

New York State Department of Taxation and Finance
Office of Tax Policy Analysis
Technical Services Division

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Income Tax
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2000-2001 New York State Budget Bill Income Tax Changes Taking Effect in 2000

This memorandum contains brief summaries of the income tax changes that are part of the 2000-2001 New York State Budget Bill (Chapter 63 of the Laws of 2000) that are effective for tax years beginning prior to January 1, 2000, and for tax years beginning on and after January 1, 2000. A separate memorandum will be issued in the future to explain the income tax changes in the budget bill that take effect in tax years beginning on or after January 1, 2001. For a summary of legislation enacted in prior years that takes effect in 2000, see TSB-M-99(8)I.

Acquisitions, mergers, and consolidations repeal

Chapter 407 of the Laws of 1999 repealed, effective for tax years beginning after 1999, the following provisions relating to corporate acquisitions, mergers, and consolidations: Tax Law, sections 612(b)(30), 612(t), and 615(c)(7), and the Administrative Code of the City of New York, sections 11-1712(b)(30), 11-1712(t), and 11-1715(c)(7). These provisions required that certain addition and subtraction modifications be made in computing New York adjusted gross income and New York itemized deductions for acquisition-related interest, in the event of a stock or asset acquisition. Chapter 63 of the Laws of 2000 moved the effective date of the repeal to taxable years beginning on or after January 1, 1997. However, the new law provides that amended returns based on this repeal may not be filed prior to April 1, 2001. If the statute of limitations for filing an amended return has expired by April 1, 2001, the statute of limitations is extended until March 31, 2002.

(See Tax Law, sections 612(b)(30), 612(t), and 615(c)(7), and the Administrative Code of the City of New York, sections 11-1712(b)(30), 11-1712(t), and 11-1715(c)(7).)

Child and dependent care credit

For tax years beginning in 2000 and thereafter, taxpayers with New York adjusted gross income of \$25,000 or less will be allowed a New York State child and dependent care credit of 110% of the federal child and dependent care credit. The New York credit is gradually phased down from 110% to 20% of the federal credit for taxpayers with New York adjusted gross income between \$25,000 and \$65,000. The rate is 20% of the federal credit for taxpayers with New York adjusted gross income over \$65,000.

However, the credit percentages would return to the percentage applicable for taxable years beginning in 1999 if the federal government takes certain actions related to funds used to support the increase in the child care credit.

As in prior years, this is a refundable credit for residents and part-year residents.

(See Tax Law, section 606(c)(1).)

Low income housing credit

A New York State Low Income Housing Tax Credit Program has been established to promote the construction and rehabilitation of low-income housing in New York State. The credit program coordinates with and builds upon the federal low-income housing credit, which is provided for in section 42 of the Internal Revenue Code. The state credit, like the federal credit, will be administered by the New York State Division of Housing and Community Renewal.

The amount of the credit for each building is determined by the Commissioner of the Division of Housing and Community Renewal under Article 2-A of the Public Housing Law. The credit amount allocated to a project by the commissioner is allowed each year for 10 years. However, the project must continue to qualify as low-income housing for a 15-year compliance period to avoid a partial recapture of the credit.

The credit is available to owners of a building who are individuals, partners of partnerships (including members of LLC's that are treated as partnerships for federal tax purposes), New York S corporation shareholders, estates and trusts, and beneficiaries of estates and trusts.

Additional information will soon be available on the website of the Division of Housing and Community Renewal. (<http://www.dhcr.state.ny.us>)

(Tax Law sections, 18, 606(i), and 606(x), and the Public Housing Law, Article 2-A.)

Transportation access credit

Section 20 of the Tax Law was added to provide a refundable credit to taxpayers who make contributions to New York State in taxable years beginning on and after January 1, 2000, for qualified transportation improvement projects. These projects must be designed, in part, to enhance the planned construction or expansion of a qualified business facility and to promote the development of employment opportunities in connection with the qualified business facility by creating 1,000 or more new jobs.

To qualify for the credit, a taxpayer's contribution must be at least \$10 million, and the project must be certified jointly by the Commissioner of Transportation and the Commissioner of Economic Development as a qualified transportation improvement project. The credit is available to individuals, partners of partnerships (including members of LLC's that are treated as partnerships for federal tax purposes), New York S corporation shareholders, estates and trusts, and beneficiaries of estates and trusts.

The credit is equal to 6% of the taxpayer's excess payroll at the qualified business facility for the tax year over the taxpayers' average base period payroll, not to exceed the amount of the taxpayer's contribution. If the amount of the credit exceeds the taxpayer's tax liability, the excess will be refunded. The credit can be claimed in the year following the contribution year and each year

thereafter in which the taxpayer's New York payroll exceeds the average base period payroll, until the aggregate credits claimed by the taxpayer equal the amount of the taxpayer's contribution. The credit is subject to recapture if the taxpayer does not create at least 1,000 new jobs by the third tax year following the contribution year.

(Tax Law sections, 20, 606(i) and 606(z).)

Gross receipts tax credit

For taxable years ending after January 1, 2000, an owner, a beneficiary of an estate or trust that is an owner, a partner, or a New York S corporation shareholder of an industrial or manufacturing business (IMB) will be allowed a credit against the tax imposed under Article 22 of the Tax Law. The credit is equal to the sum, or pro-rata share of the sum, of the taxes imposed under sections 186-a, 186-c, 189, and 189-a of Article 9 of the Tax Law (but only for gas, electricity, steam, water, or refrigeration; or gas, electricity, steam, water, or refrigeration services, used or consumed in New York State), which were paid by or passed through to the IMB during the taxable year.

The term *industrial or manufacturing business* means a business, which during the taxable year is principally engaged in (1) manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture, commercial fishing or research and development; or (2) is an industrial waste treatment facility, or an air pollution control facility; or (3) is engaged in any combination of the foregoing activities.

Any person who collects from, or passes through to an IMB, any tax imposed under sections 186-a, 186-c, 189 and 189-a, must provide the IMB with the information required to correctly compute this credit.

The IMB credit is applicable to taxes paid or passed through on or after January 1, 2000. If the amount of the credit exceeds the taxpayer's tax, the excess may be carried over or refunded without interest.

The IMB credit expires for taxable years ending on or after January 1, 2007.

(Tax Law sections, 14-a, 606(i) and 606(t-1).)