



## Summary of Tax Credit Budget Legislation Enacted in 2019

This memorandum briefly discusses how the 2019-2020 New York State budget impacts certain corporation tax (Articles 9-A and 33) and personal income tax (Article 22) credits.

These new credits were added to the tax law:

- [Central business district toll credit](#)
- [Employer-provided child care credit](#)
- [Recovery tax credit](#)

The following credit provisions were amended:

- [Empire State commercial production credit](#)
- [Employee training incentive program tax credit](#)
- [Farm workforce retention credit](#)
- [Historic homeownership rehabilitation credit](#)
- [Rehabilitation of historic properties credit](#)

The following credit provisions were extended:

- [Clean heating fuel credit](#)
- [Empire State film production and Empire State film post-production tax credits](#)
- [Workers with disabilities tax credit](#)

For information on other changes that were part of the 2019-2020 New York State budget, see [TSB-M-19\(3\)C](#), *Summary of Corporation Tax Budget Legislation Enacted in 2019* and [TSB-M-19\(4\)I](#), *Summary of Personal Income Tax Budget Legislation Enacted in 2019*.

### New credits

#### Central business district toll credit (Article 22)

For tax years beginning on or after January 1, 2021, a new refundable credit will be available that is equal to the total amount of the new central business district tolls that the taxpayer has paid during the tax year.<sup>1</sup> However, tolls that are considered a trade or business expense under Internal Revenue Code § 162 are excluded.

The credit will be available to resident individuals whose primary residence is located in New York City's central business district, as defined in Article 44-C of the vehicle and traffic law, and whose New York adjusted gross income is less than \$60,000 for the tax year.

[Subpart F of Part ZZZ of Chapter 59 of the Laws of 2019; Tax Law § 606(jjj)]

<sup>1</sup> These tolls cannot be collected prior to December 31, 2020.

### **Employer-provided child care credit (Articles 9-A, 22, and 33)**

For tax years beginning on or after January 1, 2020, a new refundable credit is available to taxpayers who are allowed the federal employer-provided child care credit under Internal Revenue Code § 45F.

The New York State credit is equal to the portion of the federal credit that is attributable to:

- qualified child care expenditures paid or incurred with respect to a qualified child care facility located in New York State, and
- qualified child care resource and referral expenditures paid or incurred with respect to your employees working in New York State.

The credit is limited to \$150,000 per tax year and is applied at the entity level.

If you are required to recapture the federal credit relating to a child care facility located in New York State, you must also recapture the New York credit. The recapture for New York tax purposes is limited to the amount of credit allowed for New York.

[Part L of Chapter 59 of the Laws of 2019; Tax Law §§ 44, 210-B(53), 606(l), 606(jjj), and 1511(dd)]

### **Recovery tax credit (Articles 9-A, 22, and 33)**

For tax years beginning on or after January 1, 2020, the recovery tax credit is available to businesses hiring eligible individuals in recovery from a substance use disorder for part-time and full-time positions in New York State. The Office of Alcoholism and Substance Abuse Services (OASAS) administers the credit, allocating the \$2 million annual credit allotment by issuing tax credit certificates to eligible employers.

The credit equals \$1 per hour worked by each eligible employee. There is a minimum work requirement of 500 hours for each eligible employee and a \$2,000 cap per eligible employee. The credit may be claimed only one time for each eligible employee. Employers must apply to OASAS by January 15<sup>th</sup> for credit based on employment in the preceding year. The first applications are due by January 15, 2021.

For more information on this credit, visit the OASAS website at [www.oasas.ny.gov](http://www.oasas.ny.gov).

[Part W of Chapter 59 of the Laws of 2019; Mental Hygiene Law § 32.38; Tax Law §§ 210-B(53), 606(i)(1)(B)(xliv), 606(jjj), and 1511(dd)]

## Amended credit provisions

### Empire State commercial production credit (Articles 9-A and 22)

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

The Governor's Office of Motion Picture & Television Development is authorized to issue \$7 million in credits annually through 2023 to taxpayers meeting certain thresholds of commercial production activity. The new law changes how this credit amount is allocated and computed for calendar years beginning on or after January 1, 2019. The new credit allocation and computation are as follows:

- \$4 million is allocated to eligible production companies that film or record qualified commercials within the metropolitan commuter transportation district (MCTD). The credit will be 20% (previously 5%) of the qualified production costs paid or incurred in the production of the qualified commercial, to the extent the qualified production costs exceed \$500,000 during the calendar year.
- \$3 million is allocated to eligible production companies that film or record qualified commercials outside of the MCTD. To be eligible for this credit, the amount of total qualified production costs of a qualified production company for commercials filmed or recorded **outside the MCTD** must be greater than \$100,000. The credit will be 30% (previously 5%) of **all** qualified production costs paid or incurred in the production of the qualified commercial. Prior to the legislative amendments, the credit was only allowed on production costs exceeding \$100,000. If the total amount authorized for this credit component exceeds the amount of credits claimed, the excess will be allocated to companies that film or record qualified commercials within the MCTD.

The definition of *qualified commercial* now specifies it is an advertisement of any length and can also be distributed over the internet.

The definition of *qualified commercial production company* was amended to also exclude variable interest entities of the distributor or variable interest entities of the contracting entity.

The amount of credit allowed is determined by the New York State Governor's Office of Motion Picture & Television Development. For more information on this credit, visit their website at [www.esd.ny.gov](http://www.esd.ny.gov).

[Part AAA of Chapter 59 of the Laws of 2019; Tax Law §§ 28, 210-B(23), and 606(jj)]

### Employee training incentive program tax credit (Articles 9-A and 22)

Businesses may now receive the employee training incentive program tax credit if they conduct their own training and are otherwise eligible. Previously, training had to be provided by an approved provider. In addition, the definition of eligible training is expanded to include an internship program in software development or clean energy. These changes are effective as of April 12, 2019.

This program is administered by Empire State Development (ESD). For more information about the program, visit ESD's website at [www.esd.ny.gov](http://www.esd.ny.gov).

[Part B of Chapter 59 of the Laws of 2019; Economic Development Law §§ 441, 442, and 443; Tax Law §§ 210-B(50) and 606(ddd)]

### **Farm workforce retention credit (Articles 9-A and 22)**

For tax years beginning on or after January 1, 2019, the definition of farming for purposes of the farm workforce retention credit has been expanded to include:

- the production of maple syrup or cider,
- a managed Christmas tree operation whether dug for transplanting or cut from the stump,
- the commercial boarding of horses as defined in Agriculture and Markets Law § 301(13),
- the sale of wine from a licensed farm winery, as provided in Alcoholic Beverage Control Law Article 6, **and**
- the sale of cider from a licensed farm cidery, as provided in Alcoholic Beverage Control Law § 58-c.

This expanded definition of farming is now the same as the definition of farming for the farmer's school tax credit.

In addition, if more than 50% of an eligible farmer's federal gross income from farming is from the sale of wine or cider, then an eligible farm employee shall only be included for purposes of calculating the credit if such employee is employed on qualified agricultural property as defined in Tax Law § 606(n)(4).

For more information on this credit, see [TSB-M-16\(7\)C, \(5\)I](#), *Farm Workforce Retention Credit*.

[Part N of Chapter 59 of the Laws of 2019; Tax Law §§ 42, 210-B(51), and 606(fff)]

### **Historic homeownership rehabilitation credit (Article 22)**

For tax years beginning on or after January 1, 2019, the historic homeownership rehabilitation credit has been expanded to include a residence located in a city with a population of less than one million with a poverty rate greater than 15%.

[Part U of Chapter 59 of Laws of 2019; Tax Law § 606(pp)]

### **Rehabilitation of historic properties credit (Articles 9-A, 22, and 33)**

For tax years beginning on or after January 1, 2020, the rehabilitation of historic properties credit has been expanded to include a qualified rehabilitation project undertaken within a state park, state historic site, or other land owned by the state, that is under the jurisdiction of the Office of Parks, Recreation and Historic Preservation.

[Part U of Chapter 59 of Laws of 2019; Tax Law §§ 210-B(26), 606(oo), and 1511(y)]

### **Extended credit provisions**

#### **Clean heating fuel credit (Articles 9-A and 22)**

The clean heating fuel credit has been extended to purchases of bioheating fuel made before January 1, 2023. This credit is available to taxpayers for the purchase of bioheating fuel used for space heating or hot water production for residential purposes within New York State.

For more information on this credit, see:

- [TSB-M-08\(5\)C, \(1\)I](#), *Clean Heating Fuel Credit*
- [TSB-M-16\(8\)C, \(6\)I](#), *Summary of Changes to Existing Tax Credits Enacted as Part of the 2016-2017 New York State Budget*.

[Part R of Chapter 59 of the Laws of 2019; Tax Law §§ 210-B(25) and 606(mm)]

#### **Empire State film production and Empire State film post-production tax credits (Articles 9-A and 22)**

The New York State Governor's Office of Motion Picture & Television Development has been authorized to continue allocating funds to the Empire State film production tax credit and Empire State film post-production tax credit through 2024.

The credit amounts allowed are determined by the New York State Governor's Office of Motion Picture & Television Development. For more information on these credits, visit their website at [www.esd.ny.gov](http://www.esd.ny.gov).

[Part SSS of Chapter 59 of the Laws of 2019; Tax Law §§ 24, 31, 210-B(20), 210-B(32), 606(gg), and 606(qq)]

#### **Workers with disabilities tax credit (Articles 9-A and 22)**

The workers with disabilities tax credit has been extended through tax year 2022.

The credit is available to qualified employers, who are approved to participate in the Workers with Disabilities Tax Credit Program administered by New York State Department of Labor (DOL), for employing individuals with developmental disabilities within New York State.

For more information on this credit, see:

- [TSB-M-15\(1\)C](#), *Summary of Budget Bill Corporation Tax Changes Enacted in 2014*, or [TSB-M-15\(1\)I](#), *Summary of Budget Bill Personal Income Tax Changes Enacted in 2014*
- The DOL website at [www.labor.ny.gov](http://www.labor.ny.gov).

[Part E of Chapter 59 of the Laws of 2019; Part MM of Chapter 59 of the Laws of 2014; Labor Law § 25-b; Tax Law §§ 210-B(48) and 606(zz)]

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