New York State
Department of
Taxation and Finance
Taxpayer Guidance Division

Technical Memorandum
TSB-M-15(1)I
Income Tax
February 12, 2015

Summary of Budget Bill Personal Income Tax Changes Enacted in 2014

This memorandum contains a summary of the personal income tax changes that were part of the 2014-2015 New York State budget (Chapters 55, 59, and 60 of the Laws of 2014). The following legislative changes are summarized in this memo:

- Changes to the taxation of trusts and beneficiaries of trusts
- Corporate tax reform
- Empire State commercial production credit changes
- Empire State film production and post-production tax credits expanded
- Family tax relief credit changes
- Gift for prostate and testicular cancer research and education fund expanded
- Limitation on tax credit eligibility
- Low-income housing credit changes
- Metropolitan commuter transportation mobility tax (MCTMT) changes
- Musical and theatrical production credit established
- New York City enhanced real property tax credit established
- New York State and New York City minimum income taxes repealed
- New York State noncustodial parent earned income credit extended
- New York Youth Works Tax Credit Program enhanced
- Real property tax credit for qualified New York manufacturers established
- Real property tax freeze credit enacted
- Service award subtraction modification for volunteer firefighters and ambulance workers established
- Signature authorization for e-filed personal income tax returns prepared by tax preparers
- START-UP NY telecommunication services excise tax credit established
- Workers with Disabilities Tax Credit Program established

Changes to the taxation of trusts and beneficiaries of trusts

Various provisions of the Tax Law and the Administrative Code of the City of New York relating to the taxation of trusts and beneficiaries of trusts were amended. The amendments provide for:

- An addition modification to federal adjusted gross income (FAGI) for certain accumulation distributions made to resident beneficiaries of certain exempt resident trusts.
- An addition modification to FAGI for the income of an incomplete gift non-grantor trust by the grantor of the trust.
- A subtraction modification to FAGI for a beneficiary for income received from an incomplete gift non-grantor trust that terminated and distributed all assets before June 1, 2014.
- Tax credits to certain trust beneficiaries for taxes paid by the trust to other jurisdictions.
- Requirements for exempt resident trusts to submit certain information returns to the department.
- Penalties for failure to file information returns as required by law.

These provisions took effect on March 31, 2014, and apply to tax years beginning on or after January 1, 2014. However, certain provisions of the new law do not apply to specific actions that took place before June 1, 2014. For more information, see TSB-M-14(3)I, *Important Information for Beneficiaries and Grantors of Exempt Resident Trusts*, and the instructions for Form IT-225, *New York State Modifications*.

(Part I of Chapter 59 of the Laws of 2014; Tax Law sections 612(b)(40), 612(b)(41), 621, 658(f), and 685(h)(2); and Administrative Code of the City of New York sections 11-1712(b)(36), 11-1712(b)(37), and 11-1721)

Corporate tax reform

New York State enacted comprehensive corporate tax reform legislation that affects taxpayers subject to tax under Articles 9-A (franchise tax on business corporations) and 32 (franchise tax on banking corporations) of the Tax Law. Article 32 was repealed and Article 32 taxpayers are now subject to tax under a revised Article 9-A.

The corporate tax reform legislation is effective for tax years beginning on or after January 1, 2015. For more information, visit the Tax Department Web site (*www.tax.ny.gov*).

(Part A of Chapter 59 of the Laws of 2014)

Empire State commercial production credit changes

Several legislative amendments were made to the Empire State commercial production credit.

The credit was extended through tax years beginning before January 1, 2017. Under previous law, the credit was set to expire on December 31, 2014.

The Governor's Office for Motion Picture and Television Development is authorized to issue $3 million of the $7 million in credits annually to eligible production companies that film or record qualified commercials outside of the metropolitan commuter transportation district (MCTD). If the total amount authorized for this credit component remains unallocated as of July 31 of a given year, the excess will be allocated to the credit for growth component under section 28(a)(2)(i) of the Tax Law. Previously, the excess credit allocation was determined after the end of each calendar year.

To be eligible for this credit, the amount of total qualified production costs of a qualified company for commercials filmed or recorded outside the MCTD must be greater than $100,000, and the credit applies only to such costs exceeding $100,000. Prior to the legislative amendments, the cost threshold was over $200,000.

These provisions took effect on March 31, 2014.

For more information on this credit, visit the New York State Governor's Office for Motion Picture and Television Development Web site at *www.nylovesfilm.com*.

(Part O of Chapter 59 of the Laws of 2014; Tax Law sections 28 and 606(jj))

Empire State film production and post-production tax credits expanded

Amendments to the Tax Law expanded the additional credit allowed for film production and post-production projects in upstate New York. Effective January 1, 2015, wages and salaries paid to qualified individuals directly employed by a qualified film or qualified independent film production company for services performed in production or post-production work of a qualified film in the counties of Albany or Schenectady will qualify for the additional credits.

For more information on these tax credits, see TSB-M-13(4)I, *Summary of Budget Bill Personal Income Tax Changes Enacted in 2013 – Effective for Tax Years 2013 and After*, or visit the New York State Governor's Office for Motion Picture and Television Development Web site at *www.nylovesfilm.com*.

(Part JJ of Chapter 59 of the Laws of 2014; Tax Law sections 24 and 31)

Family tax relief credit changes

Chapter 59 of the Laws of 2013 added section 606(vv) to the Tax Law establishing the family tax relief credit. The refundable credit is equal to $350 per personal income tax return filed for tax years 2014, 2015, and 2016 (see TSB-M-14(2)I, *Summary of Budget Bill Personal Income Tax Changes Enacted in 2013 – Effective for Tax Years Beginning After 2013*).

Effective for tax years 2015 and 2016, section 606(vv) of the Tax Law was amended. The amendment did not change the credit for tax year 2014.

Tax year 2014. To be eligible for the family tax relief credit for tax year 2014, a taxpayer must have a New York State personal income tax return on file for tax year 2012. The 2012 return must show that the taxpayer (or taxpayers if a joint return was filed):

- was a resident of New York State;
- claimed one or more dependent children who were under the age of 17 on December 31, 2012;
- had New York adjusted gross income (NYAGI) of at least $40,000, but not greater than $300,000; **and**
- had a *tax liability* that was greater than or equal to zero.

For tax year 2014, an eligible taxpayer (or taxpayers, if a joint return was filed) received an advance credit payment of $350.

Tax years 2015 and 2016. Eligibility for the family tax relief credit will be based on a taxpayer's personal income tax return filed for the applicable tax year (2015 or 2016). Eligibility is not based on a prior year tax return.

For the tax year the credit is claimed, a taxpayer (or taxpayers, if a joint return is filed) must:

- be a resident of New York State;
- claim one or more dependent children who were under the age of 17 on the last day of the tax year;
- have New York adjusted gross income (NYAGI) of at least $40,000, but not greater than $300,000; **and**
- have a *tax liability* that is greater than or equal to zero.

In addition, the advanced credit payment provision of the Tax Law was eliminated for tax years 2015 and 2016. Therefore, an eligible taxpayer must claim the family tax relief credit when filing his or her 2015 or 2016 personal income tax return. If the amount of credit allowed ($350 per return) exceeds the taxpayer's tax due for the year, the excess credit will be credited or refunded without interest.

Tax liability. For purposes of the family tax relief credit, *tax liability* is determined by applying the tax rate calculations in sections 601 and 601-a of the Tax Law to the taxpayer's taxable income, and then subtracting any other tax credits allowed under sections 606 and 620 of the Tax Law.

(Part M of Chapter 59 of the Laws of 2014; Tax Law section 606(vv))

Gift for prostate and testicular cancer research and education fund expanded

The Tax Law was amended to expand the voluntary gift contribution for the prostate cancer research and education fund to include testicular cancer research and education. Taxpayers may make gifts on their personal income tax returns to the prostate and testicular cancer research and education fund. The gift can be any whole dollar amount and will not reduce the amount of tax owed.

(Part A of Chapter 60 of the Laws of 2014; Tax Law section 630)

Limitation on tax credit eligibility

A new section 41 was added to the Tax Law which provides that any taxpayer, including a shareholder of an S corporation or partner in a partnership, convicted of an offense defined in Article 200 (*Bribery Involving Public Servants and Related Offenses*), Article 496 (*Corrupting the Government*), or section 195.20 (*Defrauding the Government*) of the Penal Law is not eligible to claim any tax credit allowed under Articles 9 (corporation tax), 9-A (franchise tax on business corporations), 32 (franchise tax on banking corporations), 33 (franchise tax on insurance corporations), or any business tax credit allowed under Article 22 (personal income tax).

A *business tax credit allowed under Article 22* is a tax credit allowed to taxpayers under Article 22 which is substantially similar to a tax credit allowed to taxpayers under Article 9-A.

The provision took effect on April 30, 2014, and only applies to acts committed on or after that date.

(Part H (Subpart A) of Chapter 55 of the Laws of 2014; Tax Law section 41)

Low-income housing credit changes

The New York State Low-Income Housing Tax Credit Program was established in 2000 to promote the construction and rehabilitation of low-income housing in New York State. The credit is similar to the federal low-income housing credit and is administered by the New York State Division of Housing and Community Renewal.

The Public Housing Law was amended as follows:

- Effective March 31, 2014, the statewide aggregate dollar amount of low-income housing tax credits that may be used for qualifying low-income housing projects was increased from $48 million to $56 million.

- Effective April 1, 2015, the statewide aggregate dollar amount of low-income housing tax credits that may be used for qualifying low-income housing projects is increased from $56 million to $64 million.

(Part P of Chapter 59 of the Laws of 2014; Public Housing Law section 22(4))

Metropolitan commuter transportation mobility tax (MCTMT) changes

The Tax Law was amended with regard to the metropolitan commuter transportation mobility tax (MCTMT). The new law changed the MCTMT payment and filing due dates for self-employed individuals to conform to personal income tax due dates. New enforcement actions were also added to the law, applying to both self-employed individuals and employers.

These provisions took effect on March 31, 2014, and apply to tax years beginning on or after January 1, 2015. For more information, see TSB-M-14(1)MCTMT, *Changes to the Metropolitan Commuter Transportation Mobility Tax*.

(Part DD of Chapter 59 of the Laws of 2014; Tax Law sections 804(b), 806, and 807)

Musical and theatrical production credit established

The Tax Law has been amended to establish a refundable credit for qualified musical and theatrical production companies.

The amount of the credit is the product (or pro rata share of the product, in the case of a member of a partnership) of the following:

- 25%; and
- the sum of the qualified production expenditures and transportation expenditures.

A taxpayer may not use the qualified production expenditures or transportation expenditures that are the basis in the allowance or calculation of this credit to claim any other credit under the Tax Law.

If the amount of the musical and theatrical production credit exceeds the taxpayer's tax due for the year, the excess may be credited or refunded without interest.

The credit is administered by Empire State Development (ESD). For more information about qualifying for this credit, visit the ESD Web site at *www.esd.ny.gov*. The statewide total amount of credit to be allocated by ESD is $4 million per calendar year.

The Tax Department and ESD are authorized to share information regarding this credit. In addition, the name, address, and the amount of credit earned by a business claiming this credit may be published. The amount of credit claimed by a taxpayer that is a member of a limited liability company (LLC), a partner in a partnership, or a shareholder in a New York S corporation may not be released. However, the amount of the credit earned by the entity may be released.

These provisions are effective for tax years beginning on or after January 1, 2015, and expire on January 1, 2019.

(Part HH of Chapter 59 of the Laws of 2014; Tax Law sections 24-a and 606(u))

New York City enhanced real property tax credit established

New section 606(e-1) was added to the Tax Law[1] to establish the enhanced real property tax credit for tax years 2014 and 2015. To qualify for the credit, a taxpayer:

- must be a full-year New York City resident, and
- pay either real property taxes or rent for his or her residence, and
- occupy the same residence for six months or more during the tax year, and
- have household gross income of less than $200,000 for the tax year.

The maximum amount of credit allowed per household is $500. In addition, only one credit per household and per qualified taxpayer will be allowed for each tax year.

If the amount of the enhanced real property tax credit exceeds the taxpayer's tax due for the year, the excess may be credited or refunded without interest. City resident individuals who are not required to file a New York State personal income tax return may qualify for a refund of the full amount of credit.

(Part K of Chapter 59 of the Laws of 2014; Tax Law section 606(e-1))

New York State and New York City minimum income taxes repealed

Effective for tax years beginning on or after January 1, 2014, the New York State and New York City minimum income taxes were repealed. These minimum income taxes were additional income taxes imposed on certain individuals, estates, and trusts that are subject to the federal alternative minimum tax.

(Part J of Chapter 59 of the Laws of 2014; Tax Law sections 602, 622, 636, and 1301-A; and Administrative Code of the City of New York sections 11-1702 and 11-1722)

New York State noncustodial parent earned income credit extended

The New York State noncustodial parent earned income credit is available to certain noncustodial parents who pay child support for a qualifying child.

The Tax Law was amended to extend this credit for two more years to tax years 2015 and 2016. Prior to the amendment, the credit was due to expire for tax years after 2014.

[1] Part K also amended the Tax Law to re-letter the law section for volunteer firefighters' and ambulance workers' credit from section 606(e-1) to section 606(e-2).

(Part G of Chapter 59 of the Laws of 2014; Tax Law section 606(d-1))

New York Youth Works Tax Credit Program enhanced

The New York Youth Works Tax Credit Program (the program) was established by Chapter 56 of the Laws of 2011 and previously amended by Chapter 59 of the Laws of 2012 and Chapter 59 of the Laws of 2013. The program provides tax incentives to qualified businesses employing at-risk youths in full-time and part-time positions. The program is administered by the Department of Labor (DOL).

The program was expanded to add a supplemental credit of $1,000 for each qualified employee retained for an additional year after their first year of employment and employed in a full-time job, and $500 for each qualified employee retained for an additional year after their first year of employment and employed in a part-time job of at least 20 hours per week, or 10 hours per week if enrolled in high school full-time. This supplemental credit applies to employees hired in 2014 and later.

The existing credit provisions were also amended to reduce the number of hours of work required by full-time high school students from 20 to 10 hours per week to qualify for the credit.

In addition, the credit allocation caps for programs two through five were increased from $6 million to $10 million.

The program allocation caps and dates are as follows:

Program	Total allocation cap	Employee hiring dates
Program 2	$10 million in 2014	1/1/14 – 12/31/14
Program 3	$10 million in 2015	1/1/15 – 12/31/15
Program 4	$10 million in 2016	1/1/16 – 12/31/16
Program 5	$10 million in 2017	1/1/17 – 12/31/17

These provisions took effect on March 31, 2014, and apply to tax years beginning on or after January 1, 2014.

For more information on this program, see TSB-M-13(10)C, (9)I, *Extension and Expansion of the New York Youth Works Tax Credit Program*, or visit the DOL Web site at *www.labor.ny.gov*.

(Part U of Chapter 59 of the Laws of 2014; Labor Law section 25-a, and Tax Law section 606(tt))

Real property tax credit for qualified New York manufacturers established

The Tax Law was amended to establish a real property tax credit for qualified New York manufacturers. A qualified New York manufacturer is allowed a credit equal to 20% of the real property taxes paid during the tax year for real property:

- located in New York; and
- principally used in manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture or commercial fishing.

If the amount of the manufacturer's real property tax credit exceeds the taxpayer's tax for the year, the excess may be credited or refunded without interest.

This provision took effect on March 31, 2014, and is effective for tax years beginning on or after January 1, 2014.

For more information, see the instructions for Form IT-641, *Manufacturer's Real Property Tax Credit*.

(Part R of Chapter 59 of the Laws of 2014; Tax Law sections 606(xx), 606(i), and 612(b)(40))

Real property tax freeze credit enacted

New laws established a real property tax freeze credit for tax years 2014, 2015, and 2016. The credit reimburses qualifying New York State homeowners for increases in local property taxes imposed on the homeowners' primary residence. However, no credit will be allowed for any property located within New York City.

For more information, see Form RP-5301-FS, *New York State Property Tax Freeze Credit Fact Sheet*.

(Part FF of Chapter 59 of the Laws of 2014; Tax Law section 606(bbb), Education Law section 2023-b, General Municipal Law section 3-d, and Real Property Tax Law 1590)

Service award subtraction modification for volunteer firefighters and ambulance workers established

The Tax Law and the Administrative Code of the City of New York were amended to provide for a service award subtraction modification. This subtraction modification applies to volunteer firefighters and volunteer ambulance workers who have not attained the age of 59 ½.

To qualify, the service award must be from a length of service defined contribution plan or defined benefit plan as provided for in Articles 11-A, 11-AA, 11-AAA, and 11-AAAA of the General Municipal Law and be included in the computation of the taxpayer's federal adjusted gross income for the tax year. However, a service award will not qualify for the subtraction modification if it is distributed in the form of a lump-sum distribution as defined in the Internal Revenue Code (IRC) and taxed under section 603 of the Tax Law (the separate tax on the ordinary income portion of a lump-sum distribution).

This provision took effect on March 31, 2014, and applies to tax years beginning on or after January 1, 2014.

(Part KK of Chapter 59 of the Laws of 2014; Tax Law section 612(c)(41) and section 11-1712(c)(37) of the Administrative Code of the City of New York)

Signature authorization for e-filed personal income tax returns prepared by tax preparers

Section 653 of the Tax Law relating to the signing of returns and other documents has been amended. New section 653(a)(2) of the Tax Law allows taxpayers to electronically send their authorization to e-file their tax returns and related documents to their tax preparer in accordance with regulations or instructions prescribed by the commissioner. Any authorization made in accordance with regulations or instructions prescribed by the commissioner will satisfy the signature requirements under the Tax Law.

This provision took effect on March 31, 2014, and applies to returns filed for tax years beginning on or after January 1, 2014.

(Part E of Chapter 59 of the Laws of 2014; Tax Law section 653(a))

START-UP NY telecommunication services excise tax credit established

The Tax Law was amended to establish the START-UP NY telecommunication services excise tax credit. The credit is available to a business or owner of a business that is approved to participate in the START-UP NY program by Empire State Development and located in a tax-free NY area.

The credit is equal to the excise tax on telecommunication services imposed by section 186-e of the Tax Law that is passed through to the approved business. The credit may be claimed when the tax is separately stated on a bill from the telecommunication service provider and the bill has been paid by such business.

If a taxpayer claimed any federal deduction for excise taxes on telecommunication services and also claims the START-UP NY telecommunication services excise tax credit, when computing the taxpayer's New York adjusted gross income (or New York taxable income in the case of an estate or trust), the taxpayer must add back the federal deduction amount for excise taxes on telecommunication services used in the calculation of the credit.

If the amount of the START-UP NY telecommunication services excise tax credit exceeds the taxpayer's tax for the year, the excess may be credited or refunded without interest.

This provision took effect on March 31, 2014, and applies to tax years beginning on or after January 1, 2014.

(Part T of Chapter 59 of the Laws of 2014; Tax Law sections 39(c-1), 39(k)(6), 606(yy), 606(i), and 612(b)(39-a))

Workers with Disabilities Tax Credit Program established

The Labor Law and the Tax Law were amended to establish the Workers with Disabilities Tax Credit Program. This program provides tax credits to *qualified employers* for employing individuals with developmental disabilities and is administered by the New York State Department of Labor (DOL). To participate in this program, taxpayers must apply to the DOL by November 30th of the prior year. For more information on this program, visit the DOL Web site at www.labor.ny.gov.

A *qualified employer* is an employer that has been certified by the DOL to participate in the Workers with Disabilities Tax Credit Program and employs one or more qualified employees.

The credit amount equals:

- 15% of the qualified wages paid after January 1, 2015, to a qualified full-time employee who is employed by the qualified employer for at least 6 months and works at least 30 hours per week; and
- 10% of the qualified wages paid after January 1, 2015, to a qualified part-time employee who is employed by the qualified employer for at least 6 months and works at least 8 hours per week.

The maximum amount of credit allowed per qualified employee for any tax year is $5,000 for a full-time employee and $2,500 for a part-time employee. The total amount of credit allowed to a qualified employer for the tax year is computed by the DOL and stated on the employer's final certificate of eligibility issued by the DOL. The program has an annual allocation of $6 million.

The credit is not refundable. However, any amount of credit or carryover of credit not deductible in the tax year may be carried over to be deducted for a maximum of three years. An employer that claims the workers with disabilities tax credit is not eligible to claim the employment of persons with disabilities credit under section 606(o) of the Tax Law.

The Tax Department is authorized to release the name and address of any taxpayer claiming this credit along with the amount of the credit earned by the taxpayer.

This provision took effect on January 1, 2015, and applies to tax years beginning on or after January 1, 2015, and before January 1, 2020.

(Part MM of Chapter 59 of the Laws of 2014; Tax Law sections 606(i) and 606(zz) and Labor Law section 25-b)

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.