

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

TSB-M-82(1)C
Corporation Tax
January 29, 1982

1981 Amendments to the Tax Law
Article 1

<u>Law Section</u>	<u>Chapter</u>	<u>Bill Sec.</u>	<u>Summary</u>
3	486	1	Effective for taxable years beginning on or after January 1, 1981, aviation and shipping companies engaged solely in foreign (overseas) commerce are now taxable for New York State Corporation Franchise Taxes.
	1043	66	Corporations which are incorporated in N.Y.S. and are exclusively engaged in the operation of vessels in foreign commerce are exempt from N.Y.S. Corporation Franchise Tax.

Article 9

<u>Law Section</u>	<u>Chapter</u>	<u>Bill Sec.</u>	<u>Summary</u>
182	1043	68	Changed the definition of "an oil company" for Section 182.
182-a	481	2	Effective July 1, 1981, a new tax (3/4 of 1%) on the gross receipts for sales of petroleum was imposed on certain oil companies.
182-a(2)(a)	482	1	Amended Chapter 481, Bill Section 2. This changed the definition of "oil company" for Section 182-a.
	1043	57	Changed the definition of an "Oil Company" for Section 182-a again.
	1043	58	Changed the definition of "gross receipts from the sale of petroleum"
182-a(2)(e)	1043	59	Inserted a new paragraph in Section 182-a which defines "petroleum".
182-a(3)	482	1	Amends Chapter 481, Bill Section 2. This changes the computation of the allocation gross receipts from all activities to gross receipts from the sales of petroleum.

	1043	60	Changed the computation of the business allocation percentage to include petroleum sales for resale and residential fuel.
182-a.8	482	2	Technical corrections.
182-a.10	1043	61	Imposed penalties on fuel oil sellers who failed to provide or who filed false residential use certificates.
183.1	486	2	Effective for taxable years beginning on or after January 1, 1981, domestic transportation or transmission companies doing business in New York State are now subject to the tax imposed by Section 183.
183.6	486	3	Clarifies when a foreign transportation or transmission corporation is taxable for Section 183 of Article 9.
183.7	486	4	Allows the taxation of foreign corporations engaged exclusively in interstate or foreign commerce to be taxed under Section 183 of Article 9.
	1043	64	Amended Section 183.7 so that railroads and vessels engaged exclusively in inter-state or foreign commerce are not doing business in New York State.
183.7-a	1043	67	States that certain corporations which have limited activities, as listed in this section, shall not be subject to the tax imposed by Section 183.
183.8	486	5	Clarified for the purpose of computing the business allocation percentage, what types of aircraft arrivals and departures should be included.
184.1	486	6	Clarifies when a corporation is subject to the tax imposed by Section 184.

	1043	65	States that receipts from interstate or foreign commerce of aviation and trucking corporations are taxable. Receipts from interstate or foreign commerce of vessels and railroads are not taxable.
184.2	486	7	Technical changes.
184.4	486	8	Provides methods for allocation for transportation and transmission companies.
197.2	481	3	Amended Section 197 to provide for the payment of tax upon the dissolution of an oil company.
197-a.1	481	4	Amended Section 197-a to provide for the declaration of estimated tax by an oil company.
197-b.1(a)	481	5	Amended Section 197-b.1(a) to provide for payments of estimated tax by oil companies.
197-c	481	6	Renumbered Section 197-c to 197-d and added a new section 197-c. This new section provides payment dates for declaration and payment of estimated tax for Section 182-a.
202	481	7	Allowed the names of corporations that are taxable as oil companies for Section 182-a to be disclosed, upon request, in order to assist 182-a taxpayers in determining if their buyer should issue them a resale certificate.

Article 9

<u>Law Section</u>	<u>Chapter</u>	<u>Bill Sec.</u>	<u>Summary</u>
182.6 186-a.5 197.1 197-a.3 197-a.5 197-a.8 197-b.2	103	75-84	These sections deal with declarations and payments of estimated taxes. The sections were made to conform with similar sections in the other articles concerning corporation Franchise tax. In addition for taxable periods commencing on or after January 1, 1981, the declarations and payments of

197-b.3
 197-b.5
 197-b.6

estimated tax have been moved one month back towards the beginning of the taxable period. (exp: for a calendar year taxpayer, the declarations and payments are now due on June 15, September 15 and December 15 instead of July 15, Oct. 15 and Jan. 15.)

Article 9-A

<u>Law Section</u>	<u>Chapter</u>	<u>Bill Sec.</u>	<u>Summary</u>
208.9(b)(4)	481	8	Requires that the franchise tax, deducted on the federal return, for section 182-a shall be added back in the computation of entire net income for Article 9-A.
208.9(f)	103	24	For taxable years commencing on or after January 1, 1981, a net operating loss deduction will not be allowed to a sub-chapter S corporation if the shareholders of the corporation have elected to take the deduction under N.Y.S. Income Tax Law. (Read Bill Sections 25 & 27 thru 32 of Chapter 103.)
209.5	582	1	Effective for net operating losses incurred in taxable years ending on or after December 31, 1980, a net operating loss deduction which a REIT may take in computing E.N.I. is subject to the modifications of Section 208.9(f) of the Tax Law.
209.8	1043	1	See Section 209.9, Chapter 1043, Bill Section 1.
209.9	103	26	For taxable periods commencing on or after January 1, 1981. A Subchapter S corporation may not be subject to the corporation franchise tax if ALL the shareholders elect to be taxed under New York State Income Tax Law. (Read Section 25 & 27 thru 32 of Chapter 103.)
	1043	1	Section 209.9 is renumbered 209.8.

210.1(a)(3)	41	1	Effective for taxable periods beginning on or after January 1, 1981, the deduction allowed in the computation of the alternative base has been increased from \$15,000 to \$30,000.
210.1-c	103	12	For taxable years commencing on or after January 1, 1981, a new small business corporation that meets certain requirements is exempt from the tax on capital for the first two taxable years of its operation.
	1043	2	Technical corrections.
210.3(a)(2)(B)	103	1	For taxable periods beginning on or after January 1, 1982, newspapers and periodicals will compute the receipts from advertising, in the computation of the receipts for services performed for the business allocation percentage, on the destination point of such newspapers and periodicals.
210.12(a)	103	13	The investment tax credit percentage has increased to 5% for property acquired during June 1, 1981 thru June 30, 1982 and to 6% for property acquired after June 30, 1982.
210.12(e)	103	17	For taxable periods commencing on or after January 1, 1982, <u>NEW BUSINESSES</u> can have the option to have the unused investment tax credit carried forwarded or refunded. Previously, it could only be carried forward. When the money is refunded, no interest will be paid on the refund. (See Bill Section 18 of Chapter 103)
210.12(j)	103	18	Defined the term " <u>new business</u> " for section 210.12(e)-(See Bill Section 17 of Chapter 103)

	1043	3	Changed some of the restrictions that pertain to corporations that DO NOT qualify for the refundable investment tax by credit allowed by Section 210.12(j).
210.12(k)	103	23	Investments made on or after June 1, 1981 on " <u>qualified rehabilitated building</u> " by <u>retail enterprises</u> " can be claimed as an investment tax credit.
	1043	4	Technical corrections.
210.12-A(a)	103	21	For taxable periods beginning on or after January 1, 1981, a new corporation will be able to claim the additional investment tax credit base on a modification in the employment qualifications.
210.18	103	14	For property acquired on or after 7/1/82 for research and development, 10% of the cost shall be allowed as a credit against the tax imposed by Article 9-A. It has basic similarities to the investment tax credit.
211.3	548	1	Treats the allowance of a federal net capital-loss carryback as a federal determination
211.4-a	484	1	Effective for taxable periods beginning on or after January 1, 1981, an oil company, subject to the tax under Section 182-a is required to file a consolidated report showing the net income of each corporation under its control, even if the corporation is not taxable in New York State.
213-a(c) 213-a(e) 213-b(b) 213-b(c) 213-b(e)	103	85-89	Same effect as Bill Sections 75 thru 84 of Chapter 103.

Article 13

<u>Law Section</u>	<u>Chapter</u>	<u>Bill Sec.</u>	<u>Summary</u>
294.(a)	216	1	For taxable years commencing on or after January 1, 1981, the due date for an unrelated business income tax report is now the 15th day of the 5th month following the end of the taxable year. Employees trusts are still required to file on the 15th day of the 4th month following the end of the taxable year.

Article 27

<u>Law Section</u>	<u>Chapter</u>	<u>Bill Sec.</u>	<u>Summary</u>
1083(c)(4)	548	3	If a deficiency of tax under Article 9-A is attributable to the application to the taxpayer of a capital loss carryback, it may be assessed at any time that a deficiency for the taxable year of the loss may be assessed.
1084(f)	548	4	If the amount of tax under Article 9-A is reduced by reason of a capital loss carryback, the computation of interest shall be from the 1st day after the end of the year of the capital loss.
1085(d)(3)	1043	36	Technical corrections
1087(a)	548	5	If an assessment resulting from a capital loss carryback is made, the allocation percentage of the year the loss is carried back to can-not be changed.
1087(d)	548	6	A claim for a capital loss carryback must be filed within 3 years from the due date of the return, including extensions, of the taxable year of the loss.
1087(g)	548	7	Put special restrictions on credit or refund in a proceeding on a petition for redetermination of a deficiency where the notice of deficiency is issued as a result of a

capital loss carryback.

1088(d)	548	8	Overpayment based on a capital loss carryback shall be deemed not to have been made prior to the close of the close of the taxable year. In addition, subchapter S corporation must file their claim for a capital loss carryback within 12 months and 180 days after the end of the capital loss year otherwise their interest is limited to the specified period. This interest computation applies to taxable years ending on or after Dec. 31, 1981.
1089(b)	548	9	Special restrictions where the notice of deficiency relates to an assessment made as a result of a capital loss carryback.
1092(j)(2)	103	163	Effective June 1, 1981, the fee for a release of lien has been increased from \$25.00 to \$50.00
1096(e)	103	106	Effective August 13, 1981, the interest rate is 17%. This interest rate and future interest rates will change every March 1 and may change every September 1.
1096(e)(2)	1043	37	provides that the interest rates determined by the Commissioner of Taxation and Finance shall be rounded to the nearest one-tenth of 1% for corporation franchise tax.

Article 32

<u>Law Section</u>	<u>Chapter</u>	<u>Bill Sec.</u>	<u>Summary</u>
1455(b)(2)	1015	6	Technical corrections
1455(b)(3)	1015	7	Section 1455(b)(3) was renumbered Section 1455(b)(4). The new section 1455(b)(3) reduce the tax rate on dividends or interest for saving banks and saving and loan association from 2% to 1.6%. In certain circumstances, the rate is further reduced to 1.25%

1460(c)	103	90-93	Same effect as Bill Sections 75 thru 84 of chapter 103.
1461(b)			
1461(c)			
1461(e)			
1462(e)	548	10	Treats the allowance of a federal net capital loss carryback as a federal determination.

Article 33

<u>Law Section</u>	<u>Chapter</u>	<u>Bill Sec.</u>	<u>Summary</u>
1500(a)	103	178	This section makes all types of insurance premiums sold by the "state insurance fund" taxable under Article 33 of the Tax Law for taxable periods beginning on or after January 1, 1981. (See section 179 of Chapter 103)
1502-a	103	179	For taxable years commencing on or after January 1, 1981, this section provides an alternative tax computation for state insurance fund. (See Section 178 of Chapter 103.)
1513(c) 1513(e) 1513(g) 1513(h) 1514(b) 1514(c) 1514(f) 1514(g) 1516(b)(1)	103	94-100	Same effect as Bill Sections 75 thru 84 of Chapter 103.
1515(e)	548	11	Treats the allowance of a federal net capital loss as a federal determination.

Amendments to other laws affecting Tax Law

<u>Articles Affected</u>	<u>Chapter</u>	<u>Bill Sec.</u>	<u>Summary</u>
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