

**New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau**

TSB-M-86 (1)C
Corporation Tax
January 1, 1986

1985 Changes to the Tax Law

<u>Article</u>	<u>Reference to TSB</u>	<u>Chapter Bill Section</u>	<u>Summary</u>
9-A	None	Chapter 66 - Sec. 1	Amnesty Program
<u>Law Section</u>	<u>Reference to TSB</u>	<u>Chapter Bill Section</u>	<u>Summary</u>
171-a	None	Chapter 29-Sec. 1 Laws of 1985	Disposition of Revenue.
180.1	TSB-M-85(17)C	Chapter 540-Sec. 1 Laws of 1985	Amends organization tax to increase credit for prior taxes paid in case of changes in capitalization.
181.1	TSB-M-85(16)C	Chapter 298-Sec. 2 Laws of 1985	Foreign corporation subject to tax under Article 32 is liable for license fee.
181.1	TSB-M-85(17)C	Chapter 540-Sec. 2 Laws of 1985	Reduces the rate of the license fee on foreign corporations so that it would be equal to the organization tax imposed on domestic corporations.
181.2	TSB-M-85(16)C	Chapter 298-Sec. 2 Laws of 1985	Foreign corporation subject to tax under Article 32 are subject to the maintenance fee.
183.1	TSB-M-85(16)C	Chapter 298-Sec. 3 Laws of 1985	Corporation principally engaged in transportation or transmission subject to tax under Article 32 not subject to tax under Article 9.
183-a	TSB-M-85(16)C	Chapter 298-Sec. 4 Laws of 1985	Corporation principally engaged in transportation or transmission which is subject to tax under Article 32 is not subject to the surcharge under Article 9.

<u>Law Section</u>	<u>Reference to TSB</u>	<u>Chapter Bill Section</u>	<u>Summary</u>
184	TSB-M-85(9)C	Chapter 29-Sec. 2 Laws of 1985	On or after January 1, 1985, corporations principally engaged in the conduct of a telephone or telegraph business shall pay a franchise tax of 3/10 of 1% on gross earnings from all sources in this state.
184.1	TSB-M-85(16)C	Chapter 298-Sec. 5 Laws of 1985	Corporation principally engaged in transportation or transmission subject to tax under Article 32 not subject to tax under Article 9.
184-a	TSB-M-85(9)C	Chapter 29-Sec. 3 Laws of 1985	Corporations principally engaged in the conduct of a telephone or telegraph business shall compute its surcharge as if the 3/4 of 1% rate of tax was applicable to such corporations, under section 184 of the Tax Law.
184-a.1	TSB-M-85(16)C	Chapter 298-Sec. 6 Laws of 1985	Technical changes.
186	TSB-M-85(16)C	Chapter 298-Sec. 7 Laws of 1985	Corporation principally engaged in supplying water, gas, electricity or steam which is subject to Article 32 is not subject to tax under Article 9.
186.2-a	TSB-M-85(10)C	Chapter 29-Sec. 4 Laws of 1985	Makes the requirement that telephone and telegraph corporations include a portion of its revenue from interstate and foreign transmission service in its gross income or gross operating income permanent (was previously limited to

<u>Law Section</u>	<u>Reference to TSB</u>	<u>Chapter Bill Section</u>	<u>Summary</u>
			taxable years commencing on or after January 1, 1983 but before January 1, 1985).
186-b.1	TSB-M-85(16)C	Chapter 298-Sec. 8 Laws of 1985	Corporation principally engaged in supplying water, gas, etc., subject to tax under Article 32 is not subject to surcharge under Article 9.
202	None	Chapter 65-Sec. 8 Laws of 1985	Changes to secrecy provisions
205	None	Chapter 29-Sec. 5 Laws of 1985	Technical Changes
208.9(a) (9) & (10)	TSB-M-82(15)C TSB-M-85(13)C	Chapter 43-Sec. 1 Laws of 1985	Subtractions from entire net income for safe harbor lease transactions are applicable to all taxable years beginning after December 31, 1981.
208.9(b) (8) & (9)	TSB-M-82(15)C TSB-M-85(13)C	Chapter 43-Sec. 2 Laws of 1985	Additions to entire net income for safe harbor lease transactions are applicable to all taxable years beginning after December 31, 1981.
208.9(b)(10)	TSB-M-82(16)C TSB-M-83(17)C TSB-M-85(12)C	Chapter 43-Sec. 2 Laws of 1985	Addback of ACRS deduction is effective for taxable years beginning after December 31, 1981. No addback will be required for recovery property placed in service for taxable years beginning after 12/31/84 or for luxury cars acquired after 6/18/84.

<u>Law Section</u>	<u>Reference to TSB</u>	<u>Chapter Bill Section</u>	<u>Summary</u>
208.9(j)	TSB-M-82(16)C TSB-M-83(17)C TSB-M-85(12)C	Chapter 43-Sec. 3 Laws of 1985	Deduction allowable under section 167 of the IRC is effective for taxable years beginning after December 31, 1981. No adjustment required for recovery property placed in service for taxable years beginning after 12/31/84 or for luxury cars acquired after 6/18/84.
209.4	None	Chapter 298-Sec. 9 Laws of 1985	Bank holding company filing combined return in accordance with 1462(f) not subject to tax under Article 9-A.
209-A	None	Chapter 542-Sec. 1	Repealed.
209-B.5	TSB-M-85(5.1)C	Chapter 542-Sec. 2 Laws of 1985	Provides for automatic 6 month extension for filing Metropolitan Business Tax Surcharge Report. 90% of tax due must be paid for surcharge extension to be valid.
211.1	TSB-M-85(5.1)C	Chapter 542-Sec. 3 Laws of 1985	Provides for automatic 6 month extension.
211.8	None	Chapter 65-Sec. 9 Laws of 1985	Changes to secrecy provisions.
213.1	None	Chapter 542-Sec. 4 Laws of 1985	Deleted reference to properly estimated tax being computed on the "as if" basis.
301	TSB-M-85(7)C	Chapter 29-Sec. 6 Laws of 1985	For all taxpayers subject to Article 13-A of the Tax Law, the tax rate of 2 3/4% will be permanent for all periods beginning after April 1, 1984. The tax rate will not drop to 3/4 of 1% on July 1, 1985.

<u>Law Section</u>	<u>Reference to TSB</u>	<u>Chapter Bill Section</u>	<u>Summary</u>
301(a)	TSB-M-85(7)C	Chapter 29-Sec. 7 Laws of 1985	This section, which deals with the decrease in the tax rate to 3/4 of 1%, is repealed.
312	None	Chapter 29-Sec. 8 Laws of 1985	Disposition of Revenue.
314(b)	None	Chapter 65-Sec. 15 Laws of 1985	Change in secrecy provisions of Article 13-A.
1085(a)(1)(B)	TSB-M-85(8)C	Chapter 65-Sec. 67 Laws of 1985	Addition to tax shall not be less than \$100 or 100% of tax if tax return is not filed within 60 days of due date.
1085(a)(1)(B)	None	Chapter 765-Sec. 10 Laws of 1985	Technical changes
1085(a)(j)(C)	TSB-M-85(8)C	Chapter 65-Sec. 67 Laws of 1985	Reduction of tax required to be shown by any prepayments on or before prescribed date.
1085(b)	TSB-M-85(8)C	Chapter 65-Sec. 68 Laws of 1985	Additional penalty of 50% of interest payable may be due because of negligence or intentional disregard.
1085(e)(1)	TSB-M-85(16)C	Chapter 298-Sec. 10 Laws of 1985	Technical changes.
1085(e)(3)	TSB-M-85(16)C	Chapter 298-Sec. 11 Laws of 1985	For taxable year beginning on or after 1/1/85 and ending before 12/31/86, an Article 32 taxpayer may compute estimated tax payments based on tax for the preceding taxable year.
1085(f)	TSB-M-85(8)C	Chapter 65-Sec. 69 Laws of 1985	Additional penalty of 50% of interest payable maybe due because of fraud.

<u>Law Section</u>	<u>Reference to TSB</u>	<u>Chapter Bill Section</u>	<u>Summary</u>
1085(j) & (h)	None	Chapter 65-Sec. 70-71 Laws of 1985	Technical changes
1085(k)	TSB-M-85(8)C	Chapter 65-Sec. 72 Laws of 1985	Substantial underpayment requirements changed to the greater of 10% or \$5,000 for all taxpayers.
1085(k)	None	Chapter 765-Sec. 11 Laws of 1985	Technical changes
1085(1)	TSB-M-85(8)C	Chapter 65-Sec. 73 Laws of 1985	Imposes a fine of \$10,000 on any person who aids in the filing of a false or fraudulent return.
1085(1)	None	Chapter 765-Sec. 12 Laws of 1985	Technical changes
1091	None	Chapter 65-Sec. 27 Laws of 1985	Technical Changes.
1091(d)	TSB-M-85(8)C	Chapter 65-Sec. 28 Laws of 1985	New section dealing with prima facie evidence.
1091(e)	TSB-M-85(8)C	Chapter 65-Sec. 28 Laws of 1985	New section dealing with prosecution of offenses under Article 37.
1091(f)	TSB-M-85(8)C	Chapter 65-Sec. 75 Laws of 1985	Liens created by filing of warrants will apply against both real and personal property.
1095	None	Chapter 65-Sec. 29 Laws of 1985	Replaces old section 1095. Provides cross reference for criminal penalties.
1096(b)	TSB-M-85(8)C	Chapter 65-Sec. 30 Laws of 1985	New paragraph (2) was added so that Tax Commission may look into an offense connected with corporate tax articles.
1450(c)	TSB-M-85(16)C	Chapter 298-Sec. 11-a	Change to definition of Laws of 1985 International Banking Facility.

<u>Law Section</u>	<u>Reference to TSB</u>	<u>Chapter Bill Section</u>	<u>Summary</u>
1450(d) & (e)	TSB-M-85(16)C	Chapter 298-Sec. 12 Laws of 1985	Added these subsections regarding subsidiary and subsidiary capital.
1452(a)	TSB-M-85(16)C	Chapter 298-Sec. 13 Laws of 1985	Changes in definition of a banking corporation.
1452(a)(9)	TSB-M-85(16)C	Chapter 298-Sec. 13 Laws of 1985	Changes in definition of a banking corporation.
1452(b)	TSB-M-85(16)C	Chapter 298-Sec. 14 Laws of 1985	Amendment to definition of term "banking business".
1452(d)	TSB-M-85(16)C	Chapter 298-Sec. 15 Laws of 1985	Election to be taxable under Article 9-A.
1453(b)(1) (A), (B) & (C)	TSB-M-85(16)C	Chapter 298-Sec. 16 Laws of 1985	Changes to addback requirements.
1453(b) (7) & (8)	TSB-M-82(15)C TSB-M-85(13)C	Chapter 43-Sec. 7 Laws of 1985	Additions to entire income for safe harbor lease transactions are applicable to taxable years beginning after December 31, 1981.
1453(b)(9)	TSB-M-82(16)C TSB-M-85(12)C	Chapter 43-Sec. 7 Laws of 1985	Addback to entire net income for ACRS deduction is applicable to taxable years beginning after December 31, 1981. No addback will be required for recovery property placed in service in taxable years beginning after 12/31/84 or luxury cars acquired after 6/18/84.
1453(e)	TSB-M-85(16)C	Chapter 298-Sec. 17 Laws of 1985	Changes to deduction requirements by adding new paragraphs 9, 10, 11 and 12.

<u>Law Section</u>	<u>Reference to TSB</u>	<u>Chapter Bill Section</u>	<u>Summary</u>
1453(e) (5) & (6)	TSB-M-82(15)C TSB-M-85(13)C	Chapter 43-Sec. 8 Laws of 1985	Subtractions from entire net income for safe harbor lease transactions are applicable to taxable years beginning after December 31, 1981.
1453(e)(7)	TSB-M-82(16)C TSB-M-85(12)C	Chapter 43-Sec. 8 Laws of 1985	Deduction from entire net income for depreciation computed pursuant to section 167 of the IRC is effective for all taxable years beginning after December 31, 1981. No deduction is required for recovery property placed in service in taxable years beginning after 12/31/84 or luxury cars acquired after 6/18/84.
1453(e)(9)	TSB-M-85(16)C	Chapter 298-Sec. 18 Laws of 1985	ENI shall not include any money or property from FDIC under sec. 13(c) of Federal Deposit Insurance Act.
1453(e)(10)	TSB-M-85(16)C	Chapter 298-Sec. 18 Laws of 1985	ENI shall not include money or other property received from Federal Savings and Loan Insurance Corporation under sec. 406 (f)(1), (2), (3) or (4) of the Federal National Housing Act.
1453(e)(11)	TSB-M-85(16)C	Chapter 298-Sec. 18 Laws of 1985	ENI shall not include (1)17% of interest income from subsidiary capital and (2) 60% of dividend income, gains and losses from subsidiary capital.

<u>Law Section</u>	<u>Reference to TSB</u>	<u>Chapter Bill Section</u>	<u>Summary</u>
1453(e)(12)	TSB-M-85(16)C	Chapter 298-Sec.18 Laws of 1985	ENI shall not include 22½% of interest income from (1) obligations of NYS or its political subdivisions and (2) obligations of the U.S., provided such obligations are not held by the taxpayer for resale in the regular course of trading activities.
1453(f)	TSB-M-85(16)C	Chapter 298-Sec. 19 Laws of 1985	ENI shall not include the adjusted eligible net income or loss of an IBF if the taxpayer so elects.
1453(g)	TSB-M-85(16)C	Chapter 298-Sec. 20 Laws of 1985	ENI shall not include reduction in basis of property required by section 362 of the IRC, as result of any amount of money or property received from (1) the FDIC under section 13(c) of the Federal Deposit Insurance Act or (2) the Federal Savings and Loan Insurance Corporation under sections 406(f)(1), (2), (3) or (4) of the Federal National Housing Act.
1453(g)-(k)	None	Chapter 298 Laws of 1985	Renumbered (h)-(1).
1453-A	TSB-M-85(16)C	Chapter 298-Sec. 21 Laws of 1985	New section which was add to explain the computation of alternative entire net income.
1454(a)	TSB-M-85(16)C	Chapter 298-Sec. 22 Laws of 1985	Section was amended and substantially increased to deal with the allocation of entire net income. Allocation factors are provided. Also

<u>Law Section</u>	<u>Reference to TSB</u>	<u>Chapter Bill Section</u>	<u>Summary</u>
			deals with allocation of alternative entire net income and allocation of taxable assets.
1454(a)(1)	TSB-M-85(16)C Laws of 1985	Chapter 298-Sec. 22	Payroll factor.
1454(a)(2)	TSB-M-85(16)C Laws of 1985	Chapter 298-Sec. 22	Receipts factor.
1454(a)(2)(B)	TSB-M-85(16)C	Chapter 298-Sec. 22 Laws of 1985	Interest from loans and financing leases are earned within NYS, if the greater portion of income producing activity related to the loan or financing lease occurred within NYS.
1454(a)(2)(C)	TSB-M-85(16)C	Chapter 298-Sec. 22 Laws of 1985	Receipts from lease transactions are earned within NYS if property subject to the lease is located in NYS.
1454(a)(2)(D)	TSB-M-85(16)C	Chapter 298-Sec. 22 Laws of 1985	Interest and fees and penalties in the nature of interest are earned within NYS if card holders domicile is in NYS. Service charges and fees are earned within NYS if card is serviced in NYS. Receipts from merchant discounts are earned within NYS if merchant is located in NYS.

<u>Law Section</u>	<u>Reference to TSB</u>	<u>Chapter Bill Section</u>	<u>Summary</u>
1454(a)(2)(E)	TSB-M-85(16)C	Chapter 298-Sec. 22 Laws of 1985	Receipts from net gains losses and other income from trading investment activities are earned within NYS if greater portion of income producing activity occurred within NYS.
1454(a)(2)(F)	TSB-M-85(16)C	Chapter 298-Sec. 22 Laws of 1985	Receipts from fees or charges from the issuance of letters of credit, travelers checks and money orders are earned within NYS if the letters or credit, travelers checks or money orders are issued in NYS.
1454(a)(2)(G)	TSB-M-85(16)C	Chapter 298-Sec. 22 Laws of 1985	Receipts from performance of services not mentioned are earned within NYS if service was performed in NYS.
1454(a)(2)(H)	TSB-M-85(16)C	Chapter 298-Sec. 22 Laws of 1985	All other receipts shall be allocated to NYS in accordance with rules and regulations issued by Tax Commission.
1454(a)(3)	TSB-M-85(16)C	Chapter 298-Sec. 22 Laws of 1985	Deposits factor.
1454(a)(4)	TSB-M-85(16)C	Chapter 298-Sec. 22 Laws of 1985	Explanation of computation of payroll, receipts and deposit factors.
1454(a)(5)	TSB-M-85(16)C	Chapter 298-Sec. 22 Laws of 1985	Provides definition for terms "bona fide office" and "branch".

<u>Law Section</u>	<u>Reference to TSB</u>	<u>Chapter Bill Section</u>	<u>Summary</u>
1454(a)(6) & (7)	TSB-M-85(16)C	Chapter 298-Sec. 22 Laws of 1985	Discretionary adjustments to allocation percentage by Tax Commission.
1454(b)(1)	TSB-M-85(16)C	Chapter 298-Sec. 22 Laws of 1985	Determination of allocation percentage used to compute allocated entire net income.
1454(b)(2)	TSB-M-85(16)C	Chapter 298-Sec. 22 Laws of 1985	If taxpayer computes entire net income without regard to income or loss from IBF, the allocation factors must be adjusted.
1454(c)	TSB-M-85(16)C	Chapter 298-Sec. 22 Laws of 1985	Determination of allocation percentage used to compute allocated alternative entire net income.
1454(d)	TSB-M-85(16)C	Chapter 298-Sec. 22 Laws of 1985	Determination of allocation percentage used to compute taxable assets allocated to NYS.
1455(a)	TSB-M-85(16)C	Chapter 298-Sec. 23 Laws of 1985	Changed tax rate applicable to allocated entire net income to 9%.
1455(b)	TSB-M-85(16)C	Chapter 298-Sec. 24 Laws of 1985	Repealed old subsection (b) and added new subsection (b) to explain the alternative minimum tax.
1455(b)(2)	TSB-M-85(16)C	Chapter 298-Sec. 24 Laws of 1985	Tax rate on alternative entire net income allocated to NYS is 3%.
1455(b)(3)	TSB-M-85(16)C	Chapter 298-Sec. 24 Laws of 1985	Minimum tax is \$250.
1455-B	None	Chapter 298-Sec. 25 Laws of 1985	Technical changes

<u>Law Section</u>	<u>Reference to TSB</u>	<u>Chapter Bill Section</u>	<u>Summary</u>
1455-B.3	TSB-M-85(5.1)C	Chapter 542-Sec. 6 Laws of 1985	Provides for automatic 6 month extension for filing Metropolitan Business Tax Surcharge Report. 90% of surcharge due must be paid for surcharge extension to be valid.
1456(d)	TSB-M-85(16)C	Chapter 298-Sec. 26 Laws of 1985	Repealed the home heating oil emergency loan credit.
1462(c)	TSB-M-85(5.1)C	Chapter 542-Sec. 7 Laws of 1985	Provides for automatic 6 month extension.
1462(f)	None	Chapter 298-Sec. 27 Laws of 1985	Repealed subsection (f) Added new subsection (f) and (g).
1463(b)	None	Chapter 542-Sec. 8 Laws of 1985	Deleted reference to properly estimated tax being computed on an "as if" basis.
1467	None	Chapter 65-Sec. 37 Laws of 1985	Changes to secrecy provisions.
1502(a)(4)	None	Chapter 802-Sec. 8 Laws of 1985	Increased minimum tax on insurance corporations to \$250.
1503(b)(1) (F) & (G)	TSB-M-82(15)C TSB-M-85(13)C	Chapter 43-Sec. 9 Laws of 1985	Subtractions from entire net income for safe harbor lease transaction are applicable to taxable years beginning after December 31, 1981.
1503(b)(2) (K) & (L)	TSB-M-82(15)C TSB-M-85(13)C	Chapter 43-Sec. 10 Laws of 1985	Additions to entire net income for safe harbor lease transactions are applicable to taxable years beginning after December 31, 1981.

<u>Law Section</u>	<u>Reference to TSB</u>	<u>Chapter Bill Section</u>	<u>Summary</u>
1503(b)(2) (M)	TSB-M-82(16)C TSB-M-85(12)C	Chapter 43-Sec. 10 Laws of 1985	Additions to entire net income for ACRS deductions are effective for taxable years beginning after December 31, 1981. No adjustment is required for recovery property placed in service in taxable years beginning after 12/31/84 or luxury cars acquired after 6/18/84.
1503(b)(10)	TSB-M-82(16)C TSB-M-85(12)C	Chapter 43-Sec. 11 Laws of 1985	Deductions from entire net income for depreciation computed pursuant to section 167 of the IRC is effective for taxable years beginning after December 31, 1981. No adjustment is required for recovery property placed in service in taxable years beginning after 12/31/84 or luxury cars acquired after 6/18/84.
1505-a(e)	TSB-M-85(5.1)C	Chapter 542-Sec.9 Laws of 1985	Provides for automatic 6 month extension for filing Metropolitan Business Tax Surcharge Report.
1511(f)	TSB-M-85(6)C	Chapter 802-Sec. 9	Subdivision (f) of 1511 is renumbered (g). New subdivision (f) provides for a credit related to life insurance guaranty corporation assessments.
1511(f)	TSB-M-85(6)C	Chapter 803-Sec. 1 Laws of 1985	Limitation on credit.

<u>Law Section</u>	<u>Reference to TSB</u>	<u>Chapter Bill Section</u>	<u>Summary</u>
1515(c)	None	Chapter 542-Sec. 10 Laws of 1985	Provides for automatic 6 month extension.
1516(b)	None	Chapter 542-Sec. 11 Laws of 1985	Deletes reference to properly estimated tax on an "as if" basis.
1518	None	Chapter 65-Sec. 38 Laws of 1985	Changes to secrecy provisions.
1800(c)	TSB-M-85(8)C	Chapter 65-Sec. 39 Laws of 1985	Limitation on fines
1801(b)	TSB-M-85(8)C	Chapter 65-Sec. 39 Laws of 1985	Any person who, with intent to evade tax, fails to file a return or supplies false information shall be guilty of a misdemeanor.
1803	TSB-M-85(8)C	Chapter 65-Sec. 39 Laws of 1985	Any person who, with intent to evade tax, fails to file a report or return for 3 consecutive years shall be guilty of a Class E felony.
1805	TSB-M-85(8)C	Chapter 65-Sec. 39 Laws of 1985	Any person who, with intent to evade tax, makes renders, signs or certifies a false or fraudulent return shall be guilty of a misdemeanor. However, if the underpayment is substantial it will be a Class E Felony.
1808	TSB-M-85(8)C	Chapter 65-Sec. 39 Laws of 1985	Any person who, with intent to evade tax, aids or assists in the giving of a false or fraudulent return or report shall be guilty of a misdemeanor. However, if the underpayment is substantial it will be a Class E Felony.

<u>Law Section</u>	<u>Reference to TSB</u>	<u>Chapter Bill Section</u>	<u>Summary</u>
1809	TSB-M-85(8)C	Chapter 65-Sec. 39 Laws of 1985	Any person who, in connection with a matter arising under Articles 22, 9, 9-A, 13, 13-A, 32 or 33, fails to obey a subpoena shall be guilty of a misdemeanor.
1810	TSB-M-85(8)C	Chapter 65-Sec. 39 Laws of 1985	Any person who, with intent to evade tax, fails to pay tax shall be guilty of a misdemeanor.