

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 2009 levels. Historical estimates are projected to 2009 levels using the New York State Division of the Budget's 2008 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 necessarily coincide with the estimated value herein.

SALES AND USE TAX

Table 8
2009 New York State Sales and Use Tax Expenditure Estimates
(2007-08 Total NY Sales and Use Tax Liability = \$10,579.0 Million)
(Millions of Dollars)

Tax Item	Data Source Year(s)	History				Forecast		Reliability
		2002	2003 ³	2004 ⁴	2005 ⁵	2006	2009	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	2002	62.0	67.0	71.0	72.0	73.0	78.0	4B
5. Capital Improvement Installation Services	2002-2004	454.0	414.0	464.0	469.0	470.0	475.0	4C
6. Services Related to Railroad Rolling Stock	2002-2005	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	2002-2005	5.0	6.0	7.0	7.0	7.0	8.0	4A
9. Parking and Garaging at a Private Residence	2006	*	*	*	*	*	*	4A
10. Certain Protective and Detective Services	2002-2005	*	*	*	*	*	*	4A
11. Medical Emergency Alarm Call Services	2000-2004	*	*	*	*	*	*	4C
12. Coin-Operated Car Wash Services	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	4.0	4B
Food								
14. Certain Food Products	2002-2004	976.0	1,009.0	1,093.0	1,125.0	1,161.0	1,287.0	4B
15. Food Sold to Airlines	2002-2004	6.0	5.0	6.0	6.0	6.0	6.0	4A
16. Food Sold at School Cafeterias	2002, 2004	69.0	70.0	82.0	83.0	83.0	94.0	4A
17. Food Purchased with Food Stamps	2002-2005	59.0	69.0	80.0	88.0	88.0	102.0	4A
18. Water Delivered Through Mains or Pipes	2002-2004	58.0	61.0	65.0	64.0	64.0	67.0	4B
19. Mandatory Gratuity Charges	2002-2004	21.0	22.0	24.0	24.0	24.0	25.0	4A
20. Wine Used for Wine Tastings	2002-2004	*	*	*	*	*	*	4A
21. Vending Machine Sales of Hot Drinks and Certain Foods	2002-2005	17.0	19.0	20.0	21.0	22.0	24.0	4C
22. Vending Machine Sales of Candy, Juice and Soft Drinks	2002-2005	16.0	15.0	14.0	13.0	13.0	15.0	4C
23. Food Sold at Senior Citizen Housing Communities	2000	*	*	*	*	*	*	4B
Medical								
24. Drugs, Medicine, and Medical Supplies	2002-2004	592.0	671.0	748.0	766.0	804.0	859.0	4C
25. Eyeglasses, Hearing Aids and Prosthetic Aids	2002-2004	86.0	89.0	95.0	96.0	95.0	104.0	4C
26. Veterinarian Services	2004	21.0	20.0	20.0	20.0	20.0	21.0	4B
27. Service Dogs	2003	*	*	*	*	*	*	4B
Energy								
28. Residential Energy	2002-2005	436.0	575.0	599.0	694.0	712.0	744.0	4A
29. Fuel, Gas, Electricity, Refrigeration, and Steam Used in Research and Development and Production	2002-2004	189.0	229.0	256.0	271.0	271.0	262.0	4C
30. Fuel, Gas, Electricity, Refrigeration, and Steam Used in Farming and Commercial Horse Boarding	2002-2005	8.0	7.0	9.0	12.0	13.0	15.0	4B
31. Reduced Rate on Gas and Electric Delivery	2002-2004	6.0	19.0	64.0	75.0	88.0	154.0	4B

SALES AND USE TAX

Tax Item	Data Source Year(s)	History				Forecast		Reliability
		2002	2003 ³	2004 ⁴	2005 ⁵	2006	2009	Level
32. Gas and Electricity Used in Transmission, Distribution and Storage	2002-2004	2.0	2.0	2.0	2.0	2.0	3.0	4C
33. Residential Solar Energy Systems ²	2004, 2006	--	--	--	*	*	*	4B
34. Electricity, Refrigeration, and Steam Sold by Certain Cooperative Corporations ²	2006	--	--	--	--	*	*	4C
35. Automotive Fuel Receipts Exceeding Two Dollars Per Gallon ²	2006	--	--	--	--	51.0	152.0	4C
36. Alternative Fuels ²	2006	--	--	--	--	*	*	4C
37. B2O Bio-Diesel Fuel ²	2006	--	--	--	--	*	*	4C
Transportation								
38. Commercial Vessels		N/A	N/A	N/A	N/A	N/A	N/A	5
39. Barge Repairs	2002	*	*	*	*	*	*	4C
40. Commercial Aircraft	2002-2004	14.0	14.0	14.0	14.0	13.0	14.0	4C
41. Fuel Sold to Airlines	2002-2004	42.0	53.0	81.0	95.0	102.0	95.0	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	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	15.0	16.0	16.0	17.0	13.0	4A
48. Sales of Property by Railroads in Reorganization	2002-2004	0.0	0.0	0.0	0.0	0.0	0.0	4A
49. Commercial Buses	2005	5.0	5.0	5.0	5.0	5.0	4.0	4A
50. Marine Terminal Facility Equipment ²	2005	--	--	--	*	*	*	4B
51. Ferry Boats ¹	2007	--	--	--	--	--	*	4A
Communication and Media								
52. Interstate or International Telephone and Telegraph Service	2002, 2003, 2004	339.0	276.0	273.0	239.0	238.0	255.0	4A
53. Internet Access Service	2002-2005	50.0	60.0	71.0	76.0	79.0	90.0	4C
54. Cable Television Service	2002-2004	153.0	170.0	195.0	207.0	218.0	244.0	4C
55. Newspapers and Periodicals	2002-2005	72.0	72.0	65.0	65.0	62.0	60.0	4B
56. Shopping Papers	2002-2003	2.0	2.0	2.0	2.0	2.0	2.0	4C
57. Telephone Service Used by the Media	2002-2005	*	*	*	*	*	*	4A
58. Certain Coin-Operated Telephone Charges	2005	4.0	3.0	3.0	2.0	2.0	1.0	4C
59. Telecommunications and Internet Equipment	2002-2004	90.0	69.0	74.0	74.0	78.0	77.0	4B
60. Internet Data Centers	2002, 2007	9.0	10.0	10.0	10.0	10.0	9.0	4C
61. Radio and Television Broadcasting	2002-2005	3.0	4.0	5.0	4.0	4.0	4.0	4C
62. Film Production		N/A	N/A	N/A	N/A	N/A	N/A	5
63. Certain Mobile Telecommunication Services ²	2002-2004	3.0	8.0	8.0	9.0	9.0	10.0	4B

SALES AND USE TAX

Tax Item	Data Source	History				Forecast		Reliability
	Year(s)	2002	2003 ³	2004 ⁴	2005 ⁵	2006	2009	Level
Industry								
64. Tools and Supplies Used in Production		N/A	N/A	N/A	N/A	N/A	N/A	5
65. Farm Production and Commercial Horse Boarding	2002-2005	60.0	61.0	62.0	52.0	47.0	39.0	4B
66. Research and Development Property	2002-2004	54.0	50.0	45.0	40.0	42.0	49.0	4B
67. Machinery and Equipment Used in Production	2002	262.0	252.0	249.0	263.0	268.0	255.0	4B
68. Services to Machinery and Equipment Used in Production	2002	14.0	15.0	15.0	15.0	15.0	15.0	4B
69. Wrapping and Packaging Materials		N/A	N/A	N/A	N/A	N/A	N/A	5
70. Milk Crates		--	--	--	--	--	*	4C
71. Commercial Fishing Vessels	2002-2005	*	*	*	*	*	*	4B
72. Certain Services Used in Gas or Oil Production	2005	*	*	*	*	*	*	4C
73. Pollution Control Equipment	2002-2003	5.0	5.0	5.0	5.0	5.0	5.0	4C
74. Property Manufactured by the User	2002-2005	*	*	*	*	*	*	4B
Miscellaneous								
75. Certain Property Sold Through Vending Machines	2002-2005	1.0	1.0	1.0	1.0	1.0	1.0	4C
76. Trade-in Allowance	2003-2006	530.0	550.0	559.0	505.0	470.0	380.0	4A
77. Certain Hotel Room Rent		N/A	N/A	N/A	N/A	N/A	N/A	5
78. Dues for Fraternal Societies	2002-2005	14.0	15.0	15.0	16.0	16.0	17.0	4C
79. Homeowner Association Dues		N/A	N/A	N/A	N/A	N/A	N/A	5
80. Homeowner Association Parking Services		N/A	N/A	N/A	N/A	N/A	N/A	5
81. Excise Taxes Imposed on the Consumer	2002-2005	41.0	31.0	23.0	22.0	24.0	18.0	4A
82. Property Sold by Morticians	2002-2004	9.0	10.0	10.0	10.0	10.0	11.0	4C
83. Flags		N/A	N/A	N/A	N/A	N/A	N/A	5
84. Military Decorations ²	2006	--	--	--	--	*	*	4C
85. Garage Sales		N/A	N/A	N/A	N/A	N/A	N/A	5
86. New Mobile Homes	2002-2005	2.0	2.0	2.0	2.0	2.0	1.0	4A
87. Used Mobile Homes		N/A	N/A	N/A	N/A	N/A	N/A	5
88. Registered Race Horses		N/A	N/A	N/A	N/A	N/A	N/A	5
89. Race Horses Purchased Through Claiming Races		N/A	N/A	N/A	N/A	N/A	N/A	5
90. Race Horses Purchased Out of State		N/A	N/A	N/A	N/A	N/A	N/A	5
91. Training and Maintaining Race Horses	2003	3.0	3.0	3.0	3.0	3.0	3.0	4C
92. Property Sold to Contractors for Capital Improvements or Repairs for Exempt Organizations	2002-2004	71.0	62.0	61.0	61.0	64.0	69.0	4C
93. Property Donated by a Manufacturer to an Exempt Organization		N/A	N/A	N/A	N/A	N/A	N/A	5
94. Sales and Use Tax Paid to Other States		N/A	N/A	N/A	N/A	N/A	N/A	5
95. Precious Metal Bullion and Coins	2002-2005	111.0	126.0	157.0	171.0	171.0	180.0	4C
96. Computer Software Transferred to Affiliated Corporations		N/A	N/A	N/A	N/A	N/A	N/A	5

SALES AND USE TAX

Tax Item	Data Source	History				Forecast		Reliability
	Year(s)	2002	2003 ³	2004 ⁴	2005 ⁵	2006	2009	Level
97. Services to Computer Software		N/A	N/A	N/A	N/A	N/A	N/A	5
98. Self-use of Prewritten Software by its Author		N/A	N/A	N/A	N/A	N/A	N/A	5
99. Computer System Hardware	2002-2005	9.0	9.0	14.0	13.0	14.0	12.0	4C
100. Promotional Materials Mailed Out of State		N/A	N/A	N/A	N/A	N/A	N/A	5
101. Printed Promotional Materials	2002	27.0	27.0	27.0	27.0	27.0	26.0	4C
102. U.S. Postage Used in the Distribution of Promotional Materials		N/A	N/A	N/A	N/A	N/A	N/A	5
103. Clothing and Footwear	2000	596.0	219.0	0.0	0.0	572.0	690.0	4B
104. Coin-Operated Photocopying Machines	2002-2006	*	*	*	*	*	*	4C
105. Luggage Carts	2008	*	*	*	*	*	*	4C
106. Emissions Testing Equipment	2002	*	*	*	*	*	*	4A
107. College Textbooks	2006	24.0	26.0	27.0	27.0	26.0	24.0	4B
108. Live Dramatic or Musical Arts Production	2005	3.0	3.0	3.0	3.0	3.0	4.0	4A
109. Qualified Empire Zone Enterprises	2000	57.0	69.0	77.0	81.0	86.0	89.0	4C
110. Lower Manhattan Commercial Office Space ²	2004	--	--	--	5.0	16.0	16.0	4B
Exempt Organizations								
111. New York State Agencies and Political Subdivisions	2003-2005	1,030.0	1,079.0	1,156.0	1,194.0	1,205.0	1,283.0	4C
112. Industrial Development Agencies	2002-2006	85.0	74.0	56.0	70.0	81.0	93.0	4A
113. Federal Agencies	2002-2006	178.0	192.0	227.0	238.0	285.0	298.0	4B
114. United Nations		N/A	N/A	N/A	N/A	N/A	N/A	5
115. Diplomats and Foreign Missions		N/A	N/A	N/A	N/A	N/A	N/A	5
116. Charitable Organizations	2002-2006	334.0	365.0	401.0	411.0	426.0	443.0	4C
117. Veterans Posts or Organizations	1999	*	*	*	*	*	*	4C
118. Veterans Home Gift Shops ²	2006	--	--	--	--	*	*	4C
119. Indian Nations and Members of Such Indian Nations	2000,2003	2.0	2.0	2.0	2.0	2.0	2.0	4C
120. U.S. Military Base Post Exchanges	2002-2006	6.0	7.0	7.0	7.0	7.0	8.0	4A
121. Nonprofit Health Maintenance Organizations	2002-2006	8.0	8.0	10.0	10.0	11.0	11.0	4A
122. Nonprofit Medical Expense Indemnity or Hospital Service Corporations	2002-2006	7.0	6.0	7.0	6.0	6.0	6.0	4A
123. Nonprofit Property/Casualty Insurance Companies		N/A	N/A	N/A	N/A	N/A	N/A	5
124. Certain State Credit Unions ²	2007	--	--	--	--	0.0	*	4A
125. Rural Electric Cooperatives	2002-2006	*	*	*	*	*	*	4A
126. Municipal Trash Removal Services	2002-2006	36.0	38.0	40.0	40.0	41.0	42.0	4B
Exempt Admission Charges								
127. Certain Admission Charges	2002	55.0	60.0	65.0	67.0	68.0	76.0	4B
128. Amusement Park Admissions ²	2002	--	--	*	2.0	2.0	2.0	4A
129. 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
130. Events Given for the Benefit of Certain Orchestras and Opera Companies		N/A	N/A	N/A	N/A	N/A	N/A	5

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Tax Item	Data Source	History				Forecast		Reliability
	Year(s)	2002	2003 ³	2004 ⁴	2005 ⁵	2006	2009	Level
131. National Guard Organization Events		N/A	N/A	N/A	N/A	N/A	N/A	5
132. Municipal Police and Fire Department Events		N/A	N/A	N/A	N/A	N/A	N/A	5
133. Certain Athletic Games		N/A	N/A	N/A	N/A	N/A	N/A	5
134. Carnivals or Rodeos for Certain Charitable Organizations	2002	*	*	*	*	*	*	4B
135. Agricultural Fairs	2002-2006	*	*	*	*	*	*	4A
136. Historical Homes, Gardens, Sites, and Museums		N/A	N/A	N/A	N/A	N/A	N/A	5
137. Performances at a Roof Garden or Cabaret ²	2006	--	--	--	--	*	2.0	4C
Credits								
138. Sales Tax Vendor Credit	2002-2006	49.0	48.0	49.0	49.0	60.0	119.0	3
139. Tangible Property Sold by Contractors in Certain Situations		N/A	N/A	N/A	N/A	N/A	N/A	5
140. Veterinary Drugs		N/A	N/A	N/A	N/A	N/A	N/A	5
141. Construction Materials Used in Empire Zones		N/A	N/A	N/A	N/A	N/A	N/A	5
142. Bus Companies Providing Local Transit Service	2003-2006	*	*	*	*	*	*	4A
143. Vessel Operators Providing Local Transit Service ²	2005,2006	--	--	*	*	*	*	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.

SALES AND USE TAX

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: 2006: \$73.0 million — 2009: \$78.0 million

Data Source: U.S. Census Bureau

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: 2006: \$470.0 million — 2009: \$475.0 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: 2006: \$2.0 million — 2009: \$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: 2006: \$7.0 million — 2009: \$8.0 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: 2006: Minimal — 2009: Minimal
Data Source: U.S. 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.

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Estimates: 2006: Minimal — 2009: 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: 2006: Minimal — 2009: Minimal
Data Source: Journal of Applied Gerontology, U.S. 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: 2006: \$2.0 million — 2009: \$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: 2006: \$4.0 million — 2009: \$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: 2006: \$1,161.0 million — 2009: \$1,287.0 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: 2006: \$6.0 million — 2009: \$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: 2006: \$83.0 million— 2009: \$94.0 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: 2006: \$88.0 million — 2009: \$102.0 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: 2006: \$64.0 million — 2009: \$67.0 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

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- Description:** A separately stated charge specifically designated as a gratuity is exempt where all such monies received are paid over to employees.
Estimates: 2006: \$24.0 million — 2009: \$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: 2006: Minimal — 2009: 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: 2006: \$22.0 million — 2009: \$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: 2006: \$13.0 million — 2009: \$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: 2006: Minimal — 2009: 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: 2006: \$804.0 million — 2009: \$859.0 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: 2006: \$95.0 million — 2009: \$104.0 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: 2006: \$20.0 million — 2009: \$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

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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: 2006: Minimal — 2009: 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: 2006: \$712.0 million— 2009: \$744.0 million

Data Source: New York State Department of Taxation and Finance; New York State Energy Research and Development Authority; U.S. Census Bureau

Reliability: Level 4A

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: 2006: \$271.0 million — 2009: \$262.0 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: 2006: \$13.0 million — 2009: \$15.0 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: 2006: \$88.0 million — 2009: \$154.0 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: 2006: \$2.0 million — 2009: \$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: 2006: Minimal — 2009: 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

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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: 2006: Minimal — 2009: 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: 2006: \$51.0 million — 2009: \$152.0 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: 2006: Minimal — 2009: 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: 2006: Minimal — 2009: 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: 2006: Minimal — 2009: 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: 2006: \$13.0 million — 2009: \$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: 2006: \$102.0 million — 2009: \$95.0 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

SALES AND USE TAX

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: 2006: \$2.0 million — 2009: \$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: 2006: \$17.0 million — 2009: \$13.0 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: 2006: \$0.0 million — 2009: \$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: 2006: \$5.0 million — 2009: \$4.0 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: 2006: Minimal — 2009: Minimal

Data Source: New York State Division of the Budget

Reliability: Level 4B

51. **Ferry Boats**

Citation: Section 1115(a)(43)

Effective Date: September 1, 2008

Description: Exempt from tax are ferry boats and property used in conjunction with exempt boats for fuel, provisions, supplies, maintenance and repairs.

Estimates: 2006: Not Applicable — 2009: Minimal

Data Source: New York State Department of the Budget

Reliability: 4A

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Communication and Media

52. **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: 2006: \$238.0 million — 2009: \$255.0 million
Data Source: New York State Department of Taxation and Finance
Reliability: Level 4A
53. **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: 2006: \$79.0 million — 2009: \$90.0 million
Data Source: U.S. Census Bureau
Reliability: Level 4C
54. **Cable Television Service**
Citation: Section 1105(c)(9)
Effective Date: September 1, 1990
Description: Cable television service is exempt from tax.
Estimates: 2006: \$218.0 million — 2009: \$244.0 million
Data Source: U.S. Census Bureau
Reliability: Level 4C
55. **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: 2006: \$62.0 million — 2009: \$60.0 million
Data Source: U.S. Census Bureau, *Service Annual Survey*
Reliability: Level 4B
56. **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:** 2006: \$2.0 million— 2009: \$2.0 million
Data Source: U.S. Census Bureau, *Statistical Abstract of the United States*
Reliability: Level 4C
57. **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: 2006: Minimal — 2009: Minimal
Data Source: New York State Department of Taxation and Finance
Reliability: Level 4A
58. **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: 2006: \$2.0 million — 2009: \$1.0 million
Data Source: U.S. Federal Communications Commission; New York State Public Service Commission
Reliability: Level 4C
59. **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: 2006: \$78.0 million — 2009: \$77.0 million
Data Source: New York State Public Service Commission; CTIA – The Wireless Association
Reliability: Level 4B
60. **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: 2006: \$10.0 million — 2009: \$9.0 million
Data Source: The Uptime Institute
Reliability: Level 4C

SALES AND USE TAX

61. 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: 2006: \$4.0 million — 2009: \$4.0 million

Data Source: U.S. Census Bureau, *Economic Census*

Reliability: Level 4C

62. 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

63. 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: 2006: \$9.0 million — 2009: \$10.0 million

Data Source: U.S. Census Bureau, *Statistical Abstract of the United States*

Reliability: Level 4B

Industry

64. 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

65. **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: 2006: \$47.0 million — 2009: \$39.0 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

66. **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: 2006: \$42.0 million — 2009: \$49.0 million

Data Source: National Science Foundation

Reliability: Level 4B

67. **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: 2006: \$268.0 million — 2009: \$255.0 million

Data Source: U.S. Census Bureau, *Economic Census*

Reliability: Level 4B

68. **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.

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Estimates: 2006: \$15.0 million — 2009: \$15.0 million

Data Source: U.S. Census Bureau, *Economic Census*

Reliability: Level 4B

69. **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

70. **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: 2006: Not Applicable — 2009: Minimal

Data Source: New York State Division of the Budget

Reliability: Level 4C

71. **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: 2006: Minimal — 2009: Minimal

Data Source: National Marine Fisheries Services

Reliability: Level 4B

72. **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: 2006: Minimal — 2009: Minimal

Data Source: U.S. Department of Commerce, Bureau of Economic Analysis

Reliability: Level 4C

73. **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 67.
Estimates: 2006: \$5.0 million — 2009: \$5.0 million
Data Source: U.S. Census Bureau
Reliability: Level 4C
74. **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: 2006: Minimal — 2009: Minimal
Data Source: New York State Department of Taxation and Finance
Reliability: Level 4B

Miscellaneous

75. **Certain Property Sold Through Vending Machines**
Citation: Section 1115(a)(13), (13-a)
Effective Date: August 1, 1965 (Section 1115(a)(13)); 50-cent exemption effective Department 1, 1997 (Section 1115(a)(13-a))
Description: Tangible personal property sold through coin-operated vending machines at 10 cents or less is exempt, provided the retailer is primarily engaged in making such sales. Also exempt is tangible personal property sold through coin-operated bulk vending machines at 50 cents or less, provided the retailer is primarily engaged in making such sales.
Estimates: 2006: \$1.0 million — 2009: \$1.0 million
Data Source: Vending Times; U.S. Census Bureau
Reliability: Level 4C
76. **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: 2006: \$470.0 million — 2009: \$380.0 million
Data Source: National Automobile Dealers Association
Reliability: Level 4B

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77. **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
78. **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: 2006: \$16.0 million — 2009: \$17.0 million
Data Source: U.S. Department of Commerce, *Survey of Current Business*
Reliability: Level 4C
79. **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
80. **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
81. **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 State tax on motor fuels is excluded from the sales tax base.
Estimates: 2006: \$24.0 million — 2009: \$18.0 million
Data Source: New York State Department of Taxation and Finance
Reliability: Level 4A

82. **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: 2006: \$10.0 million — 2009: \$11.0 million
Data Source: National Funeral Directors' Association; Cremation Association of North America
Reliability: Level 4C
83. **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
84. **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: 2006: Minimal — 2009: Minimal
Data Source: New York State Division of the Budget
Reliability: Level 4C
85. **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
86. **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: 2006: \$2.0 million — 2009: \$1.0 million
Data Source: U.S. Census Bureau
Reliability: Level 4A

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87. **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
88. **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
89. **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
90. **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
91. **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: 2006: \$3.0 million — 2009: \$3.0 million
Data Source: American Horse Council Foundation; New York State Agricultural Statistics Service
Reliability: Level 4C
92. **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: 2006: \$ 64.0 million — 2009: \$69.0 million
Data Source: U.S. Census Bureau, *Economic Census*
Reliability: Level 4C
93. **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
94. **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
95. **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.

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Estimates: 2006: \$171.0 million — 2009: \$180.0 million

Data Source: New York Mercantile Exchange

Reliability: Level 4C

96. **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

97. **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

98. **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

99. **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: 2006: \$14.0 million — 2009: \$12.0 million

Data Source: U.S. Census Bureau

Reliability: Level 4C

100. **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

101. **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: 2006: \$27.0 million — 2009: \$26.0 million

Data Source: U.S. Census Bureau

Reliability: Level 4C

102. **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

103. **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: 2006: \$572.0 million — 2009: \$690.0 million

Data Source: New York State Division of the Budget; New York State Department of Taxation and Finance

Reliability: Level 4B

104. **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: 2006: Minimal — 2009: Minimal

Data Source: *Vending Times*

Reliability: Level 4C

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105. **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: 2006: Minimal — 2009: Minimal
Data Source: New York State Department of Taxation and Finance
Reliability: Level 4C
106. **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: 2006: Minimal — 2009: Minimal
Data Source: New York State Department of Environmental Conservation
Reliability: Level 4A
107. **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: 2006: \$26.0 million — 2009: \$24.0 million
Data Source: New York State Department of Education
Reliability: Level 4B
108. **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: 2006: \$3.0 million — 2009: \$4.0 million
Data Source: Alliance for the Arts
Reliability: Level 4A
109. **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: 2006: \$86.0 million — 2009: \$89.0 million

Data Source: New York State Division of the Budget

Reliability: Level 4C

110. **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: 2006: \$16.0 million — 2009: \$16.0 million

Data Source: New York State Division of the Budget

Reliability: Level 4B

Exempt Organizations

111. **New York State Agencies and Political Subdivisions**

Citation: Section 1116(a)(1)

Effective Date: August 1, 1965

Description: Exempt from tax is the State of New York, or any of its agencies, instrumentalities, public corporations, or political subdivisions where it is the purchaser, user, or consumer, or where it is a vendor of services or property of a kind not ordinarily sold by private persons.

Estimates: 2006: \$1,205.0 million — 2009: \$1,283.0 million

Data Source: New York State Division of the Budget; U.S. Department of Commerce

Reliability: Level 4C

112. **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: 2006: \$81.0 million — 2009: \$93.0 million

Data Source: New York State Department of Taxation and Finance

Reliability: Level 4A

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113. **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: 2006: \$285.0 million — 2009: \$298.0 million

Data Source: U.S. Census Bureau

Reliability: Level 4B

114. **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

115. **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

116. **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: 2006: \$426.0 million — 2009: \$443.0 million

Data Source: U.S. Department of Commerce, *Survey of Current Business*

Reliability: Level 4C

117. **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:** 2006: Minimal — 2009: Minimal
- Data Source:** New York State Department of Taxation and Finance; Food Institute, *Food Industry Review*
- Reliability:** Level 4C
118. **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: 2006: Minimal — 2009: Minimal
Data Source: New York State Division of the Budget
Reliability: Level 4C
119. **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: 2006: \$2.0 million — 2009: \$2.0 million
Data Source: U.S. Census Bureau; U.S. Bureau of Indian Affairs
Reliability: Level 4C
120. **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: 2006: \$7.0 million — 2009: \$8.0 million
Data Source: Regional sales offices of U.S. Armed Services
Reliability: Level 4A
121. **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: 2006: \$11.0 million — 2009: \$11.0 million

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- Data Source:** New York State Department of Health
Reliability: Level 4A
122. **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: 2006: \$6.0 million — 2009: \$6.0 million
Data Source: New York State Insurance Department
Reliability: Level 4A
123. **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
124. **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: 2006: \$0.0 million — 2009: Minimal
Data Source: New York State Credit Union League
Reliability: Level 4A
125. **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: 2006: Minimal — 2009: Minimal
Data Source: Rural Electric Cooperatives Association; U.S. Department of Agriculture
Reliability: Level 4A
126. **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: 2006: \$41.0 million — 2009: \$42.0 million

Data Source: New York State Office of the State Comptroller

Reliability: Level 4B

Admission Charges

127. **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: 2006: \$68.0 million — 2009: \$76.0 million

Data Source: U.S. Census Bureau

Reliability: Level 4B

128. **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: 2006: \$2.0 million — 2009: \$2.0 million

Data Source: New York State Department of Taxation and Finance

Reliability: 4A

129. **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

130. **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.

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- Estimate:** No data available
Reliability: Level 5
131. **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
132. **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
133. **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
134. **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: 2006: Minimal — 2009: Minimal
Data Source: U.S. Census Bureau
Reliability: Level 4B
135. **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: 2006: Minimal — 2009: Minimal

Data Source: New York State Department of Agriculture

Reliability: Level 4A

136. **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

137. **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: 2006: Minimal — 2009: \$2.0 million

Data Source: New York State Division of the Budget

Reliability: Level 4C

Credits

138. **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: 2006: \$60.0 million — 2009: \$119.0 million

Data Source: New York State Department of Taxation and Finance

Reliability: Level 3

139. **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

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- Reliability:** Level 5
140. **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
141. **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
142. **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: 2006: Minimal — 2009: Minimal
Data Source: New York State Department of Taxation and Finance
Reliability: Level 4A
143. **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: 2006: Minimal — 2009: Minimal
Data Source: New York State Department of Taxation and Finance
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, 2009. The estimates are based on data for the 2007 calendar year (the latest complete year for which tax return data is available) and then extrapolated to the 2009 calendar year. Total Petroleum Business Tax liability for calendar 2007 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, 2009. 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 17.1 cents per gallon consists of a 10.3 cents per gallon basic tax and a 6.8 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 2003-2007. 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

PETROLEUM BUSINESS TAX

- 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 2007 to 2009 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

Petroleum Business Tax Rates as of January 1, 2009 (Cents-Per-Gallon)

Product	Base Tax	Supplemental Tax	Total Tax
Taxes:			
Motor Fuel and Aviation Gasoline	10.3	6.8	17.1
Automotive Diesel Fuel	10.3	5.05	15.35
Railroad Diesel	9.0	—	9.0
Kero-jet Fuel	6.8	—	6.8
Non-automotive Type Diesel Fuel	9.3	6.8	16.1
Residual Petroleum Product	7.1	6.8	13.9
	Base Credit	Supplemental Credit	Total Credit
Credits/Reimbursements:			
Electric Utility Credit/Reimbursement			
Unenhanced Diesel Fuel (Primarily No. 2 Fuel Oil)	6.22	—	6.22
Residual Fuel	6.18	—	6.18
Manufacturing Reimbursement ¹			
Unenhanced Diesel Motor Fuel (Primarily No. 2 Fuel Oil)	9.3	6.8	16.1
Residual Petroleum Product	7.1	6.8	13.9
Commercial Gallonage			
Unenhanced Non-automotive Type Diesel Fuel	—	6.8	
Residual Petroleum Product	—	6.8	
Non-residential Heating ⁴			
Unenhanced Diesel Motor Fuel	4.3	—	4.3
Residual Petroleum Product	3.3	—	3.3
Railroad Gallonage	1.3	5.05	6.35
Farm Use Reimbursement ²			
Motor Fuel	10.3	6.8	17.1
Commercial Fisherman Reimbursement			
Motor Fuel	10.3	6.8	17.1
Diesel Motor Fuel	10.3	5.05	15.35
Distributor of Aviation Gasoline Reimbursement	3.5	6.8	10.3
Not-for-Profit and Veterans' Group Credit/Reimbursement ³			
Unenhanced Diesel Motor Fuel	9.3	6.8	16.1
Residual Petroleum Product	7.1	6.8	13.9
Alternative Fuels Reimbursements			
E-85 and CNG	10.3	6.8	17.1
B-20	2.06	1.01	3.07

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 9.3 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.

PETROLEUM BUSINESS TAX

Table 9
2009 New York State Petroleum Business Tax Expenditure Estimates
(2007 Calendar Year Total Petroleum Business Tax Liability = \$1,136 Million)
(Millions of Dollars)

Tax Item	History				Forecast		Reliability
	2003	2004	2005	2006	2007	2009	Level
Exemptions							
Products							
1. Kerosene	7.3	6.7	8.8	5.4	5.0	5.1	2
2. Bunker Fuel	30.5	33.3	27.7	41.9	66.8	65.7	2
3. Crude Oil and Liquid Petroleum Gases	45.5	44.9	49.0	44.7	51.6	53.3	4
4. CNG and Hydrogen ³	--	--	--	*	0.2	0.2	2
5. E-85.3 ³	--	--	--	*	*	0.3	2
6. B-20.3 ³	--	--	--	*	0.1	0.3	2
Sales							
7. Governments	66.2	69.2	71.2	65.4	69.8	71.2	2
8. Residential Heating	274.7	277.5	268.5	229.3	269.9	277.3	2
9. Fuel Used for Manufacturing Purposes	15.6	17.8	16.7	12.4	13.7	13.2	2
10. Fuel Used for Farm Production	6.4	7.1	7.2	7.5	7.6	7.8	2
11. Not-for-Profit Organizations and Veterans Groups	14.5	14.2	14.0	10.0	12.3	12.8	2
12. Fuel Used for Railroad Purposes	2.0	2.1	2.2	1.7	1.7	1.7	2
13. Certain Commercial Gallonage	75.2	88.6	94.6	33.1	42.5	25.0	2
14. Fuel Used for Non-Residential Heating Purposes	15.1	13.9	14.1	11.0	12.4	12.6	2
Credit, Refund, or Reimbursement							
15. Residential Heating Fuel	*	0.1	*	*	*	*	2
16. Governments	1.7	1.1	1.1	1.1	1.6	1.1	2
17. Omnibus Carriers	4.6	4.3	4.3	4.1	4.6	4.5	2
18. Non-Public School Operators	*	*	*	*	*	*	2
19. Regulated Electric Utilities	*	*	0.2	0.4	0.3	0.2	2
20. Fuel Used for Manufacturing Purposes	0.1	*	0.1	*	*	*	2
21. Certain Commercial Gallonage	2.7	*	*	*	*	*	2
22. Fuel Used by Commercial Fishers	0.5	0.2	0.2	0.3	0.3	0.3	2
23. Fuel Used for Farm Production	*	0.6	0.3	0.3	0.3	0.3	2
24. Fuel Used for Railroad Purposes	0.6	*	*	*	*	*	2
25. Fuel Used for Non-Residential Heating Purposes	*	*	*	*	*	*	2
26. Fuel Used for Mining or Extracting Purposes	0.5	0.9	0.7	1.5	1.5	1.5	2
27. Bad Debts	*	0.1	*	*	*	*	2
28. Not-for-Profit Organizations and Veterans Groups	*	*	*	*	*	*	2
29. Fuel Used by Passenger Commuter Ferries	0.3	0.2	0.2	0.3	0.1	0.2	2
30. E-85.3 ³	--	--	--	*	*	*	2
31. B-20.3 ³	--	--	--	*	*	*	2

PETROLEUM BUSINESS TAX

Tax Item	History				Forecast		Reliability
	2003	2004	2005	2006	2007	2009	Level
Exempt Entities							
32. Governments, the United Nations and Certain Not-for-Profit Organizations	*	*	*	*	*	*	4
33. Certain Airlines ²	--	--	0.9	1.6	1.2	1.0	2

* Less than \$0.1 million.

N/A No data available.

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

1. 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.
2. 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.
3. Effective for sales beginning September 1, 2006.

PETROLEUM BUSINESS TAX

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: 2007: \$5.0 million — 2009: \$5.1 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: 2007: \$66.8 million — 2009: \$65.7 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: 2007: \$51.6 million — 2009: \$53.3 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: 2007: \$0.2 million — 2009: \$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: 2007: Minimal — 2009: \$0.3 million
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: 2007: \$0.1 million — 2009: \$0.3 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: 2007: \$69.8 million — 2009: \$71.2 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: 2007: \$269.9 million — 2009: \$277.3 million

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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: 2007: \$13.7 million— 2009: \$13.2 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: 2007: \$7.6 million — 2009: \$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: 2007: \$12.3 million — 2009: \$12.8 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: 2007: \$1.7 million — 2009: \$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: 2007: \$42.5 million — 2009: \$25.0 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: 2007: \$12.4 million — 2009: \$12.6 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.

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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: 2007: Minimal — 2009: 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: 2007: \$1.6 million — 2009: \$1.1 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: 2007: \$4.6 million — 2009: \$4.5 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: 2007: Minimal — 2009: 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: 2007: \$0.3 million — 2009: \$0.2 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: 2007: Minimal — 2009: 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: 2007: Minimal — 2009: Minimal
Data Source: Refund data from the Department of Taxation and Finance’s Audit Division
Reliability: Level 2

PETROLEUM BUSINESS TAX

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: 2007: \$0.3 million — 2009: \$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: 2007: \$0.3 million — 2009: \$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: 2007: Minimal — 2009: 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: 2007: Minimal — 2009: 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(1)

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: 2007: \$1.5 million — 2009: \$1.5 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: 2007: Minimal — 2009: Minimal

Data Source: Refund data from the Department of Taxation and Finance’s Audit Division

Reliability: Level 2

PETROLEUM BUSINESS TAX

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: 2007: Minimal — 2009: 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: 2007: \$0.1 million — 2009: \$0.2 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: 2007: Minimal — 2009: 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: 2007: Minimal — 2009: 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: 2007: Minimal — 2009: 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: 2007: \$1.2 million — 2009: \$1.0 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, 2009. The estimates are based on liability data from the 2006-07 fiscal year. Base year 2006-07 liability is also extrapolated to the 2009-10 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 2006-07 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 2009-10 levels using various economic forecast variables.

REAL ESTATE TRANSFER TAX

Table 10
2009 New York State Real Estate Transfer Tax Expenditure Estimates
(Fiscal Year 2007 Total Real Estate Transfer Tax Liability = \$1,022.09 Million)
(Millions of Dollars)

Tax Item	History				Forecast	Reliability
	2003-04	2004-05	2005-06	2006-07	2009-10	Level
Exclusions						
1. Continuing Lien Deduction	4.5	2.9	2.4	1.9	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	6.4	7.5	6.6	6.8	6.5	2
5. Conveyances Which Secure a Debt or Other Obligation	0.4	1.2	0.5	0.5	0.5	2
6. Conveyances that Confirm, Correct, Modify, or Supplement a Prior Conveyance	0.2	0.3	0.4	0.4	0.3	2
7. Bona Fide Gifts and Conveyance Without Consideration	0.7	0.4	0.6	0.5	0.5	2
8. Tax Sale	0.2	1.1	0.3	0.6	0.4	2
9. Mere Changes of Identity	3.3	1.7	4.3	2.9	3.6	2
10. Deeds of Partition	*	*	*	*	*	2
11. Federal Bankruptcy Act	0.8	0.7	1.3	0.9	0.8	2
12. Contract to Sell or Option to Purchase Without Use	1.5	0.1	1.0	0.2	0.5	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	0.9	0.2	0.5	0.1	0.8	2
15. Cooperative Housing Corporation Transfer Credit	0.6	0.5	0.4	1.3	0.7	2
Preferential Tax Rates						
16. Real Estate Investment Trust Transfers (Initial Formation REITS)	0.0	0.0	0.0	0.0	0.0	2
17. Real Estate Investment Trust Transfers (Existing REITS)	0.0	0.0	A/	2.1	0.6	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: FY2007: \$1.9 million — FY2010: \$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

REAL ESTATE TRANSFER TAX

- subdivisions, instrumentalities, or any public corporation (including public corporations created pursuant to an agreement with another state or Dominion of Canada).
- Estimates:** FY2007: \$6.8 million — FY2010: \$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: FY2007: \$0.5 million— FY2010: \$0.5 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: FY2007: \$0.4 million— FY2010: \$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: FY2007: \$0.5 million— FY2010: \$0.5 million
Data Source: RETT Database
Reliability: Level 2
 8. **Tax Sale**
Citation: Section 1405(b)(5)
Effective Date: August 1, 1968
Description: The real estate transfer tax exempts any conveyance given in connection with a tax sale.
Estimates: FY2007: \$0.6 million— FY2010: \$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: FY2007: \$2.9 million— FY2010: \$3.6 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: FY2007: Minimal— FY2010: 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: FY2007: \$0.9 million— FY2010: \$0.8 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: FY2007: \$0.2 million— FY2010: \$0.5 million
Data Source: RETT Database
Reliability: Level 2
13. **Option or Contract to Purchase With Right to Occupy**
Citation: Section 1405(b)(10)
Effective Date: July 1, 1989
Description: An exemption from the transfer tax is allowed for conveyances of an option or contract to purchase real property, which includes the right to use or occupy the property, providing:
- a. the consideration is less than \$200,000;

REAL ESTATE TRANSFER TAX

- 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: FY2007: \$0.1 million— FY2010: \$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: FY2007: \$0.1 million— FY2010: \$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: FY2007: \$1.3 million— FY2010: \$0.7 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)

REAL ESTATE TRANSFER TAX

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: FY2007: \$0.0 — FY2010: \$0.0

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, 2011.

Estimates: FY2007: \$2.1 million— FY2010: \$0.6 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 2009 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 2009.

Table 11
2009 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	\$319.6	424.4	\$51.6	\$8.7
Deferred Tax on Installment Sales	12.0	5.9	30.0	*
Expensing of Certain Depreciable Business Property	45.0	*	*	*
Expensing of Research and Development Costs	1.8	480.4	--	--
Amortization of Business Start-Up Costs	--	0.2	N/A	N/A
Deductibility of Charitable Contributions	648.0	41.1	19.0	*
State Credits				
Investment Tax Credit	25.0	67.0	--	--
Investment Tax Credit for the Financial Services Industry	0.2	15.0	4.7	*
Special Additional Mortgage Recording Tax Credit ^{2,3}	30.0	5.0	10.0	*
Empire Zone and QEZE Credits ⁴	240.0	222.0	30.2	25.3
Credit for Employment of Persons With Disabilities ²	*	*	*	*
Qualified Emerging Technology Companies Credits	6.2	10.2	--	--
Credit for Purchase of an Automated External Defibrillator	0.1	*	*	*
Green Building Credit ²	4.0	3.0	*	*
Low-Income Housing Credit	20.0	4.0	*	*
Credit for Transportation Improvement Contributions ²	0.0	0.0	*	*
Long-Term Care Insurance Credit ²	75.0	*	*	*
Brownfields Tax Credits ²	155.0	200.0	*	*
Empire State Film Production Credit	40.0	35.0	--	--
Fuel Cell Electricity Generating Equipment Credit ²	*	2.0	*	*
Farmers' School Property Tax Credit	30.0	0.7	--	--
Security Training Tax Credit ²	2.0	1.0	*	*
Alternative Fuels Credit ²	*	0.8	--	--
Empire State Commercial Production Credit	6.0	1.0	--	--
Biofuel Production Credit ²	10.0	*	--	--
Accessible Taxicabs Credit for Individuals with Disabilities	*	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 \$89.0 million.

* Less than \$1 million.

N/A No data available

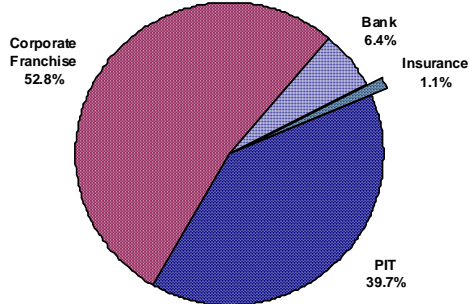
-- The tax expenditure is not applicable.

CROSS-ARTICLE TAX EXPENDITURES

Share of Selected State Special Tax Expenditures by Tax Article for 2009 Tax Year

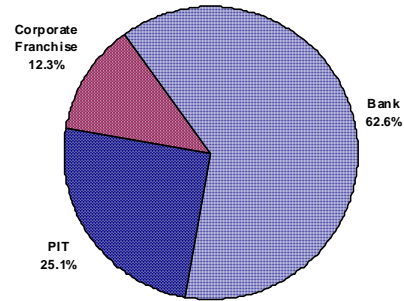
MACRS/ACRS Depreciation

The total value of the tax expenditure is \$804.3 million



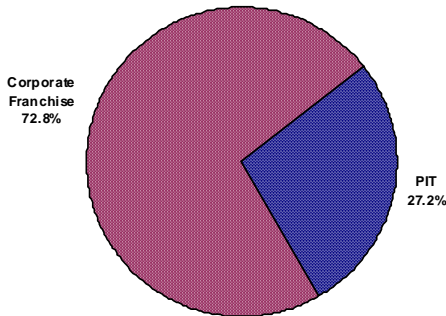
Deferred Tax on Installment Sales

The total value of the tax expenditure is \$47.9 million



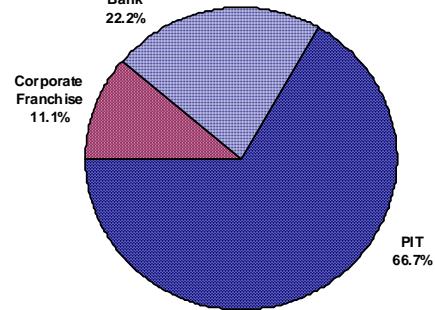
Investment Tax Credit

The total value of the tax expenditure is \$92.0 million



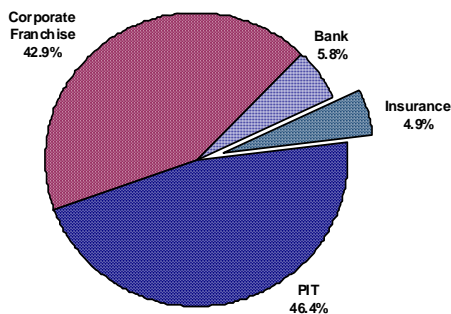
Special Additional Mortgage Recording Tax Credit

The total value of the tax expenditure is \$45.0 million



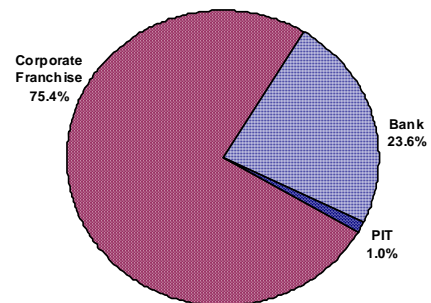
Empire Zone/QEZE Credits

The total value of the tax expenditure is \$517.5 million



Investment Tax Credit for the Financial Services Industry

The total value of the tax expenditure is \$19.9 million



2009-10 EXECUTIVE BUDGET TAX EXPENDITURE PROPOSALS

This section describes the proposals contained in the 2009-10 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
2009-10 Executive Budget Proposals Affecting Tax Expenditures
(Millions of Dollars)

	<u>2009-10 Fiscal Year Estimate</u>
Personal Income Tax	
-Limit the Use of Itemized Deductions by Individuals with NYAGI over \$1 million	\$ 140
-Enhance the Low Income Housing Tax Credit ¹	(4)
Corporate Franchise Tax	
-Clarify the Definition of "Manufacturer" Under the Capital Base	17
-Eliminate Underutilized Tax Credits ²	6
-Reform the Empire Zones Program ²	272
-Create a Research Expenditures Credit ²	0
-Expand the Eligibility Criteria for the QETC FOT Credit ²	0
Insurance Tax	
-Remove the Exemption from Franchise Tax for Certain Town or County Cooperative Insurance Corporations	19
-Restructure the Article 33 Franchise Tax on Insurance Corporations	62
-Require Overcapitalized Captive Insurance Companies to File a Combined Return with their Closest Affiliated Taxpayer ³	31
Sales and Use Tax	
-Impose a State Sales and Use Tax Surcharge on Certain Beverage Products	404
-Impose Sales Tax on Various Amusement Charges	53
-Narrow the Sales Tax Definition of Capital Improvement	120
-Repeal the Sales Tax Cap on Motor Fuel and Diesel Motor Fuel	90
-Impose Sales Tax on Cable and Satellite Television and Radio Services	136
-Restructure the Clothing and Footwear Sales Tax Exemption	462
-Taxation of Digital Products	15
-Sales Tax Abusive Schemes	4

¹ Also applies to Corporate Franchise Tax.

² Also applies to Personal Income Tax.

³ Also applies to Corporate Franchise and Bank tax.

EXECUTIVE BUDGET PROPOSALS

1. Proposal to Limit the Use of Itemized Deductions by Individuals with New York Adjusted Gross Income over \$1 million

Background: Taxpayers who itemize deductions on their Federal income tax returns may also itemize on their New York State income tax 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 the Federal law and are authorized through 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 New York adjusted gross income above \$525,000.

Proposal: This proposal would completely eliminate the use of itemized deductions, except charitable contributions, by an individual with more than \$1 million of New York adjusted gross income.

Discussion: For most taxpayers, New York's current standard deduction of \$15,000 for married joint filers (\$7,500 for singles) is higher than their itemized deductions. High income individuals however, tend to itemize their deductions more frequently than lower income taxpayers as a result of larger amounts of interest and taxes paid (for example, mortgage interest and real property tax from owning multiple properties), gifts to charity and other miscellaneous expenses. This proposal would prevent high income taxpayers from using excessive non-charitable itemized deductions and require them to use the standard deduction.

Estimate: The proposal would increase revenues in SFY2009-10 by \$140 million.

2. 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 \$200 million, or \$20 million per year. This was increased from \$160 million (\$16 million per year) in the enacted State budget from 2008-2009.

Proposal: This proposal increases the aggregate dollar amount of low-income housing tax credit the Commissioner of Housing and Community Renewal may allocate from \$20 million to \$24 million for tax year 2009.

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 SFY2009-10 by \$4 million.

3. Proposal to Clarify the Definition of "Manufacturer" Under the Capital Base

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 .15 percent on each dollar of capital with a limitation on

liability of \$350,000 for manufacturers and qualified emerging technology companies and \$10 million for non-manufacturers. For tax years beginning on or after January 1, 2011, the \$10 million cap will revert back to a \$1 million cap. The definition of *manufacturer* under the entire net income base differs from the definition under the capital base. This inconsistency results in the same taxpayer being considered a manufacturer for one base but not the other.

Proposal: This proposal amends the capital base definition of *manufacturer* to conform to the definition of *manufacturer* for entire net income tax purposes. The amendment clarifies that the generation and distribution of electricity, the distribution of natural gas, and the production of steam associated with the generation of electricity are not qualifying manufacturer activities for purposes of claiming the lower capital base liability cap.

Discussion: This proposal will allow for easier administration of the Tax Law by removing an inconsistency between two corporate tax bases. Making the provisions uniform will also increase compliance by simplifying the tax code, assisting taxpayers in properly computing their liability.

Estimate: The proposal would increase revenues in SFY2009-10 by \$17 million.

4. Proposal to Eliminate Underutilized Tax Credits

Background: New York State offers a wide variety of credits to promote specific behaviors such as job creation or investment. However, some of the current credits are so specific in nature that only a select population can utilize them, and the benefit is very limited in scope.

Proposal: This proposal seeks to eliminate the following personal income tax and corporate tax credits: the automated external defibrillator credit; the fuel cell electric generating credit; the security guards training credit; the alternative fuels credit; the qualified emerging technology company (QETC) capital tax credit; and the transportation improvement contributions credit. As a result of these amendments, none of these credits would be allowed for taxable years beginning on or after January 1, 2009.

Discussion: All of these credits were enacted to benefit narrow constituencies and are underused, as indicated by the limited number of claimants and by the small total dollar values claimed. Eliminating these credits only will affect a limited population while saving the State millions of dollars that could be used for other purposes in this time of economic uncertainty. The number of taxpayers using these credits for the most recent year available is shown below.

Number of Select Tax Credits Used By Taxpayers

Credit	# 2006 PIT Claims	# 2005 Corp. Franchise Claims
Automated External Defibrillator	189	14
QETC Capital Tax	122	Less than 3
Alternative Fuels	69	Less than 3
Fuel Cell Electricity Generating	3	Less than 3
Security Training Credit	Less than 3	0
Transportation Improvement	0	0

Estimate: The proposal would increase revenues in SFY 2009-10 by \$5.9 million.

5. Proposal to Reform the Empire Zones Program

Background: The Empire Zones (EZ) Program offers several tax benefits to eligible businesses: wage tax credit; investment tax credit; employment incentive credit; capital credit; and sales tax credit for construction materials used in EZs. In addition, businesses meeting an annual employment test may qualify for the qualified EZ enterprise (QEZE) real property tax credit, tax reduction credit, and sales tax exemption. As a result of the particular credit formulas, it is possible for a company to make Minimal hires or investment yet receive large tax credits. To be eligible for the sales tax exemption, a taxpayer must pass the QEZE employment test once to receive an exemption certificate from the Tax Department. It is the responsibility of the taxpayer to subsequently retest itself annually, and upon failing the test discontinue using the exemption certificate.

Certification by Empire State Development (ESD) is a prerequisite to claiming the tax benefits. Companies seeking certification on or after April 1, 2005 must demonstrate they will pass a cost-benefit ratio test, comparing the projected value of state tax benefits to employee wages and benefits and investment. No such requirement was in place prior to that date. Also, any business located in an Empire Zone is eligible to seek certification. Special provisions exist allowing “regionally significant projects (RSPs)” to be certified regardless of location. However, only manufacturers, agri-businesses, high-tech or biotech companies, financial or insurance services firms, or distribution centers are eligible for the RSP designation.

Proposal: This proposal authorizes numerous reforms and administrative changes to the EZ Program, but there are two major provisions directly impacting the tax benefits. ESD would require all currently certified companies to submit to a cost-benefit analysis. In order to continue in the EZ Program, a taxpayer would have to satisfy a 20 to 1 cost- benefit ratio. Taxpayers with fewer than three years in the Program would be able to continue until they establish a three-year base, at which time they will be subject to the 20 to 1 test. Taxpayers failing the test will no longer be able to claim EZ/QEZE benefits beginning in the 2008 tax year, including unused credits carried forward from prior tax periods. The proposal also converts the QEZE sales tax exemption to a sales tax credit. QEZEs would pay tax on purchases at the point of sale, then file for a credit or refund of sales tax paid.

Additionally, as of April 1, 2009, only manufacturing (including high-tech, biotech, and clean-tech companies and agri-businesses) and financial service enterprises will be eligible for certification, although the proposal also contains an “extraordinary projects” clause allowing for limited discretion for certification of businesses in other industries.

Discussion: This proposal would improve the EZ Program's performance by imposing a higher level of scrutiny over benefit recipients. Previously, companies had not been held accountable for failing to fulfill the projections made at the time of certification. The cost-benefit test will rectify instances of companies receiving significant tax benefits while contributing little in the form of increased employment or investment. The switch from a sales tax exemption to a credit allows the Tax Department to exercise greater oversight over the incentive while merely moving the timing of the benefit for qualified taxpayers. Finally, the proposal reorients the Program’s strategic focus by more narrowly targeting benefits to firms in key sectors demonstrating significant job creation and capital investment.

Estimate: The proposal would increase revenues in SFY2009-10 by \$272 million.

6. Proposal to Create a Research Expenditures Credit

Background: The investment tax credit (ITC) allows a higher rate for research and development property (9 percent instead of 5 percent) but is generally restricted to capital investment. The qualified emerging technology company (QETC) facilities, operations, and training credit allows credit for research expenses but has stringent qualification requirements.

Proposal: This proposal creates a new, refundable tax credit equal to 10 percent of incremental research expenditures in New York State. The credit base would mirror the federal research credit in Section 41 of the Internal Revenue Code which covers most research expenses. In addition, the State credit base would include research-related grants made to institutions, certain research consortia, or State or Federal laboratories. The credit applies to expenditures in excess of the average of the prior two taxable years' expenditures, although if a taxpayer only has a one-year base period, the credit is the excess over the prior taxable year. The credit is not available to a taxpayer in its first year of business. The credit is allocated by the New York State Urban Development Corporation (UDC). The amount that the UDC may allocate is limited to:

- \$20 million for State fiscal years beginning on April 1, 2009;
- \$33 million for State fiscal years beginning on April 1, 2010;
- \$45 million for State fiscal years beginning on April 1, 2011 and each fiscal year thereafter.

No credit may be awarded until the Director of the Division of the Budget, in consultation with the Commissioner of Taxation and Finance, validates that the Empire Zone Program reforms enacted as part of the 2009-10 Executive Budget have resulted in \$100 million in savings for the 2009-10 State fiscal year.

Discussion: This proposal would utilize a portion of the savings achieved from the EZ reforms to create an incentive to encourage taxpayers to invest in research activities in New York State. Establishing a new research expenditure credit based on a Federal model will provide a familiar structure for businesses in New York to commence or increase research expenditures and issue research-related grants. These expenditures and grants would benefit New York State's economy and help make New York a desirable location for research activities.

Estimate: The proposal would have no effect on revenues in SFY2009-10.

7. Proposal to Expand the Eligibility Criteria for the QETC FOT Credit

Background: The qualified emerging technology company (QETC) facilities, operations, and training (FOT) credit offers an 18 percent credit for research and development (R&D) property, costs, and fees, a 9 percent credit for research expenses, and a 100 percent credit up to \$4,000 per employee per year for training expenses. The credit is fully refundable but limited to \$250,000 per year. It is allowed for four consecutive years, with a fifth year available for taxpayers relocating from an academic incubator facility. To be eligible, a taxpayer must: be a QETC; have 100 or fewer full-time employees, 75 percent of which must be located in New York State; have a ratio of R&D funds to net sales that equals or exceeds 6 percent; and have gross revenues not exceeding \$20 million in the preceding tax year.

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Proposal: This proposal would make three changes to the 100 employee limit. First, a company would be allowed to continue claiming the credit if it began with fewer than 100 employees but grew beyond that threshold in subsequent tax years. The 75 percent New York State location test would still apply. Also, the proposal would exclude employees located outside the United States from the employment test calculation. Finally, the proposal provides that an individual partner in a QETC partnership is considered an employee if the partner participates in the partnership on a full-time basis and meets the material participation requirement in the passive activity provisions of section 496(h) of the Internal Revenue Code.

Discussion: This proposal would clarify the employment test for this credit in order to enable existing New York State emerging technology companies to grow and expand and to encourage the location of more of these companies in New York. Amending the 100 employee limitation removes the penalty on employment growth to allow a QETC to continue to be eligible for credits even if its employment grows above 100. Broadening eligibility to firms with fewer than 100 employees in New York State but over 100 employees worldwide will attract additional high-technology firms with a global presence to the State.

Estimate: The proposal would have no effect on revenues in SFY2009-10.

8. Proposal to Remove the Exemption from Franchise Tax for Certain Town or County Cooperative Insurance Corporations

Background: Article 33 provides an exemption from the franchise tax for town and county co-operative insurance corporations that were exempt from tax prior to the enactment of Article 33 in 1974. These are small local mutual property/casualty companies formed on a co-operative basis for the benefit of their members. The original exemption, which was previously codified in Section 187 of Article 9, applied only to co-operatives that were in existence prior to 1937.

Proposal: This proposal amends the exemption to provide that it will apply only to corporations which properly reported direct written premiums to the Superintendent of Insurance of \$25 million or less for the taxable year.

Discussion: Some of the corporations to which this exemption applies have significantly expanded their business beyond what was originally contemplated when the exemption was enacted. This proposal is intended to level the playing field between large co-operative insurance corporations and other property/casualty companies, and limit the exemption to those companies whose operations are more closely aligned with the original intent of the exemption.

Estimate: This proposal would increase revenues in SFY 2009-10 by \$19 million.

9. Proposal to Restructure the Article 33 Franchise Tax on Insurance Corporations

Background: The restructuring of Article 33 in 2003 eliminated the income-based tax and the limitation on tax for non-life insurers, while raising the tax rates on non-life premiums. Non-life insurers are now subject only to the higher of the premiums tax or the \$250 fixed dollar minimum tax. The tax rates are 1.75 percent on accident and health premiums and 2 percent on all other non-life premiums. The tax restructuring made only one change to the taxation of life insurers, imposing a new floor limitation on tax equal to 1.5 percent of taxable premiums. The income-based tax and the 2 percent limitation on tax remained for life insurers.

Proposal: The proposal would provide that all Article 33 taxpayers are taxed only on premiums, and that all premiums are taxed at the rate of 2 percent. The income-based component of the tax which is imposed on life insurers would be eliminated, and the premiums tax rate on life insurers would be raised to match the 2 percent rate currently imposed on most non-life insurers. The proposal repeals the limitations on tax as they would no longer be applicable. It also raises the rate of tax on accident & health premiums received by non-life insurers from 1.75 percent to 2 percent. The fixed dollar minimum tax of \$250 would be retained for all insurers.

Discussion: The changes made to Article 33 in 2003 greatly simplified the tax structure for non-life insurers. However, they also essentially created two separate tax regimes for life and non-life insurers. The changes also partially conformed New York's insurance tax to that of other states, the majority of which tax only premiums. At the same time, the creation of the floor limitation for life insurers added complexity to what is already the most complex business tax imposed on insurance companies in the nation. This proposal would restore a uniform tax structure to Article 33 and fully conform New York's taxation of insurance companies to the majority of other states.

Since both life and non-life insurers can write accident & health premiums, the same class of premiums are currently being taxed at two different rates depending on the insurance company writing them. This proposal would correct this inequity by taxing accident & health premiums at the same rate as all other premiums, regardless of what type of insurer is writing them.

Estimate: This proposal would increase revenues in SFY 2009-10 by \$62 million.

10. Proposal to Require Overcapitalized Captive Insurance Companies to File a Combined Return with their Closest Affiliated Taxpayer

Background: A captive insurance company is generally formed to provide insurance to its parent or affiliated corporations and entities. Captive insurance companies licensed in New York are subject only to a premiums tax under Article 33 of the Tax Law. A captive may hold assets and investments of its parent company without paying any tax on the income generated. A New York captive cannot be combined with its parent company. Captive insurance companies licensed in other states generally do not have nexus in New York, and also cannot be included in combined returns.

Proposal: The proposal would amend Article 33 of the Tax Law to remove captive insurers that are not principally engaged in the insurance business from the definition of an insurance corporation. A captive will meet the principally engaged test if more than half of its gross receipts for the taxable year are from premiums. It would also amend Article 9-A and 32 of the Tax Law to require a captive insurer which is not principally engaged in the insurance business to file a combined return with its parent corporation or closest controlling stockholder under Article 9-A or 32.

Discussion: The current law allows corporations to use captive affiliates to shelter income from taxation. This is accomplished through the transfer of income-producing assets from the parent to an affiliated captive insurer. These assets are usually intangible in nature, such as patents and trademarks. The result is that the captive is capitalized to an extent far greater than that necessary to maintain solvency and pay claims. The income from these assets escapes taxation by New York because a captive licensed in this state is taxed only on the premiums it receives from

EXECUTIVE BUDGET PROPOSALS

the parent, and captives licensed in other states are not taxable here. The parent may also take a federal expense deduction for royalties paid to the captive, which flows through to New York.

In the past few years, the Department of Taxation and Finance has become aware that certain New York taxpayers were in fact using captive insurance affiliates to shelter taxable income in this manner. We are unable to use combination as a remedy in these situations because the parent and the captive affiliate are taxed under different articles of the Tax Law and combination is prohibited by statute. The potential for further abuse is clear and will only grow in the future as more corporations become aware of this loophole. This proposal is intended to reverse this trend, and preserve current and future revenues by curbing these practices.

Estimate: This proposal would increase revenues in SFY 2009-10 by \$31 million.

11. Impose a State Sales and Use Tax Surcharge on Certain Beverage Products

Background: Fruit drinks with less than 70 percent natural juice, soft drinks, sodas and similar beverages such as are ordinarily dispensed at soda fountains (other than coffee, tea and cocoa) are subject to the State's 4 percent sales and use tax.

Proposal: The proposal imposes an additional 18 percent State sales and use tax rate on these products, other than diet soda and water products, such as plain water (carbonated or not), and carbonated water with mere added natural flavorings.

Discussion: The additional sales tax rate would apply to individually packaged product and to drinks sold in a restaurant, bar or similar establishment. The beverage products would also be subject to sales tax and the surcharge when sold through a vending machine for 75 cents or less.

Estimate: The proposal would increase State revenues in SFY 2009-10 by \$404 million.

12. Impose Sales Tax on Various Amusement Charges

Background: Taxable amusement charges currently consist of charges for admission to a place of amusement, dues and initiation fees paid to a social or athletic club, and charges of a cabaret, night club or similar establishment. Various exemptions and exclusions from these tax impositions exist.

Proposal: The proposal expands the definitions of charges subject to the taxes and removes some exclusions from the existing tax.

Discussion: As a result of this proposal, charges for admission to theaters, golf courses, gymnasiums, bowling alleys and other places with facilities for amusement will be subject to sales tax. Other transactions including charges for the use of amusement devices and sporting club dues will also become subject to tax.

Estimate: The proposal would increase State revenues in SFY 2009-10 by \$53 million.

13. Narrow the Sales Tax Definition of Capital Improvement

Background: The services of maintaining, servicing or repairing real property are subject to sales tax. However, adding to or improving real property by a capital improvement is not included in this imposition. To qualify as a capital improvement under current law, the addition or alteration must add to the value of the real property, become part of or be permanently affixed to the real property, and be intended to be a permanent installation.

Proposal: This proposal would narrow the definition of a capital improvement to require that, in addition to the current conditions defining a capital improvement, an addition or installation to real property must be performed on new construction, as a new addition to existing construction, or as a total reconstruction of existing construction.

Discussion: These new conditions currently apply for purposes of floor covering installations. They are adopted to apply to all additions or alterations to real property.

Estimate: The proposal would increase State revenues in SFY 2009-10 by \$120 million.

14. Repeal the Sales Tax Cap on Motor Fuel and Diesel Motor Fuel

Background: Legislation enacted in 2006 “capped” the State’s sales and use taxes on motor fuel and diesel motor fuel at eight cents per gallon. This effectively exempts the portion of the receipts exceeding two dollars per gallon.

Proposal: This bill would repeal the State’s eight cents per gallon rate of sales and use taxes on motor fuel and diesel motor fuel, and restore the State’s 4% percent rate of tax on these fuels. It would also repeal the authority of counties and cities to elect a cents per gallon tax rate, likewise restoring the local percentage rates of tax.

Discussion: In 2006, with gas prices rising, the Legislature felt it was necessary to enact a cents per gallon cap on the State’s sales and use taxes imposed on certain fuel and to authorize counties and cities to elect their own cap. However, the cap did little to provide consumers with significant savings on purchases of motor fuel or diesel motor fuel.

Estimate: The proposal would increase State revenues in SFY 2009-10 by \$90 million.

15. Impose Sales Tax on Cable and Satellite Television and Radio Services

Background: Cable and satellite TV and radio services are not currently subject to New York State sales tax.

Proposal: This proposal would impose sales tax on television and radio service provided by cable, satellite or other similar means.

Discussion: Twenty-three other states tax cable television programming services.

Estimate: The proposal would increase State revenues in SFY 2009-10 by \$136 million.

16. Restructure the Clothing and Footwear Sales Tax Exemption

Background: Clothing and footwear priced under \$110 per item or pair are currently exempt from state sales and compensating use taxes.

Proposal: This proposal eliminates the year-round sales tax exemption for clothing and footwear priced under \$110 per item or pair and replaces it with two one-week exemption periods for clothing and footwear priced under \$500 per item or pair. The one-week exemptions would occur during the last week of August and during the seven days ending on the first Sunday in February.

Discussion: Although this proposal removes the year-round clothing exemption for items priced under \$110, consumers will benefit by the higher exemption threshold of \$500 that will be in place during the recurring week-long exemptions. Additionally, the exemption weeks are timed to occur during busy shopping periods.

EXECUTIVE BUDGET PROPOSALS

Estimate: The proposal would increase State revenues in SFY 2009-10 by \$462 million.

17. Taxation of Digital Products

Background: Retail consumer products, including music, movies, books, photographs, and video and computer games, are now commonly available in digital rather than tangible form. Because the sales tax is generally imposed on tangible personal property (and on a limited number of services), these products are not subject to sales tax. Additionally, New York's corporate tax statute does not specifically address how to allocate receipts from digital products, especially when product represents a bundle of property and services.

Proposal: This proposal would impose sales and use tax on digital products, and specify sales tax sourcing rules for those products. In addition, various sales and use tax exemptions are updated to reflect the new provisions imposing tax on digital products. Lastly, the proposal would create a separate receipts category for these products in the business receipts allocation rules. This new category of receipts from digital products would generally be sourced to where the product is used, which would be a continuation of the Department's current sourcing of receipts from the sales of their tangible counterparts.

Discussion: These amendments will preserve the existing tax base and promote parity between like products, regardless of the form or method of delivery to the customer.

Estimate: The proposal would increase State revenues in SFY 2009-10 by \$15 million.

18. Sales Tax Abusive Schemes

Background: Two 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 SFY 2009-10 by \$4 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.

GLOSSARY

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, 2009. Therefore, estimates for the 2002-2006 tax years (2001-2005 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.

APPENDIX

New York State Tax Expenditure Estimates of Federal Exclusions from and Adjustments to Income

Provision	2002	2003	2004	2005	2006	2009
Personal Income Tax						
1. Deduction for IRA and Keogh Contributions Taxpayers may deduct up to \$5,000 of contributions to qualified IRA plans. For married couples, each spouse may deduct \$5,000. 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.	82.0	107.8	114.3	127.3	131.2	167.6
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.	55.3	63.2	65.5	56.8	53.9	60.6
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.	120.5	118.7	154.0	149.7	160.5	182.0
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 or exchange of a principal residence. This exclusion applies for each sale or exchange.	427.6	530.0	856.7	801.4	644.6	723.9
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.	2.7	3.8	4.8	5.5	5.5	7.4
6. Exclusion of Scholarship and Fellowship Income Scholarship and fellowship income may be excluded from a student's Federal gross income.	26.6	31.2	32.9	40.4	38.3	42.7
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.	16.5	19.1	20.2	20.2	19.0	21.1
8. Exclusion of Public Assistance Benefits Public assistance benefits are excluded from Federal gross income.	8.4	9.7	10.2	10.2	9.6	10.5
9. Exclusion of Veterans' Benefits Various benefits received by veterans or their beneficiaries are tax-exempt.	75.1	84.5	86.4	90.2	86.2	92.0
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.	2,151.0	2,413.2	2,819.0	2,840.2	2,739.7	3,680.0
11. Exclusion of Employer Contributions for Employee Pensions Employer contributions to an employee's pension plan are excluded from the employee's Federal gross income. Also, earnings are excludible until distributed. Various limitations apply to contributions on behalf of highly-compensated employees.	2,343.5	2,235.0	2,096.5	2,040.4	1,905.6	1,974.0
12. Exclusion of Workers' Compensation Benefits Amounts received under workers' compensation acts, accident and health insurance, and similar plans are excluded from gross income.	128.7	129.6	137.4	128.6	117.5	119.4
13. Exclusion of Employer-Provided Tuition Assistance Employees may exclude up to \$5,250 of employer-paid tuition for undergraduate and graduate college education.	10.6	12.5	13.3	13.4	12.9	14.5
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).	12.5	14.2	14.5	15.0	24.0	29.2

APPENDIX

Provision	2002	2003	2004	2005	2006	2009
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.	51.7	68.0	73.1	75.0	66.6	73.5
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.	46.6	58.1	71.2	70.4	65.9	71.9
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.	52.8	77.9	76.2	86.3	80.0	103.5
19. Exclusion of Employer-Provided Adoption Assistance Taxpayers may exclude up to \$11,390 per child of qualified adoption expenses provided by their employers.	4.6	10.6	8.6	12.3	7.6	8.1
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.	43.9	56.4	55.2	58.8	49.8	52.8
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.	354.8	444.2	415.2	400.0	355.7	439.0
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.	449.3	512.8	534.4	424.0	373.7	412.2
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.	123.3	124.1	188.8	225.0	234.3	319.6
25. 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.	559.7	571.1	638.4	672.6	667.6	753.9
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.	26.0	18.9	24.5	24.3	23.8	25.6

APPENDIX

Provision	2002	2003	2004	2005	2006	2009
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.	*	*	2.4	3.4	2.0	1.8
29. Expensing up to \$250,000 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 \$250,000 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 \$800,000.	10.3	15.9	70.1	70.0	48.0	45.0
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.	371.3	398.1	412.0	413.6	579.7	651.0
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.	10.6	9.4	12.0	11.4	15.0	12.0
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 \$70,000 (single) and \$140,000 (married joint).	15.4	17.9	18.6	18.2	16.6	16.7
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).	1.5	2.6	1.7	0.2	0.4	1.2
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	12.3	18.0
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 \$5,800 for those with family coverage (\$2,900 for those with individual coverage).	--	7.0	9.5	15.5	6.2	18.0

Provision	2001	2002	2003	2004	2005	2009
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.	227.2	390.0	172.2	188.4	206.0	424.4
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	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.	47.2	42.3	44.2	54.6	76.5	480.4
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	5.9
8. Deductibility of Charitable Contributions Taxpayers may deduct charitable contributions, not exceeding 10 percent of taxable income computed as specified, from gross income.	23.7	25.7	28.3	29.9	32.1	41.1
9. Expensing of Exploration and Development Costs Taxpayers may deduct exploration costs and development expenditures of a mine or natural deposit as expenses in the year incurred.	*	*	*	*	*	*
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.	1.4	1.4	1.4	1.4	1.4	4.1
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

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Provision	2001	2002	2003	2004	2005	2009
Bank Tax						
<p>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.</p>	131.5	131.5	146.3	154.0	92.8	51.6
<p>2. Expensing up to \$250,000 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 \$250,000 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 \$800,000.</p>	*	*	*	*	*	*
<p>3. Deductibility of Charitable Contributions A corporation may deduct charitable contributions, not exceeding 10 percent of taxable income computed as specified, from gross income.</p>	40.4	44.0	42.8	45.2	41.6	19.0
<p>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.</p>	N/A	N/A	N/A	N/A	N/A	N/A
<p>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.</p>	30.0	30.0	35.0	30.0	30.0	30.0

Provision	2001	2002	2003	2004	2005	2009
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.	20.1	20.1	12.3	12.9	7.8	8.7
2. Expensing up to \$250,000 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 \$250,000 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 \$800,000.	*	*	*	*	*	*
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	5.3	6.9	7.3	8.5
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	2.1	2.1	3.6	4.1

* Less than \$0.1 million.

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

N/A No data available.