

Supplemental Summary of Personal Income Tax Legislative Changes Enacted in 2007 and Expiring Provisions

This TSB-M is the summary of personal income tax legislation signed into law in 2007 that was not addressed in TSB-M-07(8)I, *Summary of Budget Bill Personal Income Tax Changes Enacted in 2007*. This TSB-M also contains information relating to Tax Law provisions enacted in prior years that have expired.

The following legislative changes are summarized in this memo:

- amendments to the solar energy system equipment credit
- extension of the Yonkers resident income tax surcharge and nonresident earnings tax
- enactment of the New York City child and dependent care credit
- amendment to the volunteer firefighters' and ambulance workers' credit
- amendment to the New York City unincorporated business tax credit

The memo also contains information relating to Tax Law provisions enacted in prior years that have expired.

Solar energy system equipment credit

Section 606(g-1) of the Tax Law has been amended to allow the solar energy system equipment credit to eligible owners of a condominium and shareholders of a cooperative. The amendment allows a credit to a taxpayer who is a member of a condominium management association or tenant-stockholder in a cooperative housing corporation for the proportionate share of the total qualified solar energy system equipment expenditures attributable to the taxpayer's principal residence.

In addition, the definition of *solar energy system equipment* has been amended to increase the size of the solar energy system equipment eligible for the credit to a rated capacity of 50 kilowatts when purchased and installed by a condominium management association or a cooperative housing corporation. The rated capacity limit remains at 10 kilowatts for solar energy system equipment installed in any other residence.

This provision applies to taxable years beginning on or after January 1, 2007.

(Tax Law, section 606(g-1))

Yonkers resident income tax surcharge and nonresident earnings tax

The Yonkers resident income tax surcharge and the Yonkers nonresident earnings tax have been extended through tax years ending on or before December 31, 2009. Under previous law, these taxes would have expired for tax years beginning after 2007.

The Yonkers resident income tax surcharge rate is currently 10% of the net New York State tax. The city of Yonkers nonresident earnings tax on the wages earned and net earnings from self employment of nonresident individuals, estates, and trusts is currently imposed at the rate of .5%.

(Tax Law, sections 1321 and 1340; Codes and Ordinances of the City of Yonkers, 15-100 and 15-117)

New York City child and dependent care credit

Effective for tax years beginning on or after January 1, 2007, a refundable New York City child and dependent care credit is allowed against New York City personal income tax. To qualify for the New York City child and dependent care credit, a taxpayer must:

- qualify to claim the New York State child and dependent care credit;
- have paid qualified expenses for a qualifying individual who was under age four at the end of the tax year;
- have household gross income of \$30,000 or less; **and**
- have been a full-year or part-year resident of New York City.

For a taxpayer with household gross income of \$25,000 or less, the credit equals 75% of the New York State child and dependent care credit allowed with respect to a qualifying individual under age four for the same tax year. For a taxpayer with household gross income greater than \$25,000 but not greater than \$30,000, the percentage will phase down. A taxpayer with household gross income greater than \$30,000 does not qualify for the credit.

For a New York City part-year resident, the credit to be refunded is based on a ratio. The numerator of the ratio is the taxpayer's federal adjusted gross income for the period of residence. The denominator of the ratio is the taxpayer's federal adjusted gross income for the entire tax year.

Qualified expenses include amounts paid for household services and care of the qualifying person(s) while the taxpayer worked or looked for work. Child support payments and expenses paid through a dependent care account are **not** qualified expenses. Expenses reimbursed by a state social services agency are **not** qualified expenses unless the taxpayer included the reimbursement in his or her income.

A *qualifying individual* is a person who meets the definition for purposes of the federal child and dependent care credit, under Internal Revenue Code section 21(b)(1).

Household gross income means the aggregate federal adjusted gross income of a household as defined in Tax Law section 606(b)(3)(B).

In the case of married taxpayers who file a joint federal return but are required to calculate New York City taxes separately, the credit must be applied against the tax of the spouse with the lower taxable income (computed without regard to the credit). However, if the spouse with the lower taxable income is a nonresident of New York City, neither spouse may claim the credit. In the case of married taxpayers not required to file a federal income tax return, the New York City child and dependent care credit is allowed only if a joint New York State income tax return is filed.

(Administrative Code of the City of New York, section 11-1706(e))

Volunteer firefighters' and ambulance workers' credit

Section 606(e-1) of the Tax Law has been amended to provide a one-year transition period that allows a volunteer firefighter or ambulance worker to claim the volunteer firefighters' and ambulance workers' credit for tax year 2007 even though the taxpayer also received a real property tax exemption under Title 2 of Article 4 of the Real Property Tax Law for the 2007 tax year. If the taxpayer is receiving the real property tax exemption and wants to claim the credit for 2007, the taxpayer must either (1) receive the exemption in the 2007 taxable year as a result of making an application in a prior year, or (2) notify their local assessor in writing by December 31, 2007, of the taxpayer's intent to discontinue the exemption by not reapplying.

A taxpayer who continues to receive a real property tax exemption under Title 2 of Article 4 of the Real Property Tax Law is not eligible for this credit for tax years 2008 or later.

This provision took effect August 15, 2007.

(Tax Law, section 606(e-1))

New York City unincorporated business tax credit

For tax years beginning on or after January 1, 2007, a taxpayer can claim an increased percentage of the imposed unincorporated business tax (UBT) as a credit against New York City (NYC) personal income tax. A taxpayer with a NYC taxable income of \$42,000 or less can claim 100% of the UBT as credit. The credit percentage gradually decreases as a taxpayer's NYC taxable income increases, and for those with a NYC taxable income of \$142,000 or more, the credit is 23% of the UBT.

The credit allowed cannot exceed a taxpayer's New York City personal income tax liability. Any unused credit cannot be refunded or carried over.

(Administrative Code of the City of New York, section 11-1706(c))

Expiring provisions

This section contains information relating to Tax Law provisions enacted in prior years that have expired.

Home heating system credit

Section 606(l) of the New York State Tax Law provided a refundable tax credit for costs incurred on or after July 1, 2006, and before July 1, 2007, that are directly associated with the replacement of an existing home heating system with a heating system that meets national Energy Star requirements. To qualify, the heating system had to be installed in the taxpayer's principal residence located in New York State before December 31, 2007. The credit equaled 50% of the costs incurred, not to exceed \$500.

Effective July 1, 2007, the home heating system credit expired. However, a taxpayer may claim the credit on his or her 2007 personal income tax return for costs incurred on or after July 1, 2006, and before July 1, 2007, provided the replacement system installation is completed by December 31, 2007.

(Tax Law, section 606(l))

Industrial or manufacturing business (IMB) credit

For taxable years ending after January 1, 2000, and before January 1, 2007, a taxpayer that was an *eligible industrial or manufacturing business (IMB)* was allowed a credit against the tax imposed under Article 22 of the Tax Law. The credit was 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) that were paid by or passed through to the IMB during the taxable year.

Effective for tax years ending on or after January 1, 2007, the IMB credit has expired.

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

Clean heating fuel credit

For tax years beginning in 2006 and 2007, a New York State tax credit was allowed to a taxpayer who purchased bioheat for space heating or hot water production for residential purposes within New York State. The bioheat had to be purchased on or after July 1, 2006, and before July 1, 2007. The credit was based on the portion of the bioheat comprised of biodiesel, calculated at \$.01 per gallon for each percent of biodiesel included in the bioheat, not to exceed \$.20 per gallon.

The clean heating fuel credit has expired for bioheat purchased on or after July 1, 2007.

(Tax Law, section 606(mm))

Filing fees for limited liability companies and limited liability partnerships

The increased filing fees enacted in 2003 for limited liability partnerships (LLPs) and limited liability companies (LLCs) treated as partnerships for federal income tax purposes, and the filing fee for LLCs that are disregarded entities for federal income tax purposes, have expired for tax years beginning after 2006.

Accordingly, for tax years beginning after 2006, the filing fees for LLPs and LLCs that are treated as partnerships for federal income tax purposes are \$50 multiplied by the total number of members or partners in the LLP or LLC, subject to a minimum amount of \$325 and a maximum amount of \$10,000. The filing fees must be paid with Form IT-204-LL within 30 days after the last day of the tax year of the LLP or LLC.

For tax years beginning after 2006, the \$100 filing fee payable by a single-member LLC (SMLLC) that is a disregarded entity for federal income tax purposes has expired. Therefore, SMLLCs that are disregarded entities are no longer required to file Form IT-204-LL, *Limited Liability Company/Limited Liability Partnership Filing Fee Payment Form*.

In addition, the partnership filing fee on an LLC with more than one member that is a disregarded entity for federal income tax purposes (for example, an LLC owned solely by a husband and wife who are residents of a community property state that can elect disregarded status for federal purposes under Revenue Procedure 2002-69) has also expired.

(Tax Law, section 658(c)(3))