

New York State Department of Taxation and Finance
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Recent Income Tax Changes Affecting Tax Years 2000 and After

In 1999 and in prior years, Governor George E. Pataki signed several pieces of legislation which reduce tax rates, expand tax credits and provide new and increased deductions to taxpayers. This memorandum contains brief summaries of the legislative changes affecting the New York State, New York City, and city of Yonkers personal income taxes for tax years beginning on and after January 1, 2000.

Qualified emerging technology company credits

For tax years beginning on or after January 1, 2000, two new tax credits have been created for Article 22 taxpayers, the qualified emerging technology company employment credit and the qualified emerging technology company capital tax credit. These credits will now be available to individuals, partners of partnerships (including members of LLCs that are treated as partnerships for federal tax purposes), New York S corporation shareholders, estates and trusts and beneficiaries of estates and trusts. These credits were previously available only to corporation franchise tax filers (Article 9-A).

A qualified emerging technology company is a company that is located in New York State, that has total annual product sales of \$10 million or less, and meets either of the following criteria: (1) its primary products or services are classified as emerging technologies; or (2) it has research and development activities in New York State and its ratio of research and development funds to net sales equals or exceeds the average ratio for all surveyed companies classified (as determined by the National Science Foundation in the most recently published results from its survey of industry research and development, or a comparable successor survey as determined by the Department).

For tax years beginning on or after January 1, 2001, certain remanufacturing companies will also be eligible for the QETC credits. The definition of *emerging technologies* in Public Authorities Law section 3102-e has been broadened to include certain companies that use remanufacturing processes to restore eligible commodities to their original performance standards.

The qualified emerging technology company employment credit grants a credit of \$1,000 per full-time employee that a qualified emerging technology company employs in excess of 100% of the company's base year employment. Generally, *base year employment* means the average number of individuals employed full-time by the taxpayer in this state during the three taxable years immediately preceding the first taxable year in which the credit is claimed.

The credit is available for up to three years. Generally, the credit is not refundable, but any unused credit may be carried over indefinitely. However, a taxpayer qualifying as a new business may elect to have the unused credit refunded.

(See Tax Law, sections 606(i), 606(q).)

The qualified emerging technology company capital tax credit provides a credit of 10% of investments in qualified emerging technology companies expected to be held for four years from the close of the tax year and 20% for investments expected to be held for nine years. The credit is claimed in the year the investment is initially made. Investments made by or on behalf of an owner of the business are ineligible. With exceptions for certain married persons filing separately and certain estates and trusts, the total credit allowable to a taxpayer for all years may not exceed \$150,000 for the four-year investments and \$300,000 for the nine-year investments.

The amount of the credit, including carry-overs of the credit, deducted from the tax otherwise due may not, in the aggregate, exceed 50% of the tax imposed (before credits) under section 601 of the Tax Law. The credit is not refundable; however any unused credit may be carried over indefinitely. If a taxpayer disposes of or recovers a qualified investment before expiration of the required holding period, a recapture of some or all of the credit is required.

(See Tax Law, section 606(r).)

Acquisitions, mergers, and consolidations repeal

For tax years beginning on or after January 1, 2000, the following provisions relating to corporate acquisitions, mergers, and consolidations are repealed: 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). Previously, 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.

(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).)

Earned income tax credit

For tax years beginning in 2000, the New York State earned income credit is increased from 20% of the federal earned income credit to 22.5% of the federal credit. For tax years beginning after 2000, the credit increases to 25% of the federal credit.

However, the credit percentage may return to the 20% rate if the federal government takes certain actions related to funds used to support the increase in the earned income credit.

The new legislation also authorizes the Department of Taxation and Finance to furnish information relating to payment of the earned income credit to the Office of Temporary and Disability Assistance (OTDA) for specific accounting purposes.

(See Tax Law, section 606(d).)

State school tax reduction credit for New York City residents

As part of the State School Tax Relief (STAR) program enacted in 1997, a refundable state school tax reduction credit (referred to as the New York City school tax credit) is provided against the New York City income tax for New York City residents and part-year residents. The credit was effective for tax years beginning in 1998 and after. If the credit exceeds the taxpayer's New York City personal income tax for the year, the excess will be refunded, without interest. Also, proration of the credit is required if the taxpayer changes resident status during the year. The credit amounts for tax years 2000 and after for taxpayers age 65 or older remain the same as the 1999 amounts. However, the amounts for taxpayers under age 65 are increased for years 2000 and after, as shown below.

Under age 65. If a taxpayer has not attained the age of 65 during or before the tax year:

- Married filing jointly (where neither spouse is 65 or older) and surviving spouses:

<i>Tax year</i>	<i>Credit amount</i>
2000	\$85
after 2000	\$125

- Unmarried individuals, heads of a household or married individuals filing separately:

<i>Tax year</i>	<i>Credit amount</i>
2000	\$45
after 2000	\$62.50

(See Tax Law, section 1310(e).)

New York City resident tax rates

The New York City resident tax rates, imposed under section 11-1701(a) of the Administrative Code of the City of New York, the 14% additional tax imposed under section 11-1704.1, and the 2.85% minimum income tax imposed under section 11-1702, have been extended through 2001. However, beginning with tax year 1999, the resident tax rates imposed under section 11-1701(a) are reduced over a three year period.

(See Tax Law, sections 1301-A, 1304, and 1304-B and the Administrative Code of the City of New York, sections 11-1701(a), 11-1702, and 11-1704.1.)

New York City nonresident earnings tax

For tax years beginning on or after January 1, 2000, the New York City nonresident earnings tax is reduced to 0.25% for wages and to 0.375% for net earnings from self-employment.

The itemized deduction modification for the difference between the old rate and the new rate for New York City nonresident earnings tax on both wages and net earnings from self-employment is eliminated.

(See Tax Law, 615(c)(1), General City Law, section 25-m(1)(h) and section 11-1902 of the Administrative Code of the City of New York.)

City of Yonkers resident tax and nonresidents earnings tax rate reduction

The Yonkers resident income tax surcharge and nonresident earnings taxes have been extended through December 31, 2001. However, for tax years beginning on or after January 1, 2000, the city of Yonkers resident income tax surcharge and the city of Yonkers nonresident earnings tax are reduced. The Yonkers resident income tax surcharge will be reduced from its current rate of 10% to a rate of 5% of the net state tax. The city of Yonkers nonresident earnings tax, imposed on the wages earned, and net earnings from self employment by nonresident individuals, estates and trusts, will be reduced from its current rate of .50% to a rate of .25%.

(See Tax Law, section 1321, Local Law 2-1999 and 3-1999 of the City of Yonkers and Special Ordinance No. 31-1999.)

Repeal of modification for different New York and federal bases in property that is acquired from a decedent dying on and after February 1, 2000.

For personal income tax purposes, a taxpayer who sells or otherwise disposes of property acquired from a decedent must adjust the amount of gain or loss if there is a difference between the federal and New York bases of the property. This difference occurs if the estate was not required to file a federal estate tax return but was required to file a New York estate tax return, and used alternate or special valuation on that return. This adjustment will not be required for property acquired from decedents who die on or after February 1, 2000.

(See Tax Law, section 612(r).)

Alzheimer's disease assistance fund

For tax years beginning on or after January 1, 2000, new section 629 of the Tax Law requires that a check-off box be provided on personal income tax returns to enable taxpayers to make gifts to the Alzheimer's disease assistance fund. The gifts can be in any whole dollar amount and will not reduce the amount of tax owed.

(See Tax Law, section 629.)

Nonresident lottery winnings

The law has been amended to include New York State lottery winnings over \$5,000 within the definition of the New York source income (the numerator of the income percentage) of a nonresident. Accordingly, nonresidents will be subject to New York State tax on payments in excess of \$5,000 won in the New York State lottery on or after October 1, 2000. In addition, the law provides for the withholding of New York State personal income tax on these winnings.

(See Tax Law sections 631(b)(1)(c), 631(b)(2), 671(b)(2)(D) and 671(b)(3)(B).)

Credit for purchase of automated external defibrillator machines

For tax years beginning on or after January 1, 2001, a personal income tax credit will be available for the purchase of automated external defibrillator machines. The credit is equal to the cost of the unit, but may not exceed \$500 per unit (there is no limit on the number of units for which the credit may be taken). The credit may not be carried forward and is not refundable.

An *automated external defibrillator* is a medical device, approved by the United States Food and Drug Administration, that:

- is capable of recognizing the presence or absence, in a patient, of ventricular fibrillation and rapid ventricular tachycardia;
- is capable of determining, without intervention by an operator, whether defibrillation should be performed on the patient;
- upon determining that defibrillation should be performed, automatically charges and requests delivery of an electrical impulse to the patient's heart; and
- then, upon action by an operator, delivers an appropriate electrical impulse to the patient's heart to perform defibrillation.

(See Tax Law, section 606(i) and 606(s).)

Expansion of farmers' school tax credit

For tax years beginning after 2000, the statutory definition of *qualified agricultural property* for purposes of the farmers' school tax credit, has been expanded to include land set aside or retired under a federal supply management or soil conservation program. (Note: This amendment confirms existing Tax Department policy that such property qualifies for credit).

In addition, for tax years beginning after 2000, the base acreage for purposes of computing the credit may be increased by acreage enrolled or participating in a federal environmental conservation acreage reserve program, pursuant to Title Three of the Federal Agricultural Improvement and Reform Act of 1996.

(See Tax Law, sections 606(n) and 606(m)(5)(L) .)

Economic development zone (EDZ) and zone equivalent area (ZEA) wage tax credit

For tax years beginning on or after January 1, 2001, the wage tax credit for wages paid in economic development zones (EDZs) and zone equivalent areas (ZEAs) is increased. The credit increases to \$3,000 for targeted employees and to \$1,500 for other individuals. In addition, the period in which taxpayers may claim the ZEA wage credit is increased from two to five years.

(See Tax Law, section 606(k).)