



## **Summary of Corporation Tax Budget Legislation Enacted in 2019**

This memorandum briefly discusses corporation tax changes that were part of the 2019-2020 New York State budget.

The following tax law provisions were amended:

- [Contributions to the capital of a corporation](#)
- [Entire net income for stock life insurance companies](#)
- [License fee on certain co-ops](#)
- [Unrelated business taxable income](#)

The following tax law provisions were extended:

- [Electronic filing and payment mandates](#)
- [Tax shelter provisions](#)

The following additional budget changes will be discussed in future guidance:

- New York State adjusted basis for qualified New York manufacturers
- Global intangible low-taxed income (GILTI)

For information on how the 2019-2020 New York State budget impacts certain corporation tax and personal income tax credits, see [TSB-M-19\(4\)C, \(5\)](#), *Summary of Tax Credit Budget Legislation Enacted in 2019*.

### **Amended tax law provisions**

#### **Contributions to the capital of a corporation (Articles 9-A and 33)**

For federal income tax purposes, contributions to a corporation's capital made by any governmental entity or civic group (other than a contribution made by a shareholder) are included in gross income under Internal Revenue Code § 118(b)(2). Amendments were made to Tax Law Articles 9-A and 33 to allow for subtraction modifications for these contributions in computing entire net income (ENI). These changes are effective for taxable years beginning on or after January 1, 2018.

Taxpayers that have already filed their 2018 corporation franchise tax return under either Articles 9-A or 33 that included a contribution to capital made by a governmental entity or civic group in ENI must file an amended return to receive the benefit of the newly enacted subtraction modification.

[Part X of Chapter 59 of the Laws of 2019; Tax Law §§ 208(9)(a)(20) and 1503(b)(1)]

### **Entire net income for stock life insurance companies (Article 33)**

The definition of entire net income (ENI) was amended for certain stock life insurance companies to conform to a change made to the Internal Revenue Code in the Tax Cuts and Jobs Act. ENI for stock life insurance companies that have an existing policyholder's surplus account no longer includes the amount of direct and indirect distributions during the tax year to shareholders from such account. Instead, one-eighth of the balance in an existing policyholder's surplus account, as determined as of the close of the company's last taxable year beginning before January 1, 2018, is included in ENI. The change is effective for taxable years beginning on or after January 1, 2018, through taxable years beginning on or before January 1, 2025.

If you have already filed a return for a tax period that began on or after January 1, 2018, on which you included in ENI the amount of direct and indirect distributions during the tax year to shareholders from an existing policyholder's surplus account, and did not include in your ENI base one-eighth of the balance in an existing policyholder's surplus account, then you **must** file an amended return to correctly report such items.

[Section 6 of Part Z of Chapter 59 of the Laws of 2019; Tax Law § 1503(a)]

### **License fee on certain co-ops**

The Cooperative Corporations Law and the Rural Electric Cooperative Law were amended to eliminate the \$10 annual license fee that was payable each year with the filing of either Form CT-396, *Report of License Fee Rural Electric Cooperative Corporations*, or Form CT-397, *Report of Annual License Fee Agricultural Cooperative Marketing or Financing Corporations and District Heating/Cooling Cooperatives*. As a result, neither Form CT-396, nor Form CT-397 need to be filed after January 1, 2020.

[Part T of Chapter 59 of the Laws of 2019; Cooperative Corporations Law § 77(3); Rural Electric Cooperative Law § 66]

### **Unrelated business taxable income (Article 13)**

A technical correction was made to the effective date of a prior amendment to Tax Law § 292(a)(4). As a result, a New York State subtraction is allowed from federal unrelated taxable income for any disallowed fringe, paid or incurred on and after January 1, 2018, that was included in federal unrelated business taxable income because of IRC § 512(a)(7). Fiscal year filers of the 2017 Form CT-13, *Unrelated Business Income Tax Return*, may be impacted by this change. Impacted filers **must** file an amended return to report this subtraction on line 7 of the 2017 Form CT-13.

[Section 8 of Part Z of Chapter 59 of the Laws of 2019; Tax Law § 292(a)(4)]

## Extended tax law provisions

### Electronic filing and payment mandates (Articles 9, 9-A, and 33)

The electronic filing and payment mandates have been extended through December 31, 2024.

See [Electronic filing mandate for business taxpayers](#) and [Tax return preparer e-file mandate](#) for more information, or visit the Tax Department's website at [www.tax.ny.gov](http://www.tax.ny.gov).

[Part A of Chapter 59 of the Laws of 2019; Part G of Chapter 60 of the Laws of 2016]

### Tax shelter provisions (Articles 9, 9-A, and 33)

The tax shelter penalty and reporting requirements have been extended through July 1, 2024.

For more information on New York State tax shelter provisions, see:

- [TSB-M-05\(2\)C](#), *Disclosure of Certain Transactions and Related Information Regarding Tax Shelters*
- [TSB-M-05\(2.1\)C](#), *Supplement to the Disclosure of Certain Transactions and Related Information Regarding Tax Shelters*
- [TSB-M-05\(2.2\)C](#), *Additional Supplement to the Disclosure of Certain Transactions and Related Information Regarding Tax Shelters*.

[Part O of Chapter 59 of the Laws of 2019; Part M of Chapter 60 of the Laws of 2016]

**Note:** A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.