



**Department of
Taxation and Finance**

April 2015

Summary of Tax Provisions in SFY 2015-16 Budget

Nonie Manion
Executive Deputy Commissioner

Robert D. Plattner
Deputy Commissioner

Contents

Summary of SFY 2015-16 Tax Provisions	<i>Business Taxes</i>	1
	New York City Corporate Tax Reform	1
	Excise Tax on Mobile Telecommunication Services under Section 186-e	1
	Department of State Filing Fee	2
	Corporate Tax Reform Technical Corrections	3
	<i>Real Property Taxes</i>	6
	Recoup Improperly Granted Basic STAR Exemptions	6
	Provide 2014 Basic STAR Benefits to Homeowners Who Registered with the State But Did Not Apply to Their Local Assessor	6
	<i>Personal Income Taxes</i>	7
	Eliminate the STAR Program Reduction in New York City Personal Income Tax Rates	7
	Limitation on Itemized Deductions	7
	Personal Income Tax (PIT) and Metropolitan Commuter Transportation Mobility Tax (MCTMT) Technical Corrections	7
	Warrantless Wage Garnishment Extension	8
	MCTMT Exemption for Public Libraries	9
	<i>Estate Tax</i>	9
	Estate Tax Technical Corrections	9
	<i>Tax Credits</i>	9
	Commercial Production Credit	9
	Excelsior Jobs Program Tax Credit	10
	Employee Training Incentive Program	12
	Amend Alternative Fuel Vehicle Refueling Property and Electric Vehicle Recharging Property Credit	14
	Youth Works Tax Credit Program Amendments	15
	Brownfield Cleanup Program Tax Credit Reform	15
	Airport Facilities Added to START-UP NY Tax Free Areas	18

	<i>Sales Taxes and Excise Taxes</i>	18
	Alcoholic Beverage Tastings	18
	Prepaid Mobile Calling Services	19
	Solar Power Purchase Agreements	19
	Farm Production	20
	Sales Tax Cap on Boats	20
	General Aviation Aircraft	21
	Transactions Related to the Dodd-Frank Wall Street Reform and Consumer Protection Act	21
Appendix	Appendix A: Index of SFY 2015-16 Tax Provisions	A-1

Summary of SFY 2015-16 Tax Provisions

Business Taxes

New York City Corporate Tax Reform

Part D of Chapter 60 of the Laws of 2015 generally conforms the New York City (NYC) general corporation tax (GCT) to the recently reformed New York State Article 9-A franchise tax in areas such as the classification of income and capital, attribution of expenses, net operating losses, bases of tax, customer based apportionment rules, and combined reporting. The major differences between the City and State structures pertain to nexus, tax rates and limitations, the preservation of a City capital base tax, and tax credits. In addition, the reformed GCT does not apply to subchapter S corporations or qualified subchapter S subsidiaries. These entities will remain taxable under the prior NYC GCT and bank tax.

The provisions are effective for taxable years beginning on or after January 1, 2015, which coincides with the effective date for the State corporate tax reform provisions.

For more information, visit: <http://www1.nyc.gov/site/finance/taxes/corporate-tax-reform.page>

(Chapters 5 and 6 of Title 11 of the Administrative Code of the City of New York)

Excise Tax on Mobile Telecommunication Services under Section 186-e

Part P of Chapter 59 of the Laws of 2015 amends Article 9 section 186-e of the Tax Law to impose a separate excise tax on the sale of mobile telecommunications services by a telecommunication services provider at the rate of 2.9 percent. The new rate applies to gross receipts from any mobile telecommunication service provided on and after May 1, 2015 by a home service provider where the mobile telecommunications customer's place of primary use is within New York State. In addition, there is a corresponding surcharge imposed at the rate of 0.721 percent on gross receipts from mobile telecommunications services relating to the Metropolitan Commuter Transportation District. (Sections 186-c(1)(b) and 186-e(2)(a) of the Tax Law)

Seven and six-tenths percent of the moneys collected on and after May 1, 2015 from this excise tax will be allocated to the Dedicated Highway and Bridge Trust Fund and the Mass Transportation Operating Assistance Fund and distributed pursuant to Section 205.3 of the Tax Law. (Section 186-e(9) of the Tax Law)

Part S of Chapter 59 of the Laws of 2015 allows the Department of Taxation and Finance (the Tax Department) to enter into an agreement with the Department of State (DOS) to collect contact information from corporations, limited liability companies (LLCs), and limited liability partnerships (LLPs) that is currently required to be filed periodically with DOS. The agreement would allow the required information to be filed on annual tax filings, in lieu of the periodic filing with DOS. The information would subsequently be shared with DOS. Part S also provides that the filing fees currently required when statements are filed with DOS are not required when the information is provided on tax reports filed with the Tax Department.

Each corporation subject to tax under Article 9-A or Article 9 as well as each LLC and registered LLP subject to the Article 22 filing fees shall include the required information on its annual tax filing. This requirement also applies to farm corporations that are currently exempt from the filing of biennial statements with DOS. However, each entity must continue to file the required statements with DOS until it has actually filed a return or filing fee form with the Tax Department containing all of the required information. After that time, the entity shall continue to file the information on its annual tax filing and cease filing with DOS.

Part S maintains the following required elements to be reported by entities:

- Corporations: name and business address of its chief executive officer, street address of its principal executive office, and post office address to which the Secretary of State can mail a copy of process served upon him or her.
- LLCs: a post office address to which the Secretary of State can mail a copy of process served upon him or her.
- Registered LLPs: name of the LLP, address of the principal office of the LLP, a post office address to which the Secretary of State can mail a copy of process served upon him or her, and a statement that it is eligible to register as a registered LLP.
- New York registered foreign LLPs: the name under which the LLP is carrying on or conducting or transacting business in the state, the address of the principal office of the LLP, a post office address to which the Secretary of State can mail a copy of process served upon him or her, and a statement that it is a foreign LLP.

In addition, Part S adds several new items that the Tax Department, to the extent feasible, shall also transmit to DOS:

- the current name of the entity;
- the DOS identification number;
- the name, signature and capacity of the signer of the statement;
- name and street address of the filer of the statement; and
- the email address, if any, of the filer of the statement.

The transmittal to DOS may include information on noncompliance as well as a copy or image of that portion of the report solely pertinent to such information.

A penalty of \$250 for failure to provide all the information required or to provide correct information in the Secretary of State statements will be imposed, unless it can be shown that such failure to provide the statement and information required is due to reasonable cause and not willful neglect.

Part S takes effect immediately and provides that the agreement between DOS and the Tax Department may be implemented for returns filed for tax years beginning on or after January 1, 2016.

(Sections 104-A(r), 306-A(b) and (c), 408, and 409(4) of the Business Corporation Law; Sections 301(e), 301-A(c), and 1101(c) of the Limited Liability Company Law; Sections 121-1500(g), 121-1502(f)(I), and 121-1506(d) of the Partnership Law; and Sections 192.5, 211.15, 658(c)(3)(E), 685(dd), and 1085(v) of the Tax Law)

Corporate Tax Reform Technical Corrections

Part T of Chapter 59 of the Laws of 2015 makes technical and clarifying amendments to the corporate tax reform statute enacted in 2014. The major changes are outlined below by topic.

Definitions of Income and Capital

Part T amends the definitions of investment capital and income. Investment capital is generally defined as investments in stocks that:

1. satisfy the definition of a capital asset under Section 1221 of the Internal Revenue Code (IRC) at all times the taxpayer owned such stock during the taxable year;
2. are held by the taxpayer for investment for more than one year;
3. the dispositions of which are, or would be, treated by the taxpayer as generating long-term capital gains or losses under the IRC;
4. for stocks acquired on or after January 1, 2015, at any time after the close of the day in which they are acquired, have never been held for sale to customers in the regular course of business; and

-
5. before the close of the day on which the stock was acquired, are clearly identified in the taxpayer's records as stock held for investment in the same manner as required under IRC Section 1236(a)(1) for the stock of a dealer in securities to be eligible for capital gain treatment (whether or not the taxpayer is in fact a dealer of securities). For stock acquired prior to October 1, 2015 that was not subject to IRC Section 1236(a), such identification must occur before October 1, 2015. (Section 208.5(a) of the Tax Law)

Investment income is defined as income, including capital gains in excess of capital losses, from investment capital, less any interest deductions directly or indirectly attributable to investment capital or income. In no case may investment income exceed entire net income (ENI). Any excess amounts of interest deductions over investment come must be added back to ENI. In addition, investment income, determined without regard to interest deductions, cannot exceed 8 percent of the taxpayer's ENI. (Section 208.6 of the Tax Law)

Part T also:

- clarifies the rules for the investment capital holding period presumption for stock that is a capital asset owned on the last day of the tax year; (Section 208.5(d) of the Tax Law)
- specifically states that the election to reduce investment income and other exempt income by 40 percent, in lieu of attribution of interest expenses, is revocable; (Sections 208.5 (b) and 208.6-a of the Tax Law) and
- deletes a reference from the definition of ENI to an obsolete New York City GCT credit. (Section 208.9(a)(5)(i) of the Tax Law)

Nexus

Part T ensures the proper application of the aggregate economic nexus test by replacing the term "combined group" with "unitary group" and specifying that corporations that cannot be included in a combined return (e.g., Article 9 and Article 33 taxpayers) will not be included in the determination. In addition, it clarifies the nexus exemptions for alien corporations. (Section 209.1(d), 209.2-a, and 209-B.1(d) of the Tax Law)

Tax Rates

Part T clarifies the tax rates and fixed dollar minimum amounts for qualified emerging technology companies and qualified New York manufacturers. (Sections 210.1(a), 210.1(b), and 210.1(d) of the Tax Law)

Prior Net Operating Loss Conversion (PNOLC) Subtraction and Net Operating Loss Deduction (NOLD)

Part T clarifies that the PNOLC subtraction can only be claimed until the pool is exhausted and, unless the taxpayer elects to use the PNOLC over two years, cannot be carried forward for more than 20 years or until the tax year that begins in 2035, whichever comes first. In addition, the loss provisions are amended to correct terminology, add references to carrybacks, and specify the rules for using NOLs. (Sections 210.1(a)(viii) and 210.1(a)(ix) of the Tax Law)

Apportionment

Part T defines a qualified financial instrument (QFI) as an instrument of the type described in clauses (A), (B), (C), (D), (G), (H) or (I)¹ of Section 210-A.5(a)(2) that has been marked to market under IRC Sections 475 or 1256. In addition, if a taxpayer has marked to market an instrument of the type listed above, then any financial instrument within that type that has not been marked to market under IRC Sections 475 or 1256 is also a QFI. However, loans secured by real property and stock that is investment capital are not considered QFIs. In addition, if the only loans that are marked to market are loans secured by real property, then no loans will qualify as QFIs. In the case of a combined report, the QFI designation is determined on a combined basis. (Section 210-A.5 (a) of the Tax Law)

In addition, Part T:

- specifies that the apportionment fraction shall not be reduced by the ENI modifications for thrifts and community banks; (Section 210-A.1 of the Tax Law)
- creates customer-based apportionment rules for marked to market net gains, receipts from the operation of vessels, and qualified air freight forwarders; (Sections 210-A.5(a)(2)(J), 210-A.6-a, and 210-A(7) of the Tax Law)
- clarifies apportionment rules for physical commodities and TV and radio advertising receipts; (Sections 210-A.2(c), 210-A.5 (a)(2)(I) and 210-A.8 of the Tax Law)
- provides that a loan is secured by real property if 50 percent or more of the value of the collateral used to secure the loan consists of real property; (Section 210-A.5(a)(2)(A)(v) of the Tax Law) and
- deletes reference to the treasury function in the definition of commercial domicile (Section 210-A.5(e) of the Tax Law)

Combined Groups

For purposes of combined reports, Part T:

- makes conforming changes to the PNOLC and NOLD on a

¹ The types of instruments described in the listed clauses include: loans; federal, state, and municipal debt; asset backed securities and other government agency debt; corporate bonds; stocks and partnership interests; other financial instruments; and physical commodities, respectively.

combined report; (Sections 210-C.1 and 210-C.4 of the Tax Law)

- clarifies that the limitation on investment income is computed on a combined basis; (Section 210-C.4(e)(ii) of the Tax Law)
- clarifies that the commonly owned group election is made on an original, timely filed return determined with regard to extensions; (Section 210-C.3(b) of the Tax Law) and
- amends the definition of designated agent of a combined group to make the only requirement be that the agent is a taxpayer. (Section 210-C.7 of the Tax Law)

Credits

Part T clarifies that the alternative base tax credit only applies if a taxpayer pays tax on the cap under the capital base at the highest fixed dollar minimum amount. In addition, it adds back language to the financial services ITC to allow for property purchased by affiliated entities to qualify for the credit and reinstates the sunset date of October 1, 2015 that was inadvertently omitted from last year's language. (Sections 210-B.1(b) and 210-B.42 of the Tax Law)

Effective Date

These changes are effective for tax years beginning on or after January 1, 2015, the same effective date as the original corporate tax reform provisions enacted in 2014.

Real Property Taxes

Recoup Improperly
Granted Basic STAR
Exemptions

Part E of Chapter 59 of the Laws of 2015 allows the Tax Department to go back up to three years to recoup savings plus interest from taxpayers who improperly received the Basic School Tax Relief (STAR) exemption. The affected taxpayers will have the ability to appeal these determinations to the Department and, if not satisfied, to the State Board of Real Property Tax Services. This program will be administered by the Department, and local officials will have no direct role in the process. This provision takes effect immediately.

(Section 425 of the Real Property Tax Law)

Provide 2014 Basic
STAR Benefits to
Homeowners Who
Registered with the
State But Did Not
Apply to Their Local
Assessor

Part F of Chapter 59 of the Laws of 2015 allows homeowners who registered for the Basic STAR exemption with the Tax Department, but failed to file a timely application with their assessor, to receive the benefit of the exemption for 2014. The Department will pay the 2014 STAR benefits directly to these homeowners as long as they are identified to the Department by October 1, 2015. In order to receive the Basic STAR exemption on 2015 assessment rolls, these homeowners must have filed a timely application with their local assessor. This provision that takes effect immediately.

(Unconsolidated Law; Part F Section 2 of Chapter 59 of the Laws of 2015)

Personal Income Taxes

New York City Personal Income Tax STAR Program Rate Reductions for Taxpayers with More than \$500,000 in Income

Part B of Chapter 59 of the Laws of 2015 completely eliminates the 6 percent personal income tax rate reduction related to the STAR program for New York City resident income taxpayers with taxable income above \$500,000. Prior to this legislation, the rate reduction applied to the first \$500,000 in taxable income for taxpayers whose income exceeds \$500,000.

For affected taxpayers, New York City tax liability will increase by \$1,133 for single taxpayers, \$1,132 for a head of household, and \$1,127 for married taxpayers. The provision applies to taxable years beginning after 2014.

(Section 54-f of the State Finance Law; Section 1304(a) of the Tax Law; and Section 11-1701(a) of the Administrative Code of the City of New York)

Limitation on Itemized Deductions

Part H of Chapter 59 of the Laws of 2015 extends for two more years to tax year 2017 the charitable deduction limitation under the State and New York City personal income taxes for individuals with New York adjusted gross income (NYAGI) of more than \$ 1 million and less than \$10 million, and for individuals with NYAGI of more than \$10 million. For individuals with NYAGI between \$1 million and \$10 million, total itemized deductions are limited to 50 percent of the Federal deduction for charitable contributions. For individuals with NYAGI over \$10 million, itemized deductions are limited to 25 percent of the Federal deduction for charitable contributions through tax year 2017.

(Section 615(g) of the Tax Law and Section 11-1715(g) at the Administrative code of the City of New York)

Personal Income Tax (PIT) and Metropolitan Commuter Transportation Mobility Tax (MCTMT) Technical Corrections

Part I of Chapter 59 of the Laws of 2015 makes various technical corrections to amendments included in last year's Enacted Budget (2014-15) relating to the PIT and the MCTMT. The corrections are necessary to ensure that these amendments accomplish their intended purposes.

Sections 1 through 3 correct obsolete cross-references to the IRC definition of lump sum distributions for purposes of the subtraction modification for length of service awards for volunteer firefighters and for purposes of the subtraction modification for pensions. (Sections 612(c)(41) and 612(c)(3-a) of the Tax Law and Section 11-1712(c)(37) of the Administrative Code of the City of New York)

Sections 4 and 5 make corrections to the New York City enhanced real property circuit breaker tax credit. Section 4 corrects an obsolete reference to the IRC definition of "qualifying relative." Section 5 clarifies that a taxpayer's residence must be located in

New York City in order to qualify for the credit. (Section 606(e-1) of the Tax Law)

Section 6 amends the statewide real property tax credit to correct an obsolete reference to the IRC definition of “qualifying relative.” (Section 606(e)(1)(B) of the Tax Law)

Section 7 clarifies that all self-employed taxpayers subject to the MCTMT, and not just New York State residents, may report MCTMT liabilities on their PIT returns. (Section 606(e)(1)(B) of the Tax Law)

Section 8 amends the new manufacturer’s real property tax credit for manufacturers to allow farmers and commercial fishermen taxable under Article 22 of the Tax Law who lease real property from a related party or an unrelated third party to claim the credit. In addition, the provision clarifies that the credit is limited to real property taxes not deducted from the taxpayer’s New York adjusted gross income. The provision also deletes a reference to a combined return that was irrelevant to the personal income tax. (Section 606(xx)(2)(B) of the Tax Law)

Section 9 corrects the new PIT credit for excise taxes on telecommunication services incurred in a START-UP tax-free area to clarify that the credit is limited to telecommunications taxes not deducted from the taxpayer’s New York adjusted gross income. (Section 606(yy) of the Tax Law)

Section 10 amends the eligibility requirements under the Workers with Disabilities Tax Credit program. Previously, eligible persons with a disability had to complete an individual written rehabilitation plan as approved by the Department of Education or other state agency responsible for providing vocational rehabilitation services. This requirement is no longer required. The provision also removes the November 30th deadline for employers to apply for the credit program. (Sections 25-b(b)(2)(i) and 25-b(d) of the Labor Law)

These provisions take effect immediately.

Warrantless Wage
Garnishment Extension

Part DD of Chapter 59 of the Laws of 2015 extends the sunset date from April 1, 2015 to April 1, 2017 for allowing the Tax Department to serve an income execution (wage garnishment) to individual tax debtors without having to file a warrant. This provision takes effect immediately.

(Part Q of Chapter 59 of the Laws of 2013)

MCTMT Exemption
for Public Libraries

Part YY of Chapter 59 of the Laws of 2015 provides public libraries with an up-front exemption from the MCTMT. Currently, these libraries pay the MCTMT, but are later fully reimbursed by the State.

This provision takes effect immediately and applies to taxable periods beginning on or after January 1, 2016.

(Section 800(b)(4) of the Tax Law)

Estate Tax

Estate Tax Technical
Corrections

Part BB of Chapter 59 of the Laws of 2015 makes technical corrections to provisions in last year's Enacted Budget (2014-15). Specifically, the legislation extends the applicability of the tax rate table to incorporate decedents dying after April 1, 2015; clarifies the gift add back provision to exclude any real or tangible personal property located outside of New York State at the time the gift was made, and that the add back does not apply to decedents dying after January 1, 2019. The legislation also clarifies a disallowance of deductions relating to intangible personal property for estates of nonresident decedents. These provisions take effect immediately and are deemed to have been in effect on and after April 1, 2014.

(Sections 952(b), 954(a)(3) and 960(b) of the Tax Law)

Tax Credits

Commercial
Production Credit

Part J of Chapter 59 of the Laws of 2015 amends the Tax Law to require the Department of Economic Development to submit an annual report on or before December 1st of each year to the Governor, the Director of the Division of the Budget, the Temporary President of the Senate, and the Speaker of the Assembly containing information about commercial production credit allocations during the previous calendar year.

The annual report shall include the following information for every qualified commercial production company allocated credit:

- The name and address of each production company and corresponding credit amounts;
- The total amount of qualified production costs and production costs;
- Estimated number of employees;
- Credit-eligible man hours;
- Credit-eligible wages; and
- Any amounts of unused credit reallocated from the allotment for work performed outside the Metropolitan Commuter Transportation District.

The report may also include any recommendations for changes in the calculation or administration of the credit, recommendations regarding continuing modification or repeal of the credit, and any other information regarding the credit as may be useful and appropriate.

The proposal is effective immediately with the first report being due December 1, 2016, with regard to credits allocated in calendar year 2015.

(Section 28 of the Tax Law)

Excelsior Jobs Program
Tax Credit

Part K of Chapter 59 of the Laws of 2015 expands the Excelsior Jobs Program to allow entertainment companies, music production companies, and software developers involved in the production or post-production of video games to participate in the program. These changes are effective immediately.

Entertainment Companies

To qualify for Excelsior tax credits, an entertainment company will need to create or obtain net new jobs. These will include jobs in an entertainment company in this state:

1. obtained as a result of the termination of a licensing agreement with another entertainment company;
2. that the Commissioner determines to be at risk of leaving the state;
3. that are either full-time wage-paying jobs or equivalent to a full-time wage-paying job requiring at least thirty-five hours per week; and
4. that are filled for more than six months.

An entertainment company submitting an application for acceptance into the Excelsior Jobs Program based on the obtained jobs criteria must submit the application by June 1, 2015.

The term “entertainment company” includes a corporation, partnership, limited partnership, or other entity principally engaged in the production or post production of:

- motion pictures, including feature-length films and television films;
- instructional videos;
- television commercials;
- animated films or cartoons;
- music videos;
- television programs, including television series, pilots, and single episodes; or
- programs primarily intended for radio broadcast.

Certain types of companies are excluded from this definition, including companies principally engaged in:

- the live performance of events, including, but not limited to, theatrical productions, concerts, circuses, and sporting events;
- the production of content intended primarily for industrial, corporate or institutional end-users;
- the production of fundraising films or programs; or
- the production of content for which records are required under Section 2257 of Title 18, United States Code, to be maintained with respect to any performer in such promotion.

Entertainment companies must create or obtain at least 100 net new jobs. However, an entertainment company seeking designation as a “regionally significant project” must create or obtain at least two hundred net new jobs and make a significant capital investment in the state. Lastly, no costs used by an entertainment company as the basis for the Excelsior Jobs Program tax credit are allowed to be used to claim any other credit allowed pursuant to the Tax Law.

Music Production Companies

A business operating predominately in music production must create at least five net new jobs.

“Music production” means the process of creating sound recordings of at least eight minutes, recorded in professional sound studios, and intended for commercial release. It specifically excludes recording of live concerts, recordings that are primarily spoken word or wildlife or nature sounds, or recordings produced for instructional use or advertising or promotional purposes.

Video Game Software Developers

The definition of “software development” was amended to include the production or post-production of video games, as defined in General Business Law Section 611.1-a, other than those embedded and used exclusively in advertising, promotional websites, or microsites. A business entity operating predominately in software development in the production or post-production of video games is required to create at least five net new jobs.

(Sections 352 and 353 of the Economic Development Law)

Part O of Chapter 59 of the Laws of 2015 creates the Employee Training Incentive Program (ETIP). The program is administered by the New York State Department of Economic Development (DED) and provides a refundable tax credit under Articles 9-A and 22 for certain employers that procure skills training for their employees or provide internship programs in advanced technology. DED will determine eligibility and will issue certificates of tax credit to approved business entities. The total amount of tax credits for any taxable year may not exceed \$5 million dollars and will be allotted from the funds available for tax credits under the Excelsior Jobs Program Act. The portion of the tax credit cap allocated to internship programs in advanced technology shall be not less than \$250,000 or more than \$1 million dollars. Part O takes effect immediately and applies to taxable years commencing on and after January 1, 2015 for eligible costs incurred on or after the effective date.

ETIP

- The credit equals 50 percent of eligible training costs, up to \$10,000 per employee receiving eligible training and 50 percent of the stipend paid to an intern, up to a credit of \$3,000 per intern.
- The credit is limited to the amount listed on the certificate of tax credit issued by DED.
- The credit is allowed in the taxable year in which the eligible training is completed.
- For Article 9-A taxpayers, the credit allowed may not reduce the tax due below the fixed dollar minimum base and amounts of unused credit will be refundable. The credit is fully refundable for PIT filers.

(Sections 210-B(50) and 606(ddd) of the Tax Law)

Program Administration

In order to participate in ETIP, a business must satisfy either of the two following sets of criteria.

1. The business entity:
 - a. must operate in New York State predominantly in a strategic industry;
 - b. must demonstrate that it is obtaining eligible training from an approved provider;
 - c. must create at least ten net new jobs or make a significant capital investment in connection with the eligible training;
 - d. must be in compliance with all worker protection and environmental laws and regulations; and
 - e. may not owe past due state taxes or local property taxes;OR
2. The business or an approved provider in contract with such business:

-
- a. must be approved by DED to provide eligible training in the form of an internship program in advanced technology;
 - b. must be located in New York State;
 - c. must be in compliance with all worker protection and environmental laws and regulations;
 - d. may not owe past due state taxes or local property taxes; and
 - e. must have less than one hundred employees.

In addition, the internship program shall not displace regular employees and the participation of an individual in an internship program shall not last more than a total of twelve months.

Net new jobs, the creation of which are required by a business seeking to qualify under the training component of the credit, include jobs created in this state that:

1. are new to New York State;
2. have not been transferred from employment with another business located in New York State through an acquisition, merger, consolidation or other reorganization of businesses or the acquisition of assets of another business, and have not been transferred from employment with a related person in New York State;
3. are either full-time wage-paying jobs or equivalent to a full-time wage-paying job requiring at least thirty-five hours per week;
4. are filled for more than six months;
5. are filled by a person who has received eligible training; and
6. are comprised of tasks the performance of which required the person filling the job to undergo eligible training.

DED will establish criteria for approved providers, but in general, the term “approved provider” means an entity that provides eligible training to employees of a business participating in ETIP; provided that, for internship programs, the business shall be an approved provider or an approved provider in contract with such business.

“Eligible training” means training provided by an approved provider that is:

- intended to upgrade, retain, or improve the productivity of employees;
- provided to employees filling net new jobs, or to existing employees in connection with a significant capital investment (defined as a capital investment of at least \$1 million in new business processes or equipment) by a participating business;

-
- determined by DED to satisfy a business need on the part of a participating business;
 - not designed to train or upgrade skills as required by a federal or state entity;
 - not training the completion of which may result in the awarding of a license or certificate required by law in order to perform a job function ;
 - not culturally focused training; or
 - an internship program in advanced technology approved by DED and provided by an approved provider, on or after August 1, 2015, to provide employment and experience opportunities for current students, recent graduates, and recent members of the armed forces.

(Article 22, Section 441 of the Economic Development Law)

Amend Alternative Fuel
Vehicle Refueling
Property and Electric
Vehicle Recharging
Property Credit

Part RR of Chapter 59 of the Laws of 2015 amends the Tax Law under Articles 9, 9-A and 22 to allow the alternative fuel vehicle refueling property and electric vehicle recharging property credit on costs that are not covered by a grant. The amount of the credit is amended to equal the lesser of \$5,000 or the product of 50 percent and the cost of any such property less any costs paid from the proceeds of grants. Previous law prohibited the credit if any of the cost of the refueling/recharging property had been paid through grant proceeds.

To qualify for the credit, the property must: be located in the state; constitute alternative fuel vehicle refueling property or electric vehicle recharging property; and not be paid for from the proceeds of grants awarded before January 1, 2015, including grants from the New York State Energy Research and Development Authority or the New York Power Authority.

This provision is effective immediately and applies to taxable years beginning on or after January 1, 2015.

(Sections 187-6(2), 210-B(30)(b) and 606(p)(2) of the Tax Law)

Youth Works Tax
Credit Program
Amendments

Part AA of Chapter 56 of the Laws of 2015 renames the Youth Works Tax Credit Program the Urban Youth Jobs Program tax credit and authorizes an additional allocation of \$10 million per year in Programs 3 through 5. It also makes technical amendments to the Labor Law and the Tax Law to clarify when the tax credits may be claimed.

This tax credit is administered by the Department of Labor and is divided into five programs with differing authorized allocation amounts and periods:

Program one – \$25 million for credit allocations in 2012 and 2013;

Program two – \$10 million for credit allocations in 2014;

Program three – \$20 million for credit allocations in 2015;

Program four – \$20 million for credit allocations in 2016;

Program five – \$20 million for credit allocations in 2017.

The credit equals \$500 per month for up to 6 months for each qualified employee working full-time or \$250 per month for up to 6 months for each qualified employee working part-time for at least 20 hours per week or 10 hours per week when the employee is enrolled in high school full-time. There is a \$1,000 full-time/\$500 part-time credit available if the qualified employee is employed for an additional six months. Finally, an additional \$1,000 full-time/\$500 part-time credit is available if the employee is employed for an additional year after the first year of employment. Part AA clarifies that this third credit is allowed in the taxable year in which the additional employment year ends.

(Section 25-a of the Labor Law and Sections 210-B(36)(a) and 606(H)(1) of the Tax Law)

Brownfield Cleanup
Program Tax Credit
Reform

Part BB of Chapter 56 of the Laws of 2015 enacts significant changes to the Brownfield Cleanup Program (BCP). The Department of Environmental Conservation (DEC) remains the lead agency with primary responsibility for administering the BCP and the eligibility for tax credits. Generally, the changes discussed below only impact future BCP applicants; existing participants continue to utilize the rules and computations that pertain to their respective dates of acceptance by DEC. For future applicants, the operative date is notification of DEC acceptance of a BCP application on or after the later of July 1, 2015 or the date the regulation defining “underutilized” is published in the state register of proposed regulations.

Summaries of key changes to the program are articulated below. The Tax Department will be producing a revised Publication 300 - *New York State Tax Credits Available for Remediated Brownfields* that will discuss the changes in depth and provide a comprehensive resource for information on the tax credits.

Brownfield Redevelopment Tax Credit - Tangible Property (TP) Component Changes

- Sites located in New York City must meet one of three standards to be eligible for the TP component:
 1. At least half the site is located in an En-Zone (environmental zone);
 2. The property is upside down or underutilized; or
 3. The project is an affordable housing project.
- Related party service fees are restricted to the TP component and are only allowed in the tax year in which the property to which the fee is attributable is placed in service and the fee is actually paid.
- Other costs for the TP component are limited to:
 - ◆ property with a 15 year or longer depreciable life;
 - ◆ demolition, excavation, and foundation costs not included in the site preparation component; and
 - ◆ costs for non-portable equipment and machinery used exclusively on the site, notwithstanding the depreciable life requirement.
- To figure the appropriate credit base attributable to an affordable housing project where the project may be mixed use, total costs for the TP component are multiplied by the following fraction:

Square footage of affordable housing units
dedicated to residential occupancy

Total square footage of building

- There are three timing changes for the TP component:
 1. TP component is allowed for the tax year in which the property is first placed in service on a qualified site for which a certificate of completion (COC) has been issued by DEC.
 2. Property placed in service prior to the issuance is allowed to generate credit in the tax year in which the COC is issued.
 3. The post-COC window for additional TP component is changed to 120 months from the date of the COC issuance.
- The calculation of the TP component cap, which is the lesser of \$35 million (\$45 million for a site used in manufacturing) or a multiple of the amount of site preparation and groundwater remediation component costs, is amended to include costs that were expensed at the federal level under IRC Section 198 and thus not part of those component bases.
- Sites used primarily for activities of qualified emerging technology companies will be subject to the lower TP

component cap unless those companies can themselves qualify as manufacturers.

- The TP component rate for new applicants is the sum of the following percentages, up to a maximum of 24 percent:

Category	Credit Percentage
Base rate	10%
En-Zone	+5%
Brownfield Opportunity Area (BOA)	+5%
Affordable housing	+5%
Manufacturing	+5%
Track 1 remediation level	+5%

Brownfield Redevelopment Tax Credit - Site Preparation (SP) Component and On-site Groundwater Remediation Component Changes

- Eligible costs for both components are generally limited to those necessary to obtain a COC.
- Costs for remediation and disposal of asbestos, lead, or PCBs are included in the SP component.
- Costs for foundations in excess of costs for protective site cover requirements are disallowed for the SP component and are instead allowed in the TP component.

Credit Sunsets

- To be eligible for the brownfield redevelopment tax credit, a site must have been accepted into the BCP before January 1, 2023.
 - ♦ Accepted sites have until April 1, 2026 to receive their COC.
- The remediated brownfield credit for real property taxes and the environmental remediation insurance credit will not be available to sites accepted into the BCP on or after the later of July 1, 2015 or the publication of the definition of “underutilized” in the state register of proposed regulations.

En-Zone Designation

- Responsibility for En-Zone designation is transferred from the Department of Economic Development to the Department of Labor.
- The poverty and unemployment rate metrics will be based on the most recent five year *American Community Survey* instead of the decennial census.

Reporting and Disclosure

- DEC and the Tax Department are permitted to share taxpayer-specific brownfield credit information in order to properly administer the credits.

-
- The Tax Department will produce a report by January 31, 2016 publicly disclosing taxpayer and project-specific credit information for claims received in calendar years 2005, 2006, and 2007. This report will be identical in format to the annual report published by the Department, which when enacted started with the 2008 calendar year.
 - The Developer Report mandate is repealed, effective as of the later of July 1, 2015 or the date of publication of the definition of “underutilized” in the state register of proposed regulations.

(Sections 27-1405.2 and 27-1407.1 of the Environmental Conservation Law; Sections 21, 22, 23, 171-r, and 171-s of the Tax Law)

Airport Facilities Added to START-UP NY Tax Free Areas

Part B of Chapter 60 of the Laws of 2015 amends the Economic Development Law to include two airport facilities owned by the State of New York as tax-free START-UP NY areas. A “START-UP NY airport facility” will include any vacant land or space owned by New York on the premises of Stewart Airport or Republic Airport. These facilities are subject to the 200,000 square-foot maximum for vacant land or vacant building space designated as a START-UP NY area, but will not count against the Program’s total square footage limitation.

(Sections 431(15) and 435(4) of the Economic Development Law)

Sales and Excise Taxes

Alcoholic Beverage Tastings

Part U of Chapter 59 of the Laws of 2015 exempts beer, cider, and liquor used at tastings held in conformity with the Alcoholic Beverage Control Law from the compensating use tax. (Section 1118(13) of the Tax Law) (The use tax applies to products that are produced for sale but instead are used for promotional or marketing purposes.) It also exempts bottles, corks, caps, and labels used to package such beverages. In addition, Part U clarifies that the existing exemption for wine tastings includes the items used to package the wine and applies to tastings held either on or off of the winery’s premises. (Sections 1115(a)(33) and 1118 (33) of the Tax Law)

These changes take effect on June 1, 2015. However, the clarification to the existing wine tasting exemption takes effect immediately.

Prepaid Mobile Calling Services

Part V of Chapter 59 of the Laws of 2015 amends the sales and compensating use tax so that prepaid wireless services are taxed similarly to prepaid telephone calling services (i.e., calling cards).

Part V provides that the term “prepaid telephone calling service” includes a prepaid mobile calling service, which Part V defines as, “the right to use a commercial mobile radio service, whether or not sold with other property or services, that must be paid for in advance and is sold for use over a specified period of time or in predetermined units or dollars that decline with use in a known amount, whether or not that right is represented by or includes the transfer to the purchaser of an item of tangible personal property.” The effect of this change is that the sales tax on prepaid mobile calling services is collected by the retailer using the tax rate in effect at the retailer’s location. When the sale or recharge does not take place at the retailer’s place of business, it will be sourced to the purchaser’s shipping address. If there is no item shipped, it is sourced to the purchaser’s billing address or the location associated with the purchaser’s mobile telephone number.

Part V also provides that if a retailer does not have the information needed to determine the customer’s address, with the Commissioner’s approval the retailer can source the prepaid telephone calling service using an alternative method that reasonably reflects the customer’s location at the time of the sale or recharge.

These changes take effect immediately.

(Section 1101(b)(22) of the Tax Law)

Solar Power Purchase Agreements

Part Z of Chapter 59 of the Laws of 2015 exempts solar-generated electricity sold under a Power Purchase Agreement from the State’s sales and compensating use tax.

Specifically, Part Z exempts electricity sold by a person primarily engaged in the sale of solar energy system equipment and/or electricity generated by such equipment pursuant to a written agreement under which such electricity is generated by solar energy system equipment that is (1) owned by a person other than the purchaser of the electricity; (2) installed at the purchaser’s residential or non-residential premises; and (3) used to provide heating, cooling, hot water or electricity to such property. (Sections 1115(33) and 1115(ii) of the Tax Law)

Currently, residential and commercial solar equipment is exempt from the State's sales and use tax with a local option existing to exempt such equipment. Part Z amends the existing local option provisions to include solar-generated electricity. If a locality has already elected to provide the existing residential and/or commercial solar equipment exemptions, those exemptions would be extended to include solar-generated electricity purchased under a Power Purchase Agreement for residential and/or commercial premises, respectively.

These changes take effect on December 1, 2015.

(Sections 1210(b)(1), 1210(b)(3)(i), and 1224(c-1) of the Tax Law)

Farm Production

Part AA of Chapter 59 of the Laws of 2015 amends the Tax Law to allow reimbursement of petroleum business tax paid for highway diesel motor fuel used for farm production, up to 4,500 gallons in a 30-day period without prior approval from the Commissioner. This brings treatment of highway diesel motor fuel in line with treatment of motor fuel, as reimbursements are now allowed for sales, excise, and petroleum business taxes for on-farm use of both products. Prior to this change, reimbursement was allowed for on-farm use of motor fuel for all three aforementioned taxes, but reimbursement was allowed for on-farm use of highway diesel motor fuel only for sales and excise taxes.

This change takes effect immediately.

(Section 301-c(f) of the Tax Law)

Sales Tax Cap on Boats

Part SS of Chapter 59 of the Laws of 2015 exempts the portion of the purchase or lease price of a vessel that exceeds \$230,000 from the sales and use tax. This caps the State and local sales tax at an amount from \$16,100 to \$20,400, depending upon the state and local tax rate in effect where the purchaser resides (New York's tax on vessels is based on where the purchaser lives and not where the vessel is sold or delivered). Part SS also provides a 90 day "safe harbor" from the compensating use tax by conforming it to the Department of Motor Vehicle's registration requirements. As a result, a New York resident who purchased and registered their vessel outside the State will generally not owe New York tax until the vessel is registered in New York. Finally, Part SS does not limit any other exemption, exclusion or credit relating to a vessel.

These changes take effect on June 1, 2015.

(Sections 1115(jj) and 1118(13) of the Tax Law)

General Aviation
Aircraft

Part TT of Chapter 59 of the Laws of 2015 exempts general aviation aircraft and machinery or equipment installed on such aircraft from the sales and compensating use tax. General aviation aircraft is defined as aircraft used in civil aviation and specifically excludes commercial aircraft, military aircraft, and unmanned aerial vehicles or drones.

The services of installing tangible personal property in general aviation aircraft and maintaining, servicing or repairing general aviation aircraft were already exempt from tax and this exemption continues. Commercial aircraft are also currently exempt from tax.

These changes take effect on September 1, 2015.

(Section 1115(a)(21-a) of the Tax Law)

Transactions Related to
the Dodd-Frank Wall
Street Reform and
Consumer Protection Act

Part UU of Chapter 59 of the Laws of 2015 creates a sales and compensating use tax exemption for certain related-party sales arising as a result of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

This change takes effect on September 1, 2015, and generally expires on July 1, 2019.

(Section 1115(jj) of the Tax Law)

The Summary of Tax Provisions is an informational document that provides descriptions of tax provisions enacted as part of the 2015-16 budget. It is designed to provide general guidance and is not intended to interpret the laws or change their meaning.

Appendix A:

Index of SFY 2015-16 Tax Provisions

Summary of Tax Provisions in SFY 2015-16 Budget

Chapter 59 of the Laws of 2015 (S.2009-B/A.3009-B) Revenue Bill

Section(s)	Page(s)	Subject	Description	Effective Date
Part B	3-9	Eliminate the STAR Program Reduction in New York City Personal Income Tax Rates	Eliminate the 6 percent New York City STAR personal income tax rate reduction for New York City taxpayers with incomes above \$500,000.	TYBOA 1/1/15
Part E	10-11	Recoup Improperly Granted Basic STAR Exemptions	Allows the Department of Taxation and Finance (Tax Department) to go back up to three years to recoup savings plus interest from taxpayers who improperly received the Basic School Tax Relief (STAR) exemption.	Immediately
Part F	11-12	Provide 2014 Basic STAR Benefits to Homeowners Who Registered with the State But Did Not Apply to Their Local Assessor	Allows homeowners who registered for the Basic STAR exemption with the Tax Department, but failed to file a timely application with their assessor, to receive the benefit of the exemption for 2014.	Immediately
Part H	12-13	Limitation on Itemized Deductions	Extends for two more years the current charitable deduction limitation under the State and New York City personal income taxes for individuals with adjusted gross income of more than \$1 million and less than \$10 million, and for individuals with adjusted gross income of more than \$10 million.	Immediately
Part I	13-16	Personal Income Tax (PIT) and Metropolitan Commuter Transportation Mobility Tax (MCTMT) Technical Corrections	Makes various technical corrections to amendments included in last year's enacted Budget (2014-15) relating to the PIT and the MCTMT.	Immediately
Part J	16-17	Commercial Production Credit Report	Requires publication of an annual report by the Department of Economic Development detailing credit allocations.	Immediately with first report due 12/1/16
Part K	17-21	Excelsior Jobs Tax Credit Expansion	Allows entertainment companies, music production companies, and video game software developers to participate.	Immediately
Part O	22-26	Employee Training Incentive Program	Creates a refundable tax credit for employers that procure skills training for their employees and/or interns.	TYBOA 1/1/15
Part P	26-28	Excise Tax on Mobile Telecommunication Services under Section 186-e	Imposes an excise tax on the sale of mobile telecommunication services at the rate of 2.9 percent on and after May 1, 2015. Enacts corresponding Metropolitan Commuter Transportation District (MCTD) surcharge rate of 0.721 percent.	Immediately
Part S	29-37	Combine Department of State (DOS) Information Statement and Tax Return Filings	Allows the Tax Department to collect contact information from corporations, LLCs, and LLPs that is currently collected through statements filed with DOS.	Immediately
Part T	37-61	Corporate Tax Reform Amendments	Makes technical and clarifying amendments to the corporate tax reform statute enacted in 2014.	TYBOA 1/1/15

Summary of Tax Provisions in SFY 2015-16 Budget				
Chapter 59 of the Laws of 2015(S.2009-B/A.3009-B) Revenue Bill				
Section(s)	Page(s)	Subject	Description	Effective Date
Part U	62	Alcoholic Beverage Tastings	Exempts beer, cider and liquor used at tastings held in conformity with the Alcoholic Beverage Control Law from the compensating use tax.	Generally June 1, 2015
Part V	62-63	Impose Local Sales Tax on Prepaid Wireless Based on Retail Location	Imposes sales tax on prepaid mobile calling services under the same rules that apply to prepaid telephone calling services.	Immediately
Part Z	63-68	Sales Tax Exemption for Solar Power Purchase Agreements	Exempts electricity generated by solar energy system equipment under a Power Purchase Agreement from State sales tax and provides an option for localities to elect this exemption.	December 1, 2015
Part AA	68-69	Farm Production	Allows for reimbursement of petroleum business tax for highway diesel motor fuel used for farm production on up to 4,500 gallons in a 30-day period.	Immediately
Part BB	69-70	Estate Tax Technical Corrections	Amends the estate tax to make certain technical changes relating to: (1) extending the applicability of the tax rate table to incorporate decedents dying beyond April 1, 2015, (2) clarifying the gift add back provision to exclude decedents dying after January 1, 2019, and (3) expressly disallowing a deduction related to intangible personal property for non-resident estates. Excludes from the gift tax add back for real or tangible personal property having actual sites outside New York State at the time the gift is made.	Immediately
Part DD	70	Warrantless Wage Garnishment	Extends for two years the authority for the Commissioner of Taxation and Finance to serve income executions (wage garnishments) on individual tax debtors and, if necessary, on the employers of such tax debtors, without the necessity of filing a warrant.	Immediately
Part RR	77-78	Amend Alternative Fuel Vehicle Refueling Property and Electric Vehicle Recharging Property Credit	Amends the Tax Law to allow the credit on costs that are not covered by a grant.	TYBOA 1/1/15
Part SS	78-79	Sales Tax Exemption for Boats	Caps the sales tax on vessels by exempting the portion of the taxable receipt above \$230,000 from the sales and use tax. Also provides a use tax "safe harbor" by allowing a vessel to enter New York for not more than 90 consecutive days per calendar year.	June 1, 2015
Part TT	79-82	Sales Tax Exemption for General Aviation Aircraft	Exempts general aviation aircraft from the sales tax.	September 1, 2015
Part UU	82	Sales Tax Exemption for Certain Dodd-Frank Related Transactions	Provides a sales tax exemption for transactions between certain related parties that were created to comply with the Dodd-Frank Wall Street Reform and Consumer Protection Act .	September 1, 2015

Summary of Tax Provisions in SFY 2015-16 Budget				
Chapter 59 of the Laws of 2015 (S.2009-B/A.3009-B) Revenue Bill				
Section(s)	Page(s)	Subject	Description	Effective Date
Part YY	84	MCTMT Library Exemption	Provides public libraries with an up-front exemption from the MCTMT. Currently, these libraries pay the MCTMT, but are later fully reimbursed by the State.	TYBOA 1/1/16

TYBOA-Taxable years beginning on or after

Summary of Tax Provisions in SFY 2015-16 Budget				
Chapter 56 of the Laws of 2015 (S.2006-B/A.3006-B) Education, Labor and Family Assistance Bill				
Section(s)	Page(s)	Subject	Description	Effective Date
Part AA	70-73	Youth Works Tax Credit Program Amendments	Changes name to Urban Youth Jobs Program; adds additional \$10m allocations; clarifies timing.	Immediately
Part BB	73-94	Brownfield Cleanup Program (BCP) Reform	Makes significant changes to the BCP and the related tax credits.	Various

Summary of Tax Provisions in SFY 2015-16 Budget				
Chapter 60 of the Laws of 2015 (S.4610-A/A.6721-A) Miscellaneous Cleanup Bill				
Section(s)	Page(s)	Subject	Description	Effective Date
Part B	3-4	Airport Facilities Added to START-UP NY Tax Free Areas	Amends Economic Development Law to include two airport facilities owned by the State of New York as tax-free STARTUP NY areas.	Immediately
Part D	4-92	NYC Corporate Tax Reform	Amends NYC Administrative Code to generally conform to NYS reform structure enacted in the SFY14-15 Executive Budget.	TYBOA 1/1/15

TYBOA-Taxable years beginning on or after

For more information concerning the data provided in this publication, please contact:

New York State Department of Taxation and Finance
Office of Tax Policy Analysis
W.A. Harriman State Campus Office
Albany, New York 12227
Phone: 518-530-4520
<http://www.tax.ny.gov>