



**FY 2021**  
Annual report on  
New York State Tax Expenditures

Andrew M. Cuomo, *Governor*

**Division of  
the Budget**

**Department of  
Taxation and Finance**



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# INTRODUCTION

The twenty-seventh annual *New York State Tax Expenditure Report* has been prepared by the Department of Taxation and Finance and the Division of the Budget and is submitted in accordance with the provisions of Section 181 of the Executive Law.<sup>1</sup> The Executive Law defines tax expenditures as “features of the Tax Law that by exemption, exclusion, deduction, allowance, credit, preferential tax rate, deferral, or other statutory device, reduce the amount of taxpayers’ liabilities to the State by providing either economic incentives or tax relief to particular classes of persons or entities, to achieve a public purpose.”

As required by statute, the Report includes:

- An enumeration of the tax expenditures associated with the:
  - Personal Income Tax (Article 22 of the Tax Law)
  - Corporate Franchise Tax (Article 9-A of the Tax Law)
  - Insurance Tax (Article 33 of the Tax Law)
  - Corporation and Utility Taxes (Article 9 of the Tax Law)
  - Sales and Compensating Use Tax (Article 28 of the Tax Law)
  - Petroleum Business Tax (Article 13-A of the Tax Law)
  - Real Estate Transfer Tax (Article 31 of the Tax Law);
- The provisions of law authorizing the tax expenditures, their effective dates, and where applicable, the date that such tax expenditures expire or are reduced);
- Estimates (if reliable data are available) of the costs of the tax expenditures for the current taxable or calendar year and the five preceding years;
- An analysis of tax expenditure proposals included in the Governor’s 2020-21 Executive Budget; and
- Cautionary or advisory notes regarding the use of the Report and data limitations .

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<sup>1</sup> Section 181 of the Executive Law provides that any information relating to tax expenditures furnished by the Commissioner of Taxation and Finance be furnished in accordance with the secrecy provisions of the Tax Law.

## INTRODUCTION

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As provided in prior years, the Report also includes information that summarizes:

- Tax expenditures that appear in more than one Article of the Tax Law, i.e., “Cross-Article Tax Expenditures.”
- State legislation enacted in recent years that resulted in the addition, deletion, or modification of various tax expenditure provisions.

The Report also includes the following additional information:

- An illustration of the impact of tax expenditures on tax liability under the Personal Income Tax.
- A glossary of terms used in this report .

# USE OF THIS REPORT AND DATA LIMITATIONS

As defined by the Executive Law,<sup>2</sup> tax expenditures in this report are defined as “features of the Tax Law that by exemption, exclusion, deduction, allowance, credit, preferential tax rate, deferral, or other statutory device, reduce the amount of taxpayers’ liabilities to the State by providing either economic incentives or tax relief to particular classes of persons or entities, to achieve a public purpose.” This definition is less subjective than an approach that defines tax expenditures by first defining a normal tax structure because it avoids judgments about what constitutes “normal.”

This report does not purport to offer an official list of tax expenditures. Rather, it describes as many tax expenditures as possible and provides revenue estimates for as many provisions as can be isolated and measured. Where applicable data is available, tax expenditure estimates generally cover five historical years. Forecasted estimates project the cost of a tax expenditure as reflected in the Tax Law as it was in effect on January 1, 2020. The forecasted estimates do not reflect changes proposed in the Executive Budget. A description of the Executive Budget Tax Expenditure proposals is included in a separate section of this report. As a result of new or improved information, the estimates may differ from those published in previous reports. The estimates in the report do not reflect the impact of the Metropolitan Transportation Authority (MTA) surcharge, imposed on businesses operating in the Metropolitan Transportation Commuter District (MCTD).

The “cost of a tax expenditure,”<sup>3</sup> or the tax expenditure revenue estimate, is the amount by which a tax expenditure reduces taxpayers’ liability to the State for a taxable year or on a calendar year basis if a taxable year basis is not appropriate. The reduction in taxpayer liability is the difference between tax liability under the current Tax Law and tax liability if the particular expenditure did not exist. In the case of certain tax credits, the cost also includes amounts refunded to taxpayers. It is important to acknowledge that each tax expenditure estimate is measured separately and independently of other tax provisions (i.e., other taxes are held constant) and no changes in taxpayer behavior are assumed. Thus, the tax expenditure estimates provided in this report are not equivalent to the impact on the State’s Financial Plan if the expenditure were repealed or modified. In addition, since the expenditure estimates are measured separately and independently, individual tax expenditures cannot be summed.

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<sup>2</sup> Section 181(a).

<sup>3</sup> Section 181(b).

## USE OF THIS REPORT AND DATA LIMITATIONS

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The following table lists the taxes included in this report and the years for which tax expenditure estimates are provided.

	Historical	Forecast
Personal Income Tax	2013, 2014, 2015, 2016, 2017	2020
Corporate Franchise Tax*	2012, 2013, 2014, 2015, 2016	2020
Insurance Tax*	2012, 2013, 2014, 2015, 2016	2020
Corporation and Utilities	2012, 2013, 2014, 2015, 2016	2020
Sales and Use Tax	2013, 2014, 2015, 2016, 2017	2020
Petroleum Business Tax	2013, 2014, 2015, 2016, 2017	2020
Real Estate Transfer Tax	2013-14, 2014-15, 2015-16, 2016-17	2020-21

\*Tax year is year with liability period beginning in the respective calendar year.

### Federal Exclusions

The personal income (Article 22), corporate franchise (Article 9-A), and insurance (Article 33) taxes are all based, to some extent, on the Federal tax structure. There are provisions in Federal law that reduce the base subject to New York tax because the exclusion flows through to New York law. For example, employer contributions for medical insurance and care are excluded from Federal adjusted gross income. This exclusion flows through to New York which uses Federal adjusted gross income as a starting point for determining New York income. In most cases, New York policymakers have opted to conform to the Federal base for these taxes.<sup>4</sup> Conformity eases administration of the Tax Law while at the same time promoting taxpayer compliance. These items do not constitute tax expenditures in the same sense as provisions specifically designed by New York policymakers to promote economic development or to provide specific tax relief.

### Reliability of the Estimates

Estimates of the cost of tax expenditures have different levels of reliability based on the accuracy of both the data and the estimation procedure.

- For all of the taxes, with the exception of the Sales and Compensating Use Tax, the Department of Taxation and Finance assigns the highest category of reliability, Level 1, to estimates based on information from actual tax returns that were verified for accuracy.
- It assigns Level 2 to estimates based on data files containing unverified or incomplete information from actual tax returns. Neither of these return data sources is augmented with audit information.

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<sup>4</sup> In 2018, New York State decoupled from several federal tax provisions amended by P.L. 115-97. See "Impact of 2017 Federal Tax Cuts and Jobs Act on New York Personal Income Tax Expenditures" on page 15.



## USE OF THIS REPORT AND DATA LIMITATIONS

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- In Level 3 estimates, average marginal tax rates are applied to aggregate data. This sometimes includes Federal tax return data from the Internal Revenue Service's *Statistics of Income*.
- Level 4 estimates are based on national tax expenditure estimates made by the Federal Joint Committee on Taxation (JCT) or the Office of Management and Budget (OMB) or are estimates derived from non-tax data sources. Estimates for most of the Sales Tax expenditures are derived from non-tax data sources. Therefore, a somewhat different reliability scheme is employed with all estimates given the fourth level of reliability. Within this fourth level, the report further categorizes estimates based on the accuracy and suitability of the data sources. Category A estimates use both New York State and industry-specific data. Category B estimates use either New York-specific data that is not industry specific or national data derived from direct industry information such as industry associations. Category C estimates use data other than state or industry-specific data.
- The last level of estimates, Level 5, includes those items for which no reliable data source currently exists.

In some cases the reliability of estimates can change from year to year. This is especially the case for base year and forecast estimates versus historical estimates. For example, provisions previously estimated with either less reliable tax return data or Federal tax information might become Level 1 (highest reliability) if added directly to tax returns and verified for accuracy. This could cause current and projected estimates to differ from historical estimates.

Regardless of data source, the reliability of estimates for the budget year is of distinctly lower quality than that of the historical numbers. The hazards of forecasting generally are exacerbated when point estimates of the value of particular provisions of law are involved. Changes in taxpayer behavior, business organization, and other factors can all have profound implications for the estimates of particular provisions in the budget year.



# RECENT LEGISLATION THAT HAS AFFECTED TAX EXPENDITURES

State legislation enacted in recent years has resulted in the addition, deletion, or modification of various provisions in the report this year. The changes are as follows:

## **Additions:**

- For tax years beginning on or after January 1, 2018, Article 9-A and Article 33 taxpayers may deduct contributions to a corporation's capital made by any governmental entity or civic group (other than a contribution made by a shareholder) that are included in gross income under Internal Revenue Code section 118(b)(2) when computing New York entire net income.
- For tax years beginning on or after January 1, 2020, a new refundable employer-provided child care credit is available to Article 9A and 22 taxpayers, who are allowed the federal credit under Internal Revenue Code §45F for qualifying expenditures paid or incurred in providing child care alternatives for their employees. The credit is equal to 25 percent of qualified child care expenditures related to a child care facility located in New York, plus 10 percent of qualified child care resource and referral expenditures attributable to employees working in New York. The credit is capped at \$150,000 per taxable year per entity.
- For tax years beginning on or after January 1, 2020, a new refundable recovery tax credit is available to businesses under Articles 9A and 22 that hire eligible individuals in recovery from a substance use disorder for part-time and full-positions in New York State. The Office of Alcoholism and Substance Abuse Services 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.

## RECENT LEGISLATION

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### Modifications:

- The Empire State commercial production credit was amended by removing the \$1 million allocated to the incremental cost component to the Metropolitan Commuter Transportation District (MCTD) allocation amount, which will now be \$4 million. The credit rate was also raised from 5 percent to 20 percent for commercials produced within the MCTD and from 5 percent to 30 percent for commercials produced outside the MCTD. Lastly, the credit was expanded to cover all qualified production costs outside the MCTD, instead of only for costs in excess of \$100,000. The amendments apply to tax years beginning on or after January 1, 2019.
- For tax years beginning on or after January 1, 2020, the rehabilitation of historic properties credit is 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.
- 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, the commercial boarding of horses, and the sale of wine or cider from a licensed farm winery or cidery. In addition, if more than 50 percent 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.
- Businesses may now receive the employee training incentive program tax credit if they conduct their own training and are otherwise eligible. 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.
- The expiration date of the itemized deduction limitation for individuals with New York AGI of more than \$10 million was extended from January 1, 2020 to January 1, 2025.
- The expiration date of the clean heating fuel credit was extended from January 1, 2020 to January 1, 2023.
- The expiration date of the Empire State commercial production credit was extended from January 1, 2019 to January 1, 2024.
- The expiration dates of the Empire State film production credit and the Empire State film post-production credit were extended from January 1, 2023 to January 1, 2025.

## RECENT LEGISLATION

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- The expiration date of the workers with disabilities tax credit was extended from January 1, 2020 to January 1, 2023.
- Effective for tax years beginning on or after January 1, 2019, ninety-five percent of global intangible low-taxed income, as defined under IRC section 951A, is exempt from tax under Articles 9-A and 33.
- The sales tax exemption for vending machine sales of candy, juice and soft drinks sold for \$1.50 or less was amended in several respects: bottled water was added to the list of items qualifying for exemption; the exemption threshold was increased to \$2.00 or less for such items when sold from a vending machine that accepts forms of payment other than coin or currency; and the entire exemption was set to expire on May 31, 2021. These changes took effect June 1, 2019.
- The sales tax exemption for cemetery monuments was expanded to include tangible personal property that will become a physical component part of the monument. This change took effect on June 1, 2019.
- The sales tax exemption relating to certain alcoholic beverage tastings was expanded to include mead and mead product. This change took effect on March 28, 2019.
- The sales tax exemption for certain related-party transactions arising as a result of the Dodd-Frank Wall Street Reform and Consumer Protection Act was extended to June 30, 2021.

### **Deletions:**

- The enhanced real property tax circuit breaker credit available to homeowners and renters residing in New York City has expired for tax years beginning on or after January 1, 2020.
- The property tax relief credit available to resident taxpayers owning and residing in properties outside New York City has expired for tax years beginning on or after January 1, 2020.
- The zero percent sales tax rate on charges for transportation, transmission, or distribution of gas or electricity when sold by someone other than the vendor of the gas or electricity was repealed, effective June 1, 2019.



# PERSONAL INCOME TAX

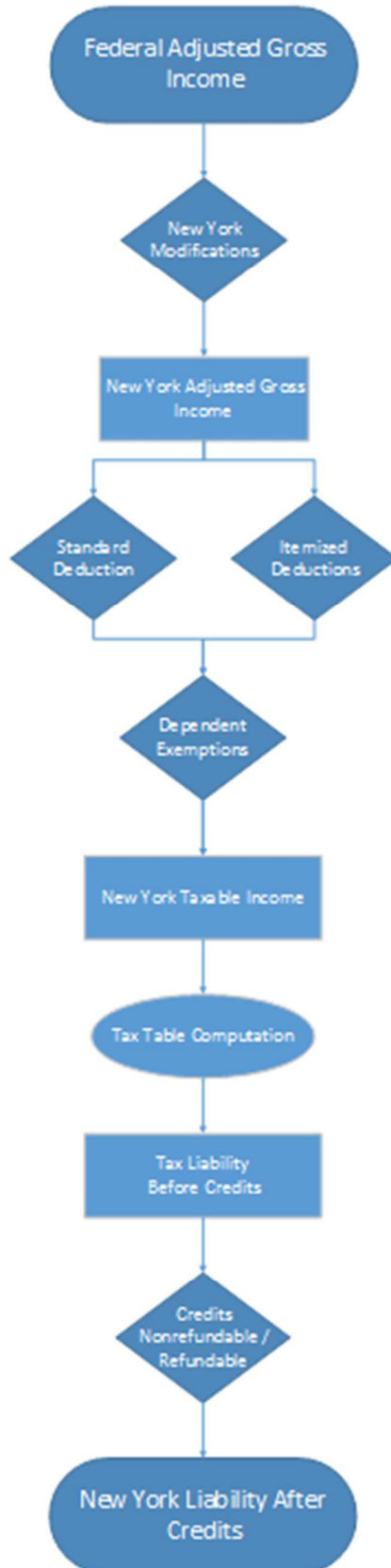
This section provides revenue estimates of tax expenditures for the 2020 New York State Personal Income Tax. Tax expenditures are first estimated for the 2017 tax year (the latest year for which historical tax data are available) and then projected to the 2020 tax year. This section also provides historical estimates from 2013 through 2017 for comparison. Table 2 lists the income tax provisions for which estimates exist, and the estimates themselves. To provide some perspective, it also shows total Personal Income Tax liability for the 2017 tax year. The data used to generate the estimates do not include late filed returns, audited returns, or fiduciary returns because no contemporaneous data exist to make the estimates.

## Description of Tax

The computation of the New York State Personal Income Tax starts with the Federal definition of adjusted gross income as included in the Internal Revenue Code (IRC). The IRC permits certain exclusions and adjustments in arriving at Federal adjusted gross income. New York allows several subtraction modifications and requires certain addition modifications in arriving at New York adjusted gross income (NYAGI). Taxpayers can then reduce their NYAGI by subtracting the higher of the New York standard deduction or New York itemized deductions. New York itemized deductions generally conform to Federal itemized deductions as they existed prior to enactment of Public Law 115-97; however, certain modifications, such as an add-back for income taxes, apply. In addition, an overall New York State deduction limitation applies to upper-income taxpayers. New York taxpayers may also subtract from NYAGI a \$1,000 exemption for each dependent, not including the taxpayer and spouse. The above computation determines taxable income. After computing taxable income, taxpayers apply a marginal tax rate schedule to compute their tax.

# PERSONAL INCOME TAX

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Major features of the New York State income tax rates since 2012 are as follows:

- In 2012, the top rate was 8.82 percent on taxable incomes over \$1,000,000 for single individuals, \$1,500,000 for head of household, and \$2,000,000 for married couples filing jointly.
- For tax years 2013 through 2017, the tax brackets were indexed by a cost of living percentage adjustment. Tax bracket values are no longer indexed after 2017.
- For tax years 2018 through 2024, the top rate remains 8.82 percent on taxable incomes over \$1,077,550 for single individuals, \$1,616,450 for head of household, and \$2,155,350 for married couples filing jointly.
- If New York adjusted gross income exceeds \$107,650, then taxpayers must also compute a supplemental tax that recaptures the tax benefit that results from income being taxed at less than the top marginal rate.
- Taxpayers may then subtract certain credits in arriving at their actual tax liability.

Many of the effective dates for the income tax items occurred in 1960. The State Personal Income Tax was originally enacted in 1919, but the present system of Federal conformity with respect to income and deductions did not begin until 1960. Therefore, the report uses 1960 as the effective date for the provisions existing since the reorganization of the State's income tax. Many provisions have also been amended since their enactment; however, this report does not provide a detailed legislative history of each item covering the entire intervening time frame.

The descriptive paragraph on each income tax expenditure summarizes the provision as it appears in the Tax Law in effect as of January 1, 2020. It also includes any differences applicable between the 2017 and 2020 tax years. The listing does not include provisions repealed or sunsetted prior to 2020. Also, only tax credits specific to the Personal Income Tax are described here. Descriptions of tax credits available under multiple tax articles are contained in the Cross-Article Tax Credits section of the report.

### **Data Sources**

The major sources of data used in this section include:

- 2017 Personal Income Tax Population Study File — A data file based on 10.6 million Personal Income Tax returns filed with the New York State Department of Taxation and Finance. The file includes micro data pertaining to full-year resident, part-year resident, and nonresident tax returns filed in 2018 for tax year 2017. The file represents the latest settled information as processed by the Department's tax return system and is

## **PERSONAL INCOME TAX**

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verified to ensure accuracy and reliability. This data is used in conjunction with a Personal Income Tax simulation model, a set of complex computer programs which simulate the various features of the Tax Law and variations thereof for the years being estimated.

- 2017 Federal Statistics of Income (SOI) — An annual statistical report produced by the U.S. Treasury Department. It contains Internal Revenue Service data collected from the Federal tax returns filed by New York residents. Verification of the data for accuracy ensures high data quality. The SOI sample of New York taxpayers contains 28,000 unweighted returns.

### **Methodology**

For estimating tax expenditures in 2020, components of income, modifications, and itemized deductions on the 2017 population return file are extrapolated to 2020 levels using growth assumptions based on the economic forecast provided by the New York State Division of the Budget during December 2019. This data file is then used with the Personal Income Tax model revised to simulate 2020 tax law.

Tax expenditures with values of less than \$0.1 million are indicated with an asterisk.

### **Impact of the 2017 Federal Tax Cuts and Jobs Act (TCJA) on New York Personal Income Tax Expenditures**

Based on the federal changes to the treatment of alimony, moving expenses and reimbursements for moving expenses, New York has amended Tax Law regarding the calculation of NYAGI for tax year 2018 and after. Regarding moving expenses, the TCJA suspended the deduction for tax years 2018-2025 for all moving expenses except for members of the Armed Forces (or their spouse or dependents) on active duty that move pursuant to military order. In response, New York amended Tax Law to continue to allow the deduction as it existed prior to 2018 by providing for a NY subtraction from federal AGI (FAGI) in arriving at NYAGI. The TCJA also required that qualified moving expense reimbursements be included in gross income and wages for tax years 2017-2025 except for members of the Armed Forces on active duty that move pursuant to military order. New York amended Tax Law to continue pre-2018 treatment by allowing this amount to be excluded from NYAGI.

The TCJA also changed the federal treatment of alimony and separate maintenance payments made pursuant to alimony or separate maintenance agreements executed after December 31, 2018, or executed before 2019 but modified after December 31, 2018. Under these changes, payments made are no longer deductible by the payor and payments received are no longer included in the recipient's income for federal tax purposes. Subsequent changes to New York Tax Law maintained the previous treatment by decoupling from the federal rules

and requiring a subtraction modification for payments made by the payor and the addition of payments received to NYAGI by the recipient.

The decoupling from the federal changes have resulted in the creation of two new tax expenditures at the State level for the subtraction of moving expenses/moving expense reimbursements and the subtraction for payment of alimony from FAGI.

### **Federal Exclusions from Income**

In addition to the tax expenditures which are authorized in New York Tax Law, there are numerous Federal “flow through” tax expenditure provisions which impact the New York State Personal Income Tax. This tax begins with a definition of income which is largely derived from provisions of the Federal Internal Revenue Code. As a result of this “coupling” of State definitions of income base to Federal definitions, exclusions or deductions from income at the Federal level become exclusions or deductions at the State level. Therefore, these provisions automatically become tax expenditures at the State level.

# PERSONAL INCOME TAX

**Table 1**  
**2020 Personal Income Tax Expenditure Estimates**  
**(2017 Total Personal Income Tax Liability = \$48,002 Million)**  
**(Millions of Dollars)**

Tax Item	History					Forecast	Reliability
	2013	2014	2015	2016	2017	2020	Level
<b>New York Modifications</b>							
1.Pension/Annuity Exclusion	633.9	678.0	705.4	709.1	766.6	901.0	1
2.Exclusion of Social Security and Tier I Railroad Retirement Benefits (Taxable Social Security for Federal Purposes but New York Exempt)	846.7	934.1	957.4	972.0	1,050.6	1,221.0	1
3.Exclusion of Interest on U.S. Obligations	54.0	43.7	70.3	85.4	81.0	88.3	1
4.Exclusion of Pensions, Annuities, Interest, and Lump Sum Payments Received by New York State and Municipal Retirees	844.9	900.3	961.6	981.5	1,042.3	1,189.0	1
5.Exclusion of Pensions, Annuities, Interest, and Lump Sum Payments by Federal Retirement Systems	163.3	174.0	185.1	188.0	199.7	227.0	1
6.Disability Income Exclusion	N/A	N/A	N/A	N/A	N/A	N/A	5
7.Exclusion of Interest or Dividends on Obligations or Securities of a U.S. Agency	N/A	N/A	N/A	N/A	N/A	N/A	5
8.Exclusion of Interest or Dividend Income on Obligations or Securities Taxable for Federal Purposes but Exempt for New York Tax Purposes	N/A	N/A	N/A	N/A	N/A	N/A	5
9.Exclusion of Accelerated Death Benefits and Viatical Settlements	*	*	*	*	*	*	4
10.Exclusion for Contributions to New York State College Choice Tuition Savings Program	61.3	69.0	68.4	71.3	78.5	81.1	1
11.Deferral of Gain from Sale of Qualified Emerging Technology Investments	*	*	*	*	*	*	4
12.Exclusion of Payments to Victims of Nazi Persecution	*	*	*	*	*	*	4
13.Exclusion of Compensation for Members of an Organized Militia	*	*	*	*	*	*	4
14.Exclusion for Living Human Organ Donors	*	*	*	*	*	*	4
15.Exclusion of Compensation for Service in a Combat Zone for Members of the Armed Services	*	*	*	*	*	*	4
16.Exclusion of Small Business and/or Farm Income	--	1.0	1.4	1.5	1.2	1.5	4
17.Exclusion of Income Attributable to the New York State Business Incubator and Innovation Hot Spot Support Act	--	0.2	0.1	0.2	0.2	*	4
18.Exclusion of Wages Received From an Employer Located in START-UP New York Area	--	0.2	0.6	1.4	3.8	4.0	5
19.Exclusion of Service Award for Volunteer Firefighters and Ambulance Workers	--	--	0.2	0.3	0.4	0.4	4
20.Exclusion of Moving Expenses and Moving Expense Reimbursements	--	--	--	--	--	*	3
21.Exclusion of Alimony Paid	--	--	--	--	--	*	1
<b>New York Itemized Deductions and Exemptions</b>							
22.Value of Standard Deductions for Those Returns with Itemized Deductions in Excess of Standard Deduction	1,511.7	1,510.6	1,520.7	1,514.8	1,567.9	1,558.0	1
<b>23.Itemized Deductions</b>							
a. Medical/Dental Deduction	98.2	98.0	103.5	102.2	123.4	123.0	1
b. Interest Deduction	798.4	734.1	716.4	705.5	714.4	705.0	1
c. Charitable Contribution Deduction	582.1	598.9	616.7	635.4	737.7	647.0	1
d. Casualty/Theft Deduction	9.3	2.9	3.0	2.9	3.2	3.0	1
e. Taxes Paid Deduction	743.4	716.6	723.4	732.4	815.4	738.0	1
f. Miscellaneous Deductions Subject to 2 Percent of AGI Limitation	291.3	287.3	286.8	264.9	258.1	267.0	1
g. Other Miscellaneous Deductions	30.1	32.6	34.0	34.7	38.2	34.0	1
h. Union Dues Deduction	--	--	--	---	---	35.0	1
24.Dependent Exemptions	291.1	286.8	284.4	282.9	285.0	299.0	1
<b>New York Credits</b>							
25.Household Credit	96.9	95.6	94.7	93.5	91.9	85.0	1
26.Earned Income Credit	1,042.8	1,074.7	1,072.8	1,039.8	1,034.6	1,020.0	1
27.Real Property Tax Credit (Circuit Breaker)	21.6	23.0	22.8	21.5	20.5	20.0	1
28.Child and Dependent Care Credit	193.7	188.9	175.8	151.9	155.1	198.0	1
29.Accumulation Distribution Credit <sup>2</sup>	0.1	0.1	0.1	0.1	0.1	0.1	1
30.Solar Energy System Equipment Credit <sup>1,2,4</sup>	10.7	20.4	34.8	39.8	38.7	50.0	1
31.College Tuition Credit <sup>3</sup>	240.3	236.9	228.4	220.7	211.5	213.0	1
32.Nursing Home Assessment Tax Credit	17.8	18.2	19.4	19.8	20.3	21.0	1
33.Empire State Child Credit	663.7	657.8	646.6	633.3	628.0	630.0	1

# PERSONAL INCOME TAX

Tax Item	History					Forecast Reliability	
	2013	2014	2015	2016	2017	2020	Level
34.Enhanced State Earned Income Tax Credit for Certain Non-Custodial Parents	3.6	4.0	3.4	2.6	2.5	2.5	1
35.Volunteer Firefighters and Ambulance Workers Credit	15.9	15.9	16.0	15.9	15.8	16.0	1
36.Historic Homeownership Rehabilitation Credit <sup>4</sup>	0.4	0.6	1.0	0.9	1.2	1.5	1
37.STAR Credit for New Homeowners	--	--	--	115.8	218.0	660.0	4
38.STAR Credit for New York City Residents	--	--	--	290.1	293.0	298.0	4
39.Employer Compension Expense Program Wage Credit	--	--	--	--	--	3.0	4
<b>Cross-Article Credits</b>							
1.Investment Credit <sup>2</sup>	22.7	32.9	29.3	29.3	28.3	32.0	1
2.Investment Credit for Financial Services Industry <sup>2</sup>	0.2	1.5	*	*	*	*	1
3.Special Additional Mortgage Recording Tax Credit <sup>2</sup>	21.0	22.0	31.3	23.5	14.6	20.0	1
4.Empire Zone (EZ), Qualified Zone Enterprise (QEZE), and Zone Equivalent Areas Tax Credit <sup>2</sup>							
a. EZ Investment Tax Credit and Employment Incentive Credit	9.5	10.6	8.9	9.1	7.2	2.0	1
b. EZ/ZEI Wage Tax Credit	10.1	9.6	5.5	5.4	3.8	1.0	1
c. EZ Capital Credit	0.2	0.1	*	*	*	*	1
d. QEZE Real Property Tax Credit	70.0	49.5	44.8	28.4	16.3	6.0	1
e. QEZE Tax Reduction Credit	40.2	40.3	33.7	24.7	12.2	5.0	1
5.Farmers' School Property Tax Credit	38.2	40.0	41.5	42.0	43.2	45.0	1
6.Credit for Employment of Persons with Disabilities <sup>2</sup>	0.1	*	*	*	*	*	1
7.Qualified Emerging Technology Company Credits <sup>2</sup>							
a. QETC Capital Tax Credit	1.2	1.0	1.9	1.0	0.9	1.5	1
b. QETC Employment Credit	0.1	0.2	0.3	0.3	0.1	0.2	1
8.Low-Income Housing Credit <sup>2</sup>	*	*	*	*	*	*	1
9.Credit for Purchase of an Automated External Defibrillator <sup>2</sup>	*	*	0.1	*	0.1	*	1
10.Green Building Credit <sup>2</sup>	0.1	*	*	*	0.0	*	1
11.Long-Term Care Insurance Credit <sup>2</sup>	85.3	90.4	89.9	87.9	90.9	95.0	1
12.Empire State Film and Commercial Production Credits							
a. Empire State Film Production Credit <sup>2</sup>	3.3	7.2	10.8	17.7	10.2	15.0	1
b. Empire State Film Post Production Credit	1.0	0.9	1.6	0.7	1.6	1.0	1
c. Empire State Commercial Production Credit	*	0.6	*	*	0.5	*	1
13.Security Training Tax Credit <sup>2</sup>	0.1	*	0.1	0.1	0.0	*	1
14.Brownfields Tax Credits	2.6	4.0	8.4	17.8	16.6	27.0	1
a. Brownfield Redevelopment Tax Credit	2.3	3.0	7.4	17.0	15.8	25.0	1
b. Remediated Brownfield Credit for Real Property Taxes	0.3	1.0	1.0	0.8	0.8	2.0	1
c. Environmental Remediation Insurance Credit	*	*	*	*	0.0	*	1
15.Biofuel Production Credit	*	*	*	*	*	*	1
16.Land Conservation Easement Credit	1.4	1.6	1.6	1.7	1.9	2.0	1
17.Clean Heating Fuel Credit	1.9	2.9	3.1	3.0	3.5	4.0	1
18.Rehabilitation of Historic Properties Credit	4.2	2.8	16.5	18.8	16.3	25.0	1
19.Excelsior Jobs Program (EJP) Tax Credits	0.6	1.3	1.2	1.4	1.9	41.0	1
20.Credit for Companies Who Provide Transportation to Individuals with Disabilities	0.2	0.7	0.6	0.8	0.7	1.0	1
21.Economic Transformation and Facility Redevelopment Program Tax Credit	*	*	*	*	*	*	1
22.New York Youth Jobs Program Tax Credit	0.7	1.6	3.1	6.8	9.4	30.0	1
23.Empire State Jobs Retention Program Credit	*	0.3	0.3	0.4	0.5	1.0	1
24.Alcoholic Beverage Production Credit	0.6	0.5	0.8	1.2	1.3	1.0	1
25.Alternative Fuels and Electric Vehicle Recharging Property Credit	*	*	*	0.1	0.1	1.0	1
26.START-UP NY Tax Elimination Credit <sup>1</sup>	--	--	0.6	0.2	0.5	5.0	4
27.Credit for the Excise Tax on Telecommunication Services Paid by START-UP NY Businesses <sup>1</sup>	--	--	*	*	0.0	*	1
28.Real Property Tax Relief Credit for Manufacturing <sup>1</sup>	--	3.1	5.9	7.0	8.1	17.0	4
29.Hire A Vet Credit <sup>1</sup>	--	--	*	*	*	1.0	4
30.Musical and Theatrical Production Credit <sup>1</sup>	--	--	*	0.7	1.2	1.0	4
31.Workers with Disabilities Tax Credit <sup>1</sup>	--	--	*	*	*	2.0	4
32.Employee Training Incentive Credit <sup>1</sup>	--	--	*	*	*	4.0	4
33.Farm Workforce Retention Credit	--	--	--	--	3.2	4.0	4
34.Empire State Apprenticeship Tax Credit	--	--	--	--	--	1.0	4
35.Life Sciences Research and Development Tax Credit	--	--	--	--	--	5.0	4
36.Farm Donations to Food Pantries Credit	--	--	--	--	--	9.0	4
37.Employer Provided Child Care Credit	--	--	--	--	--	0.5	4
38.Employer Recovery Hiring Tax Credit	--	--	--	--	--	1.0	4

1/A new tax expenditure item or a revision of the methodology or revisions in the data sources resulted in an estimate which better reflects the tax expenditure value.

2/Credit estimates include non-refundable amount used to reduce current year tax liability. Figure also includes refundable amounts where applicable.

# PERSONAL INCOME TAX

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Tax Item	History					Forecast	Reliability
	2013	2014	2015	2016	2017	2020	Level
<hr/> 3/Estimate includes value of itemized deduction and credit.							

\*Less than \$0.1 Million

--The tax expenditure was not applicable for these years.

N/A No data available.

NOTE: Totals may differ from estimates included with individual components of expenditure items due to rounding.

## **New York Modifications**

The NYAGI of a resident or nonresident individual is defined as Federal adjusted gross income with modifications as specified by New York Tax Law, Article 22, Section 612.

1. **Pension/Annuity Exclusion**

**Citation:** Section 612(c)(3-a)

**Effective Date:** Effective for taxable years beginning on or after January 1, 1982

**Description:** Taxpayers aged 59 ½ and over may exclude from New York adjusted gross income pensions and annuities, to the extent included in Federal adjusted gross income, but not in excess of \$20,000 (\$20,000 each for two married pensioners or annuitants filing jointly).

**Data Source:** PIT Simulation Model

2. **Exclusion of Social Security and Tier 1 Railroad Retirement Benefits (Taxable Social Security for Federal Purposes but New York Exempt)**

**Citation:** Section 612(c)(3-c)

**Effective Date:** Effective for taxable years beginning after December 31, 1983

**Description:** Taxpayers may exclude from New York adjusted gross income Social Security and Tier 1 railroad retirement benefits, to the extent included in Federal adjusted gross income.

**Data Source:** PIT Simulation Model

3. **Exclusion of Interest on U.S. Obligations**

**Citation:** Section 612(c)(1)

**Effective Date:** Effective for taxable years beginning on or after January 1, 1960

**Description:** Taxpayers may exclude from New York adjusted gross income interest income on obligations of the United States and its possessions, to the extent included in FAGI. Federal law prohibits New York from taxing this item.

**Data Source:** PIT Simulation Model

4. **Exclusion of Pensions, Annuities, Interest, and Lump Sum Payments Received by New York State and Municipal Retirees**

**Citation:** Section 612(c)(3)(i)

**Effective Date:** Effective for taxable years beginning on or after January 1, 1960

**Description:** Retirement payments received by officers and employees (or their beneficiaries) of New York State and its municipalities (including corporations and authorities), to the extent includable in Federal adjusted gross income, may be subtracted in computing New York adjusted gross income. The State Constitution prohibits taxation of this income.

**Data Source:** PIT Simulation Model



## PERSONAL INCOME TAX

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5. **Exclusion of Pensions, Annuities, Interest, and Lump Sum Payments by Federal Retirement Systems**  
**Citation:** Section 612(c)(3)(ii)  
**Effective Date:** Effective for tax years beginning on or after January 1, 1989  
**Description:** Payments received by officers and employees (and their beneficiaries) from Federal retirement systems, to the extent includable in Federal adjusted gross income, may be subtracted in determining New York adjusted gross income. A 1989 U.S. Supreme Court ruling (*Davis v. Michigan Department of Treasury*) mandated that states must provide equal tax treatment for Federal and state/local pensions.  
**Data Source:** PIT Simulation Model
  
6. **Disability Income Exclusion**  
**Citation:** Section 612(c)(3-b)  
**Effective Date:** Effective for taxable years beginning after December 31, 1983  
**Description:** A taxpayer may subtract up to \$5,200 of disability income included in Federal adjusted gross income, to the extent that such income would have been excluded from Federal gross income prior to January 1, 1984, under the repealed provisions of IRC Section 105(d). The total exclusion for disability and pension and annuity income may not exceed \$20,000. The exclusion is reduced by the amount that the taxpayer's adjusted gross income exceeds \$15,000.
  
7. **Exclusion of Interest or Dividends on Obligations or Securities of a U.S. Agency**  
**Citation:** Section 612(c)(2)  
**Effective Date:** Effective for taxable years on or after January 1, 1960  
**Description:** Taxpayers may subtract from Federal adjusted gross income, interest or dividend income on obligations or securities of a U.S. agency, to the extent that such income has been included in Federal adjusted gross income. Federal law prohibits New York from taxing this income.
  
8. **Exclusion of Interest or Dividend Income on Obligations or Securities Taxable for Federal Purposes but Exempt for New York Tax Purposes**  
**Citation:** Section 612(c)(6)  
**Effective Date:** Effective for taxable years beginning on or after January 1, 1960  
**Description:** The taxpayer may subtract from Federal adjusted gross income interest or dividend income on obligations or securities, to the extent that such income is exempt for New York income tax purposes under New York law but is subject to Federal income tax.
  
9. **Exclusion of Accelerated Death Benefits and Viatical Settlements**  
**Citation:** Section 612(c)(30)  
**Effective Date:** Effective for taxable years beginning on or after January 1, 1991 for death benefits and for payments received on or after July 27, 1994 on viatical settlements



**Description:** Taxpayers may subtract from Federal adjusted gross income accelerated payments of part or all of the death benefit or special surrender value of a life insurance policy as a result of certain diagnoses (i.e., terminal illnesses), specified in the Insurance Law. Also, taxpayers may subtract the amount received from a viatical settlement company from the sale of a life insurance policy. Persons with catastrophic or life threatening illnesses are eligible for this subtraction when they sell such policies to a viatical settlement company licensed by the State Insurance Department.

**Data Source:** Federal Office of Management and Budget

10. **Exclusion for Contributions to New York State College Choice Tuition Savings Program**

**Citation:** Section 612(c)(32)

**Effective Date:** Effective for taxable years beginning after December 31, 1997

**Description:** Taxpayers may subtract from Federal adjusted gross income up to \$5,000 per year (\$10,000 for married couples filing jointly) of contributions to “family tuition accounts,” as defined in Article 14-A of the Education Law, to the extent not deductible or eligible for credit for Federal tax purposes. The maximum account balance may not exceed \$520,000 per beneficiary, and the State Comptroller has authority to increase this figure to reflect increases in higher education costs.

**Data Source:** PIT Simulation Model

11. **Deferral of Gain from Sale of Qualified Emerging Technology Investments**

**Citation:** Section 612(c)(34)

**Effective Date:** Effective for qualified investments acquired on or after March 12, 1998

**Description:** Gain from the sale of qualified emerging technology investments may be subtracted from Federal adjusted gross income, if reinvested in another qualified emerging technology investment. The amount subtracted must be added to Federal adjusted gross income when the reinvestment is sold, if the gain is not reinvested in a qualified emerging technology investment.

**Data Source:** Industry Data

12. **Exclusion of Payments to Victims of Nazi Persecution**

**Citation:** Sections 612(c)(35) and (36)

**Effective Date:** Effective for taxable years beginning on or after January 1, 1995

**Description:** Taxpayers may subtract certain distributions, to the extent included in FAGI, made based on their status as a victim of Nazi persecution as defined in Public Law 103-286. The subtraction also applies to distributions received by victims’ spouses and needy descendants. In addition, a subtraction is allowed for items of income included in FAGI attributable to assets stolen or hidden from, or otherwise lost by victims of Nazi persecution immediately prior to, during, or after World War II.

## PERSONAL INCOME TAX

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**Data Source:** New York State Banking Department

13. **Exclusion of Compensation for Members of an Organized Militia**  
**Citation:** Section 612(c)(8-b)(i)(ii)  
**Effective Date:** Effective for taxable years beginning on or after January 1, 2004  
**Description:** An individual who is a member of a New York State organized militia may subtract from Federal adjusted gross income compensation received for performing active service within New York State pursuant to active duty orders issued by the Governor or the Federal government.  
**Data Source:** New York State Division of the Budget
14. **Exclusion for Living Human Organ Donors**  
**Citation:** Section 612(c)(38)  
**Effective Date:** Effective for taxable years beginning on or after January 1, 2007  
**Description:** Resident taxpayers may subtract certain unreimbursed expenses from Federal adjusted gross income which are incurred by the taxpayer while donating one or more of their human organs, while living, to another human being for human organ transplantation. Unreimbursed expenses include travel expenses, lodging expenses and lost wages. In addition, a "human organ" is defined as all or part of a liver, pancreas, kidney, intestine, lung or bone marrow. The subtraction can only be claimed once and must be claimed in the taxable year in which the human organ transplantation occurs. The maximum allowable subtraction is \$10,000 per taxpayer.  
**Data Source:** New York State Division of the Budget
15. **Exclusion of Compensation for Service in a Combat Zone for Members of the Armed Services of the United States**  
**Citation:** Section 612(c)(8-c)  
**Effective Date:** Effective for taxable years beginning on or after January 1, 2008  
**Description:** An individual who is a member of the armed services of the United States may subtract from federal adjusted gross income compensation received for performing active service in an area designated by the President of the United States by executive order as a "combat zone."  
**Data Source:** New York State Division of the Budget
16. **Exclusion of Small Business and/or Farm Income**  
**Citation:** Section 612(c)(39)  
**Effective Date:** Effective for taxable years beginning on or after January 1, 2014  
**Description:** Resident taxpayers with small business and/or farm income may subtract three percent of the net items of income, gain, loss and deduction attributable to a business or farm included in federal adjusted gross income (but not less than zero) for tax year 2014. This is increased to 3.75 percent in tax year 2015 and five percent for tax year 2016 and after.

Small business is defined as a sole proprietor or a farm business employing one or more persons during the taxable year that has net business income or net farm income of less than \$250,000.

**Data Source:** New York State Division of the Budget

17. **Exclusion of Income Attributable to the New York State Business Incubator and Innovation Hot Spot Support Act**

**Citation:** Section 612(c)(39)

**Effective Date:** Effective for taxable years beginning on or after January 1, 2014

**Description:** The creation of the New York State Business Incubator and Innovation Hot Spot Support Act allows an exclusion for five years beginning with the first tax year a qualified entity becomes a tenant in or part of an innovation hot spot. An individual who is the sole proprietor of a qualified entity, or a member of a limited liability company treated as a partnership, a partner in a partnership, or a shareholder in a New York S corporation, who is taxable under Article 22 is allowed a deduction (in the form of a subtraction modification) for the amount of income or gain included in his or her federal adjusted gross income, only to the extent that the income or gain is attributable to the operations of the qualified entity at (or as part of) an innovation hot spot. The amount of the subtraction modification is determined using books and records.

**Data Source:** New York State Division of the Budget

18. **Exclusion of Wages Received From an Employer Located in START-UP New York Area**

**Citation:** Section 612(c)(40)

**Effective Date:** Effective for taxable years beginning on or after January 1, 2014

**Description:** Resident taxpayers may subtract any wages received as an employee of a business located within a tax-free NY area during the first five years of such business's ten-year taxable year period to the extent the wages are included in federal adjusted gross income. During the second five years of such business's ten-year taxable period, resident taxpayers may subtract the first \$200,000 of such wages in the case of a taxpayer filing as a single individual, the first \$250,000 of such wages in the case of a taxpayer filing as a head of household, and \$300,000 of such wages in the case of a taxpayer filing a joint return, to the extent included in federal adjusted gross income.

**Data Source:** New York State Division of the Budget

19. **Exclusion of Service Award for Volunteer Firefighters and Ambulance Workers**

**Citation:** Section 612(c)(41)

**Effective Date:** Effective for taxable years beginning on or after January 1, 2014

**Description:** Volunteer firefighters and volunteer ambulance workers who have not attained the age of 59 ½ may subtract service awards included in gross income for Federal tax purposes. To qualify for the subtraction

## PERSONAL INCOME TAX

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modification, the service award must be from a length of service defined contribution plan or defined benefit plan as provided for in Articles eleven-A, eleven-AA, eleven-AAA, and eleven-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 section 402(e)(4)(A) of the Internal Revenue Code (IRC) and taxed under section 603 of the Tax Law.

**Data Source:** New York State Division of the Budget

### 20. **Exclusion of Moving Expenses and Moving Expense Reimbursements**

**Citation:** Section 612(x)

**Effective Date:** Effective for taxable years beginning on or after January 1, 2018

**Description:** Taxpayers may exclude from New York adjusted gross income any applicable moving expenses paid by the taxpayer during the taxable year and any applicable qualified moving expense reimbursement received by the taxpayer during the taxable year. Applicable qualified moving expenses and reimbursements are those deductions allowed under the Internal Revenue Code immediately prior to the enactment of PL 115-97.

**Data Source:** Federal Statistics of Income

### 21. **Exclusion of Alimony Paid**

**Citation:** Section 612(w)

**Effective Date:** Effective for taxable years beginning on or after January 1, 2018

**Description:** Any applicable alimony or separate maintenance payments made by the taxpayer in the tax year must be excluded from federal adjusted gross income. Conversely, any applicable alimony or separate maintenance payments received by the taxpayer must be included in federal adjusted gross income. For purposes of this modification, alimony or separate maintenance payments means payments defined under IRC §71 as it existed prior to enactment of Public Law 115-97.

**Data Source:** PIT Simulation Model

## **New York Itemized Deductions and Exemptions**

Individual taxpayers who elect not to use the standard deduction may reduce their New York adjusted gross income by their itemized deductions, and all taxpayers are allowed exemptions for dependents who qualify for the Federal exemption.

### 22. **Value of Standard Deductions for Those Returns with Itemized Deductions in Excess of Standard Deduction**

**Citation:** Section 614

**Effective Date:** Effective for taxable years beginning on or after January 1, 1960

**Description:** Because all taxpayers are entitled to a standard deduction as a minimum, itemizers have their standard deduction “built into” their total deduction.

**Data Source:** PIT Simulation Model

### 23. Itemized Deductions

Taxpayers may itemize deductions on their State returns irrespective of actions taken on their Federal returns.

New York itemized deductions are freestanding and represent Federal law as it existed for Tax Year 2017. Thus, the citations below reference the Internal Revenue Code prior to the enactment of P.L. 115-97. They are authorized in New York Tax Law, Article 22, Section 615. New York limits the availability of itemized deductions for certain high-income taxpayers. The percentage of disallowed deductions varies according to the taxpayer’s NYAGI and filing status. Itemized deductions for a single taxpayer with NYAGI in excess of \$100,000 are reduced by up to 25 percent. This reduction also applies to married taxpayers filing jointly with NYAGI in excess of \$200,000 and heads of household with NYAGI exceeding \$250,000. For all taxpayers with NYAGI above \$475,000, itemized deductions are reduced by up to an additional 25 percent, equaling 50 percent for all taxpayers with NYAGI above \$525,000. Beginning in tax year 2009 and after, the New York itemized deduction limitation has been revised to further limit a taxpayer’s New York itemized deduction. If a taxpayer’s NYAGI is more than \$1,000,000, but not more than \$10 million, the New York itemized deduction is limited to 50 percent of the federal itemized deduction for charitable contributions. For tax years beginning after 2012, if an individual’s NYAGI is more than \$10 million, the itemized deduction is limited to 25 percent of the federal itemized deduction for charitable contributions. All other federal itemized deductions are reduced to zero.

The Federal itemized deduction limitation that was in effect prior to enactment of P.L. 115-97 further reduces the value of the deductions.

#### a. Medical/Dental Deduction

**Citation:** IRC Section 213

**Effective Date:** Effective for taxable years beginning on or after January 1, 1960

**Description:** Medical and dental expenses paid during the taxable year by and on behalf of the individual or his/her spouse or dependent may be deducted from Federal adjusted gross income, as an itemized deduction, to the extent that the expenses (a) exceed 7.5 percent of adjusted gross income, and (b) are not compensated for by insurance or otherwise.

**Data Source:** PIT Simulation Model

## PERSONAL INCOME TAX

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b. **Interest Deduction**

**Citation:** IRC Section 163

**Effective Date:** Effective for taxable years beginning on or after January 1, 1960

**Description:** A taxpayer may deduct mortgage and investment interest paid or accrued during the taxable year on debt owed by the taxpayer. However, interest incurred on loans made to purchase securities, the income from which is tax-exempt in New York, is not deductible for New York purposes. Generally, mortgage interest is totally deductible (certain limitations apply).

**Data Source:** PIT Simulation Model

c. **Charitable Contribution Deduction**

**Citation:** IRC Section 170

**Effective Date:** Effective for taxable years beginning on or after January 1, 1960

**Description:** Taxpayers may subtract from Federal adjusted gross income contributions made to qualified organizations, up to a limit of 50 percent of their adjusted gross income. In certain cases, lower limits may apply.

**Data Source:** PIT Simulation Model

d. **Casualty/Theft Deduction**

**Citation:** IRC Section 165

**Effective Date:** Effective for taxable years beginning on or after January 1, 1960

**Description:** Individuals may deduct casualty losses. Casualty losses mean uncompensated losses sustained as a result of the total or partial destruction of property, caused by a sudden, unexpected, or unusual event. Losses incurred as a consequence of the theft or embezzlement of the taxpayer's property may also be deducted from Federal gross income. In both cases, a deduction is allowed only with respect to individual losses which exceed \$100 and to the extent that total net losses exceed 10 percent of Federal adjusted gross income.

**Data Source:** PIT Simulation Model

e. **Taxes Paid Deduction**

**Citation:** IRC Section 164, Section 615(c)(1)

**Effective Date:** Effective for taxable years beginning on or after January 1, 1960 for property taxes. Effective for taxable years beginning on or after January 1, 2010 and expiring at the end of tax year 2011 for sales and use taxes.

**Description:** Individuals may deduct from Federal adjusted gross income, real and personal property taxes which have been paid to any state, local or foreign government during the year.

**Data Source:** PIT Simulation Model



**f. Miscellaneous Deductions Subject to 2 Percent of AGI Limitation**

**Citation:** IRC Sections 67, 212, 280A

**Effective Date:** Effective for taxable years beginning after December 31, 1986 (Sec. 67); on or after January 1, 1960 (Sec. 212); after December 31, 1975 (Sec. 280A)

**Description:** Taxpayers may deduct certain miscellaneous expenses. Miscellaneous itemized deductions consist of three broad categories of personal expenses: deductible employee expenses, deductible expenses of producing income, and other deductible expenses (essentially, tax counsel and assistance and appraisal fees). The first two categories include such items as work clothes and uniforms, union dues and expenses, safe deposit box rentals, and malpractice insurance premiums.

**Data Source:** PIT Simulation Model

**g. Other Miscellaneous Deductions**

**Citation:** IRC Section 67

**Effective Date:** Effective for taxable years beginning on or after January 1, 1987

**Description:** Taxpayers may deduct miscellaneous expenses **not** subject to the 2 percent AGI limitation. These include gambling losses (up to the amount of gambling winnings), impairment-related work expenses, and certain other expenses.

**Data Source:** PIT Simulation Model

**h. Union Dues Deduction**

**Citation:** Section 615(d)

**Effective Date:** Effective for taxable years beginning on or after January 1, 2018

**Description:** A taxpayer may deduct the full amount of union dues paid during a tax year to the extent the dues were not allowed as a Federal miscellaneous itemized deduction under §67 of the Internal Revenue Code (IRC). In the event that any amount of dues was allowed under IRC §67, then the amount allowed as a New York State itemized deduction is equal to the amount of union dues disallowed under Federal law.

**Data Source:** New York State Division of the Budget

**24. Dependent Exemptions**

**Citation:** Section 616

**Effective Date:** Effective for taxable years beginning on or after January 1, 1960

**Description:** In computing taxable income, taxpayers may deduct \$1,000 for each exemption for qualified dependents to which they are entitled a deduction for Federal income tax purposes.

**Data Source:** PIT Simulation Model

## PERSONAL INCOME TAX

### New York Credits

Credits are amounts which may be subtracted from the individual's computed State tax liability. Improvements in data sources and methodology allow the reporting of credit claims by New York adjusted gross income class for many of the largest income tax credits for tax year 2015. Furthermore, the nonrefundable credit amounts reported for 2015 are credit "used" to reduce liability for the tax year. For tax years beginning in 2010 and ending after tax year 2012, taxpayers were required to defer the use and refund of certain tax credits if they exceed \$2 million in aggregate. See Table 2 for a list of affected tax credits. The credits described below are specific to the Personal Income Tax. Descriptions of other tax credits that are available under the Personal Income Tax as well as other tax articles are contained in the Cross-Article Tax Credits section of the report.

#### 25. Household Credit

**Citation:** Section 606(b)

**Credit Type:** Non-refundable/Non-carryforward

**Effective Date:** Effective for taxable years beginning on or after January 1, 1978

**Description:** Taxpayers with certain incomes may claim a credit as shown in the table below:

Single Filing Status If Federal AGI is:			All Other Filing Statuses If Federal AGI is:			+	For Each Federal Exemption
Over	But Not Over	The Credit Is	Over	But Not Over	The Credit Is		
\$ 0	\$ 5,000	\$75	\$ 0	\$ 5,000	\$75		\$15
5,000	6,000	60	5,000	6,000	60		15
6,000	7,000	50	6,000	7,000	50		15
7,000	20,000	45	7,000	20,000	45		15
20,000	25,000	40	20,000	22,000	50		10
25,000	28,000	20	22,000	25,000	40		10
28,000	No Credit		25,000	28,000	35		5
			28,000	32,000	15		5
			32,000	No Credit			

**Data Source:** PIT Population File

#### 26. Earned Income Credit

**Citation:** IRC Section 32, Tax Law Section 606(d)

**Credit Type:** Refundable (Residents only)

**Effective Date:** Effective for taxable years beginning after 1993

**Description:** Taxpayers may claim a credit equal to 30 percent of their Federal earned income credit. In previous tax years, the credit equaled the following percentages of the Federal credit:

1994	1995	1996-1999	2000	2001	2002	2003+
7.5%	10%	20%	22.5%	25%	27.5%	30.0%



The table below shows income eligibility parameters and maximum amounts for the 2020 tax year:

	Maximum Creditable Earnings	Federal Credit Rate	Maximum State Credit	Income for Start of Phase-out (MFJ)*	Others	Income Cut-off (MFJ)*	Others
Taxpayers With 1 Child	10,540	34%	1,075	25,220	19,330	47,646	41,756
Taxpayers With 2 Children	14,800	40%	1,776	25,220	19,330	53,330	47,440
Taxpayers With 3 or More Children	14,800	45%	1,998	25,220	19,330	56,844	50,954
Taxpayers Age 25-64 Without Children	7,030	7.65%	161	14,680	8,790	21,710	15,820

\* Earned income or Federal adjusted gross income, whichever is greater.

Taxpayers must subtract from the earned income credit the amount of household credit used to reduce tax liability.

**Data Source:** Earned Income Tax Credit Study

**27. Real Property Tax Credit (Circuit Breaker)**

**Citation:** Section 606(e)

**Credit Type:** Refundable

**Effective Date:** Effective for taxable years beginning after December 31, 1977

**Description:** Qualified individuals may claim a credit in the amount of 50 percent of excess real property taxes, determined according to the level of household gross income, subject to certain specified conditions and limits. Eligibility for the credit depends on the size of household gross income (\$18,000 or less), property use, the value of the property, or the adjusted rent of a tenant. The credit claimant must be a New York resident for the entire taxable year. The maximum credit is \$375 for taxpayers age 65 and over and \$75 for taxpayers under age 65. The amount of the credit decreases as household gross income increases. Only one credit is allowed per household.

**Data Source:** Real Property Tax Credit Study

**28. Child and Dependent Care Credit**

**Citation:** Section 606(c)

**Credit Type:** Refundable (Residents only)

**Effective Date:** Effective for taxable years beginning after December 31, 1976

**Description:** Taxpayers may claim a credit equal to a percentage of the Federal credit for household and dependent care expenses necessary to allow gainful employment. The Federal credit is based upon maximum work-related, allowable expenses of a total of \$3,000 for one qualifying individual, or \$6,000 for two or more qualifying individuals. The maximum credit rate is 35 percent for taxpayers with incomes below \$15,000 and a minimum credit rate of 20 percent for taxpayers with incomes over \$43,000.

The New York State credit is refundable and equals varying percentages of the Federal credit ranging from 110 percent where NYAGI is \$25,000 or less to 20 percent where NYAGI exceeds \$150,000. In addition, the New York

## PERSONAL INCOME TAX

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State credit is calculated allowing higher expense maximums for those with more than two qualifying individuals - \$7,500 (three qualifying individuals), \$8,500 (four), and \$9,000 (five or more).

**Data Source:** Child and Dependent Care Credit Study

### 29. **Accumulation Distribution Credit**

**Citation:** Sections 621 and 635

**Credit Type:** Non-refundable/Non-carryforward

**Effective Date:** Effective for taxable years beginning on or after January 1, 1962

**Description:** Beneficiaries of trusts (residents and nonresidents) receiving an accumulation distribution can claim a credit for tax paid by the trust fiduciary on income included in the distribution.

**Data Source:** PIT Population File

### 30. **Solar Energy System Equipment Credit**

**Citation:** Section 606(g-1)

**Credit Type:** Non-refundable/Carryforward

**Effective Date:** Effective for property placed in service in taxable years beginning on or after January 1, 1998

**Description:** Taxpayers may claim a credit equal to 25 percent of qualified solar energy system equipment expenditures which are expenditures for the purchase and installation of solar energy system equipment used at a principal residence in New York. Qualified expenditures also includes expenditures for the leasing of solar energy systems equipment or the purchase of power generated by qualified systems under a written agreement that spans at least ten years. The credit was expanded in 2008 to apply to members of large multi-unit dwellings like cooperative housing corporations and condominium associations. Qualified expenditures include material and installation costs relating to components utilizing solar radiation to produce energy designed to provide heating, cooling, hot water, or electricity for residential use. The credit is capped at \$3,750 for equipment placed in service before September 1, 2006 and \$5,000 for equipment placed in service after such date. If the credit exceeds tax liability, taxpayers may carry over the credit for five years.

**Data Source:** PIT Population File

### 31. **College Tuition Credit/Deduction**

**Citation:** Sections 606(t), 615(d)(4)

**Credit Type:** Refundable

**Effective Date:** Effective for tax years beginning on or after January 1, 2001

**Description:** A credit is permitted for undergraduate college tuition expenses paid by New York residents on behalf of themselves, their spouses, or dependents to attend qualifying in-state or out-of-state institutions of higher education. The credit equals 4 percent of expenses, up to a maximum of \$10,000 of expenses per student. The minimum credit equals the lesser of expenses or \$200.

In lieu of the credit, both resident and nonresident taxpayers may elect to deduct qualifying expenses as an itemized deduction. The maximum deduction is a maximum of \$10,000 of expenses per student.

Qualifying tuition expenses are defined as net of scholarships and financial aid. Qualifying institutions include colleges and business, trade, technical, or other occupational schools recognized and approved by the Regents of the University of the State of New York, or by other nationally recognized accrediting agencies accepted by the Regents, which provide study leading to a post-secondary degree, certificate, or diploma. Tuition paid by a dependent student who is claimed on a parent's New York return is attributed to the parent and used by the parent to claim the credit or deduction.

**College Tuition Credit/Deduction in 2017  
By New York Adjusted Gross Income**

NYAGI	Number of Claims	Amount Claimed (millions \$)
Less than \$10,000	53,220	\$14.9
\$ 10,000 - \$24,999	105,863	\$27.2
\$ 25,000 - \$49,999	124,638	\$32.8
\$ 50,000 - \$99,999	135,314	\$43.8
\$100,000 - \$199,999	136,557	\$59.9
\$200,000 and over	69,190	\$33.1
<b>Total:</b>	<b>624,782</b>	<b>\$211.5</b>

**Data Source:** PIT Simulation Model

**32. Nursing Home Assessment Tax Credit**

**Citation:** Section 606 (hh)

**Credit Type:** Refundable

**Effective Date:** Effective for taxable years beginning on or after January 1, 2005

**Description:** Taxpayers may claim a nursing home assessment tax credit equal to the assessment imposed on the gross receipts of residential health care facilities under Public Health Law §2807-d. The credit is allowed in cases where the assessment is paid by the taxpayer and is not covered under Medicaid or private insurance.

## PERSONAL INCOME TAX

### Nursing Home Assessment Tax Credit in 2017 By New York Adjusted Gross Income

NYAGI	Number of Claims	Amount Claimed (millions \$)
Less than \$10,000	2,021	\$8.2
\$ 10,000 - \$24,999	668	\$3.0
\$ 25,000 - \$49,999	632	\$3.1
\$ 50,000 - \$99,999	562	\$3.2
\$100,000 - \$199,999	297	\$1.9
\$200,000 and over	123	\$0.9
<b>Total:</b>	<b>4,303</b>	<b>\$20.3</b>

**Data Source:** PIT Population File

### 33. Empire State Child Credit

**Citation:** Section 606(c-1)

**Credit Type:** Refundable (Residents only)

**Effective Date:** Effective for taxable years beginning on or after January 1, 2006

**Description:** Resident taxpayers with children ages 4-16 may claim a credit equal to the greater of \$100 times the number of children who qualify for the Federal child tax credit as it existed for tax year 2017, or 33 percent of the taxpayer's allowed Federal child tax credit as it existed for tax year 2017. The Federal credit is currently a maximum of \$1,000 per qualifying child. The Federal credit phases-out beginning at \$110,000 of Modified Federal Adjusted Gross Income (MFAGI) for married taxpayers filing jointly, and \$75,000 for others. New York taxpayers with MFAGI above these thresholds may only claim a New York credit equal to 33 percent of their allowed Federal credit.

### Empire State Child Credit in 2017 By New York Adjusted Gross Income

NYAGI	Number of Claims	Amount Claimed (millions \$)
Less than \$10,000	99,802	\$22.8
\$ 10,000 - \$24,999	381,413	\$164.5
\$ 25,000 - \$49,999	419,663	\$205.1
\$ 50,000 - \$99,999	362,579	\$175.5
\$100,000 - \$199,999	154,548	\$60.0
\$200,000 and over	447	\$0.2
<b>Total:</b>	<b>1,418,452</b>	<b>\$628.0</b>

**Data Source:** PIT Population File

### 34. Enhanced State Earned Income Tax Credit for Certain Non-Custodial Parents

**Citation:** Section 606(d-1)

**Credit Type:** Refundable (Residents only)

**Effective Date:** Effective for taxable years beginning on or after January 1, 2006

**Description:** Certain taxpayers may claim an enhanced State earned income tax credit (EITC). To qualify for the enhanced credit, claimants must be a resident taxpayer, age 18 and over, and have a minor child with whom they do not reside. The credit is equal to the greater of 20 percent of the Federal EITC that the taxpayer would otherwise be able to claim for one qualifying child (if he/she were a custodial parent) or 2.5 times the EITC for taxpayers without qualifying children. Claimants must have a child support order in effect for at least half the tax year and have made required support payments. In addition, unlike the existing State EITC, the amount of credit allowed is not reduced by the amount of the State household credit used by the taxpayer. Taxpayers are not allowed more than one credit if they have multiple children or support orders.

**Data Source:** Earned Income Tax Credit Study

### 35. **Volunteer Firefighters and Ambulance Workers Credit**

**Citation:** Section 606(e-1)

**Credit Type:** Refundable

**Effective Date:** Effective for taxable years beginning on or after January 1, 2007

**Description:** Resident taxpayers serving as active volunteer firefighters or volunteer ambulance workers may claim a \$200 credit. To receive the credit, the taxpayer must be an active volunteer for the entire taxable year and must not be receiving a real property tax exemption relating to such service. In the case of a taxpayer and spouse filing jointly who both qualify for the credit, the amount of the credit is \$400.

**Data Source:** PIT Population File

### 36. **Historic Homeownership Rehabilitation Credit**

**Citation:** Section 606(pp)

**Credit Type:** Non-refundable/Carryforward/Refundable to certain taxpayers

**Effective Date:** Effective for taxable years beginning on or after January 1, 2007/Amended credit effective for taxable years beginning on or after January 1, 2010 and before January 1, 2020.

**Description:** Taxpayers may claim a tax credit for the rehabilitation of historic homes located in New York State. The amount of the credit is equal to 20 percent of qualified rehabilitation expenditures made by the taxpayer with respect to a qualified historic home. A qualified historic home is defined as one located in a targeted area within the meaning of section 143(j) of the Internal Revenue Code and located in an area of a city, town, or village whose governing body has identified by resolution that such area is an area in need of community renewal and which has adopted an historic preservation and community renewal program. The taxpayer must own the home and reside there during the taxable year. The credit is limited to \$25,000 per residence. For taxable years beginning on or after January 1, 2010, the credit is amended by increasing the credit cap from \$25,000 to \$50,000, making the credit refundable for taxpayers with New York adjusted gross income that is less than or equal to \$60,000, and expanding the definition of eligible properties to include those located within a census tract

## PERSONAL INCOME TAX

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that is at or below 100 percent of the state median family income in the most recent federal census. After December 31, 2019, the credit reverts back to pre-2010 law.

**Data Source:** PIT Population File

### 37. **STAR Credit for New Homeowners**

**Citation:** Section 606(eee)

**Credit Type:** Refundable

**Effective Date:** Effective for taxable years beginning on or after January 1, 2016 .

**Description:** Taxpayers purchasing a primary residence in the State who qualify for the STAR exemption may claim a refundable credit equal to the STAR tax savings attributable to the exemption. Beginning with the 2016-2017 assessment rolls, the current STAR exemption program will be closed to new applicants. Current recipients of STAR exemptions will be permitted to keep those exemptions as long as they continue to own their current homes, but once their homes are transferred to new owners, the new owners would transfer to the new income tax credit. Current STAR recipients will also have the option of giving up their STAR exemptions if they wish to receive the income tax credit instead, but they would be under no obligation to do so. New owners who wish to receive advance payment of the credit must apply to the Tax Department by July 1<sup>st</sup>. By September 15<sup>th</sup>, the Tax Commissioner will determine eligibility for the STAR credit and will mail an advance payment of the credit by September 30<sup>th</sup> or as soon as practicable. The Commissioner will notify school districts at least 30 days prior to the levy of school district taxes to place a statement on the tax bill regarding the credit amount. Taxpayers who qualify for the credit, but do not apply for an advance payment by July 1<sup>st</sup> may submit a claim at a later time.

**Data Source:** New York State Division of the Budget

### 38. **STAR Credit for New York City Residents**

**Citation:** Section 606(eee)

**Credit Type:** Refundable

**Effective Date:** Effective for taxable years beginning on or after January 1, 2016

**Description:** Resident taxpayers in New York City whose incomes are \$250,000 or less may claim a refundable School Tax Relief “Fixed Amount” Credit in the amount of \$125 for married taxpayers filing jointly and \$62.50 for all others. Effective for taxable years beginning on or after January 1, 2017, the credit is expanded to include a refundable “rate reduction amount”. City residents whose incomes are \$500,000 or less who previously received the benefit of lower New York City personal income tax rates are instead eligible to receive this equivalent state income tax credit.

**Data Source:** New York State Division of the Budget

### 39. **Employer Compensation Expense Program Wage Credit**

**Citation:** Section 606(ccc)

**Credit Type:** Non-refundable/Carryforward

**Effective Date:** Effective for taxable years beginning on or after January 1, 2019

**Description:** Employees working for an employer who elected to participate in the Employer Compensation Expense Program (ECEP) may be entitled to claim the ECEP wage credit. The credit amount is equal to 1.5 percent of eligible wages earned in tax year 2019, increasing to 3 percent in 2020 and 5 percent in tax years 2021 and after. For purposes of claiming the credit, eligible wages are wages and compensation in excess of \$40,000 paid by an employer participating in the program. Qualifying taxpayers must reduce the credit amount by their effective personal income tax rate calculated prior to the application of any credits.

**Data Source:** New York State Division of the Budget





# CORPORATION FRANCHISE TAX

The 2014-15 Enacted Budget contained the most significant reform of the State's corporate tax system since the 1940s. The new structure modernized and streamlined the tax code, made numerous simplifications, created clarity and certainty, and addressed the most common areas of dispute between taxpayers and the Tax Department. The reform plan also cut tax rates and eliminated two tax bases.

The biggest change was the merger of the Article 32 Bank Tax into the Article 9-A Corporate Franchise Tax. Prior to reform, New York taxed banks and other financial corporations under separate tax articles respectively. Merging the Bank Tax with the Corporate Franchise Tax reflects the modern landscape of New York's leading industry. Corporate reform also recognized the shift to a service and knowledge-based economy by adopting a comprehensive market state tax approach. Certain other corporations (public utilities and insurance companies) continue to pay tax under other articles of the Tax Law.

This section of the report lists 91 separate tax expenditures for the Corporation Franchise Tax on general business corporations and banks. This year's report contains the second year of data for the new structure – tax year 2016. There are no estimates for tax years prior to 2015 because either the provisions did not previously exist or the changes under reform were of such significance that a historical estimate would be inappropriate. Pre-reform descriptions of Articles 9-A and 32 and historical estimates of the tax expenditures for pre-reform tax years (prior to 2015) are reported in Appendices A and B in the FY 2020 Tax Expenditure Report. The list of tax expenditures is based on the Tax Law as of January 1, 2020. Table 3 summarizes the tax expenditure estimates and includes total Article 9-A corporate franchise tax liability for the 2016 tax year to provide a benchmark for the tax expenditure estimates.

## Description of Tax

The Corporate Franchise Tax has three separate bases. The business income base is the primary tax base, while the business capital and fixed dollar minimum tax bases are alternatives. Corporations pay the highest tax computed on these bases less applicable credits, but generally not less than the fixed dollar amount.

The computation of the tax on business income begins with Federal taxable income (FTI) for U.S. corporations (including domestic banks) or effectively connected income (ECI), with treaty benefits added back, for alien (non-U.S.) corporations. Taxpayers then make several state specific modifications to arrive at entire net income (ENI). Many of these modifications are the tax expenditures

## CORPORATION FRANCHISE TAX

included in this section. Investment income and other exempt income are then subtracted from ENI, resulting in business income (BI). Taxpayers use a single receipts factor with market-based sourcing rules to apportion BI to New York State.

The following table provides the tax rate schedule as it applies to the BI base:

Type of Business	Tax Year 2015	Tax Year 2016	Tax Year 2017	Tax Year 2018 and Thereafter
Qualified New York Manufacturers	0.0%	0.0%	0.0%	0.0%
Qualified Emerging Technology Companies (QETCs)	5.7%	5.5%	5.5%	4.875%
Small Businesses <sup>1</sup>	6.5%	6.5%	6.5%	6.5%
Remaining Taxpayers	7.1%	6.5%	6.5%	6.5%

<sup>1</sup> For the 2015 tax year, graduated rates apply to small businesses with BI over \$290,000 but below \$390,000. A flat 6.5% rate applies to tax years beginning on or after January 1, 2016.

The tax on business capital starts with the taxpayer's total assets reduced by its liabilities to arrive at total capital before apportionment. Taxpayers then subtract out investment capital as only business capital is subject to tax. Taxpayers multiply business capital by the business apportionment factor to determine the apportioned business capital base. The tax is capped at \$350,000 for qualified New York manufacturers and qualified emerging technology companies (QETCs) and \$5 million for all other taxpayers. Small business taxpayers are exempt from the capital base tax in their first two years of existence.

The capital base phases out over a six year period beginning in tax year 2016. The following rate schedule applies to the capital base:

Type of Business	Tax Year 2015	Tax Year 2016	Tax Year 2017	Tax Year 2018	Tax Year 2019	Tax Year 2020	Tax Year 2021 and Thereafter
Qualified New York Manufacturers & QETCs	0.132%	0.106%	0.085%	0.056%	0.038%	0.019%	0%
Cooperative Housing Corporation	0.04%	0.04%	0.04%	0.04%	0.04%	0.025%	0%
Remaining Taxpayers	0.15%	0.125%	0.100%	0.075%	0.050%	0.025%	0%

The fixed dollar minimum (FDM) tax ranges from \$25 to \$200,000 depending on the taxpayer's amount of New York receipts for the taxable year. Manufacturers, QETCs, non-captive real estate trusts (REIs), non-captive reregulated investment companies (RICs) are subject to lower amounts.

## CORPORATION FRANCHISE TAX

Qualified New York manufacturers and QETCs are subject to the following FDM schedule:

New York Receipts	Tax Year 2015	Tax Year 2016	Tax Year 2017	Tax Year 2018 and Thereafter
Not more than \$100,000	\$22	\$21	\$21	\$19
More than \$100,000 but not over \$250,000	\$66	\$63	\$63	\$56
More than \$250,000 but not over \$500,000	\$153	\$148	\$148	\$131
More than \$500,000 but not over \$1,000,000	\$439	\$423	\$423	\$375
More than \$1,000,000 but not over \$5,000,000	\$1,316	\$1,269	\$1,269	\$1,125
More than \$5,000,000 but not over \$25,000,000	\$3,070	\$2,961	\$2,961	\$2,625
Over \$25 million	\$4,385	\$4,230	\$4,230	\$3,750

Non-captive REITs and non-captive RICs are subject to the following FDM schedule:

New York Receipts	Tax Year 2016 and Thereafter
Not more than \$100,000	\$25
More than \$100,000 but not more than \$250,000	\$75
More than \$250,000 but not over \$500,000	\$175
More than \$500,000	\$500

Remaining taxpayers are subject to the following FDM schedule:

New York Receipts	Tax Year 2015 and Thereafter
Not more than \$100,000	\$25
More than \$100,000 but not more than \$250,000	\$75
More than \$250,000 but not over \$500,000	\$175
More than \$500,000 but not over \$1,000,000	\$500
More than \$1,000,000 but not over \$5,000,000	\$1,500
More than \$5,000,000 but not over \$25,000,000	\$3,500
More than \$25,000,000 but not over \$50,000,000	\$5,000
More than \$50,000,000 but not over \$100,000,000	\$10,000
More than \$100,000,000 but not over \$250,000,000	\$20,000
More than \$250,000,000 but not over \$500,000,000	\$50,000
More than \$500,000,000 but not over \$1 billion	\$100,000
Over \$1 billion	\$200,000

### Data Sources and Methodology

In 2014, New York enacted comprehensive corporate tax reform, which took effect for tax years beginning on or after January 1, 2015. Given the significant changes to the tax structure, all of the individual expenditures listed in this section are considered effective for tax years beginning on or after January 1, 2015, even if they existed in years before reform. This year is the second post-reform tax year for which a verified study file containing returns under the new Article 9-A structure is available. It is now possible to report individual expenditures and forecast

## **CORPORATION FRANCHISE TAX**

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discrete components in isolation using the existing study file which contains actual data for these expenditure items.

Historical estimates for credits are provided in the Cross-Article Tax Credits section, where Article 9-A and Article 32 amounts are reported separately. Credit amounts for 2016 and forecast values in this section represent estimates for all taxpayers filing under the newly constituted Article 9-A.

Certain Federal tax expenditure provisions “flow through” and impact the New York Corporate Franchise Tax. The tax begins with definitions of income that are derived from provisions of the Federal Internal Revenue Code. As a result of this “coupling” of State definitions of the income base to Federal definitions, exclusions or deductions from income at the Federal level become exclusions or deductions at the State level. Therefore, these provisions automatically become tax expenditures at the State level. The U.S. Congressional Joint Committee on Taxation (JCT) publishes an annual report (*Estimates of Federal Tax Expenditures*) that estimates Federal tax expenditure items. Many items generally flow through to New York, but since state-level data for Federal exclusion or deduction items are not available, state-specific estimates are not possible. Furthermore, it should be noted that New York does not conform to all Federal tax expenditure provisions. States can decide to not follow (or ‘decouple’ from) Federal provisions. For example, in 2003 New York decoupled from Federal bonus depreciation provisions under IRC Sec. 168(k) <sup>4</sup>

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<sup>4</sup> Several provisions of the TCJA limited the amount of allowable deductions or exclusions at the federal level. New York did not decouple from these changes, so their impact would be reflected in a larger taxable income starting point for New York State purposes. See “Preliminary Report on the Federal Tax Cuts and Jobs Act [https://www.tax.ny.gov/pdf/stats/stat\\_pit/pit/preliminary-report-tcja-2017.pdf](https://www.tax.ny.gov/pdf/stats/stat_pit/pit/preliminary-report-tcja-2017.pdf)

# CORPORATION FRANCHISE TAX

**Table 2**  
**2020 New York State Article 9-A Tax Expenditure Estimates**  
**(2016 Total Corporate Franchise Tax Liability = \$ 2,836.4 Million)**  
**(Millions of Dollars)**

Tax Item	History					Forecast	Reliability
	2012	2013	2014	2015	2016	2020	Level
<b>New York Modifications to FTI/ECI</b>							
1. Deduction of Distributions Made to Victims or Targets of Nazi Persecution	--	--	--	*	0.2	*	2
2. Deduction of Receipts from School Bus Operations	--	--	--	1.5	1.8	2.0	2
3. Deduction of Taxable Refunds or Credits of State Tax	--	--	--	5.0	3.4	4.0	2
4. Wage and Salary Expense Allowed as Federal Credits but not as Federal Expenses	--	--	--	5.1	5.1	5.0	2
5. Deferred Gain on Qualified Emerging Technology Investment (QETI)	--	--	--	*	*	*	2
6. Federal IRC Section 179 Deduction Recapture for a Sport Utility Vehicle (SUV)	--	--	--	*	*	*	2
7. Modification for Qualified Residential Loan Portfolios	--	--	--	1.3	8.8	9.0	2
8. Modification for Community Banks and Small Thrifts	--	--	--	10.6	10.9	12.0	2
9. Captive REIT Modification for Small Thrifts and Community Banks	--	--	--	42.6	41.6	42.0	2
10. Exclusion of Income for Foreign Airlines	--	--	--	N/A	N/A	N/A	2
11. Deductions for Qualified Public Utility Corporations, Power Producers, and Pipeline Companies	--	--	--	2.4	1.8	2.0	2
12. Contributions to Capital of a Corporation <sup>2</sup>	--	--	--	--	--	N/A	5
<b>New York Modifications to Entire Net Income</b>							
13. Deduction for Investment Income	--	--	--	31.1	41.1	41.0	2
14. Deduction for Other Exempt Income	--	--	--	325.9	364.9	377.0	2
15. Companies Operating in an Innovation Hot Spot	--	--	--	*	*	*	2
16. Exempt Companies	--	--	--	N/A	N/A	N/A	5
17. Homeowners Association Exemption from Fixed Dollar Minimum Tax	--	--	--	N/A	N/A	N/A	5
18. New Small Business Capital Base Exemption	--	--	--	0.5	0.2	*	2
<b>Preferential Tax Rates</b>							
19. Special Tax Benefits for New York Manufacturers/QETCs							
a. Manufacturers							
1. Zero Percent BI Rate	--	--	--	117.5	128.8	131.0	1
2. Reduced Business Capital Base Rate	--	--	--	0.5	0.7	*	1
3. Lower Capital Base Liability Cap	--	--	--	2.9	5.2	*	1
4. Reduced Fixed Dollar Minimum Base Amounts	--	--	--	2.6	2.2	3.0	1
b. Qualified Emerging Technology Companies (QETCs)							
1. Reduced BI Rate	--	--	--	9.0	2.8	5.0	1
2. Reduced Business Capital Base Rate	--	--	--	*	0.1	*	1
3. Lower Capital Base Liability Cap	--	--	--	0.0	0.0	*	1
4. Reduced Fixed Dollar Minimum Base Amounts	--	--	--	*	*	*	1
20. Special Tax Benefits for Non-Captive Real Estate Investment Trusts (REITs) and Non-Captive Regulated Investment Companies (RICs)							

# CORPORATION FRANCHISE TAX

Tax Item	History					Forecast	Reliability
	2012	2013	2014	2015	2016	2020	Level
a. FDM Amounts	--	--	--	--	3.9	4.0	5
b. Capital Base Exemption	--	--	--	N/A	N/A	N/A	5
<b>Corporation Franchise Tax Credits</b>							
21. Credit for Servicing SONYMA Mortgages	--	--	--	6.0	5.9	7.0	1
<b>Cross-Article Credits<sup>1</sup></b>							
22. Investment Tax Credit and Employment Incentive Credit	--	--	--	118.5	90.1	110.0	1
23. Investment Tax Credit for the Financial Services Industry	--	--	--	58.9	35.3	3.0	1
24. Special Additional Mortgage Recording Tax Credit	--	--	--	24.7	24.3	30.0	1
25. Empire Zone (EZ) and Qualified Empire Zone Enterprise (QEZE) Credits							
a. EZ Investment Tax Credit and Employment Incentive Credit	--	--	--	337.1	204.0	44.0	1
b. EZ and Zone Equivalent Area Wage Tax Credit	--	--	--	7.2	2.4	1.0	1
c. EZ Capital Credit	--	--	--	*	*	*	1
d. QEZE Real Property Tax Credit	--	--	--	63.4	56.6	12.0	1
e. QEZE Tax Reduction Credit	--	--	--	8.8	6.0	2.0	1
26. Farmers' School Property Tax Credit	--	--	--	1.2	1.5	2.0	1
27. Credit for Employment of Persons with Disabilities	--	--	--	*	*	*	1
28. Qualified Emerging Technology Company (QETC) Credits							
a. QETC Capital Tax Credit	--	--	--	*	*	*	1
b. QETC Employment Credit	--	--	--	1.4	2.8	1.0	1
29. Low-Income Housing Credit	--	--	--	32.5	39.1	50.0	1
30. Credit for Purchase of an Automated External Defibrillator	--	--	--	*	0.1	*	1
31. Green Building Credit	--	--	--	0.0	0.0	*	1
32. Long-Term Care Insurance Credit	--	--	--	0.1	0.1	0.2	1
33. Empire State Film and Commercial Credits							
a. Empire State Film Production Credit	--	--	--	435.3	433.9	380.0	1
b. Empire State Film Post Production Credit	--	--	--	9.6	13.2	24.0	1
c. Empire State Commercial Production Credit	--	--	--	0.2	0.2	7.0	1
34. Security Training Tax Credit	--	--	--	0.0	*	*	1
35. Brownfields Tax Credits							
a. Brownfield Redevelopment Tax Credit	--	--	--	28.3	81.0	100.0	1
b. Remediated Brownfield Credit for Real Property Taxes	--	--	--	3.9	1.8	3.0	1
c. Environmental Remediation Insurance Credit	--	--	--	0.0	0.0	*	1
36. Biofuel Production Credit	--	--	--	0.0	0.0	*	1
37. Land Conservation Easement Credit	--	--	--	*	*	*	1
38. Clean Heating Fuel Credit	--	--	--	1.0	0.8	1.0	1
39. Credit for Rehabilitation of Historic Properties	--	--	--	50.5	53.2	60.0	1
40. Excelsior Jobs Program (EJP) Tax Credit	--	--	--	18.4	21.7	120.0	1
41. Credit for Companies Who Provide Transportation to Individuals with Disabilities	--	--	--	*	*	*	1
42. Economic Transformation and Facility Redevelopment Program Tax Credit	--	--	--	0.0	0.0	*	1

## CORPORATION FRANCHISE TAX

Tax Item	History					Forecast	Reliability
	2012	2013	2014	2015	2016	2020	Level
43. New York Youth Jobs Program Tax Credit	--	--	--	1.9	3.7	10.0	1
44. Empire State Jobs Retention Program Tax Credit	--	--	--	9.4	8.4	6.0	1
45. Alcoholic Beverage Production Credit	--	--	--	2.1	1.7	2.0	1
46. Alternative Fuels and Electric Vehicle Recharging Property Credit	--	--	--	*	0.5	2.0	1
47. START-UP NY Tax Elimination Credit	--	--	--	*	0.1	2.0	1
48. Credit for the Excise Tax on Telecommunication Services Paid by START-UP NY Businesses	--	--	--	0.0	*	*	1
49. Real Property Tax Relief Credit for Manufacturing	--	--	--	2.4	2.2	8.0	1
50. Hire A Vet Credit	--	--	--	*	*	4.0	1
51. Musical and Theatrical Production Credit	--	--	--	0.0	1.8	3.0	1
52. Workers with Disabilities Credit	--	--	--	0.0	*	2.0	1
53. Employee Training Incentive Program	--	--	--	0.0	0.0	1.0	1
54. Farm Workforce Retention Credit	--	--	--	--	--	1.0	4
55. Empire State Apprenticeship Tax Credit	--	--	--	--	--	4.0	4
56. Life Sciences Research and Development Tax Credit	--	--	--	--	--	5.0	4
57. Farm Donations to Food Pantries Credit	--	--	--	--	--	1.0	4
58. Employer Provided Child Care Credit	--	--	--	--	--	0.5	4
59. Employer Recovery Hiring Tax Credit	--	--	--	--	--	1.0	4

- 1/ See Cross-Article Tax Credits section for historical estimates under the prior Articles 9-A and 32 respectively. However, the 2019 forecast estimates in this section take into account the fact that banks formerly taxable under Article 32 are subject to Article 9-A for tax years beginning on or after January 1, 2015.
- 2/ A new expenditure item, revision of the methodology of revisions in the data sources resulting in a change which better reflects the tax expenditure value.
- \* Less than \$0.1 million
- The tax expenditure was not applicable for these years
- N/A No data available

### **New York Modifications to Federal Taxable Income (FTI) /Effectively Connected Income (ECI)**

In computing New York entire net income (ENI), Article 9-A allows certain modifications to FTI/ECI.

#### **1. Deduction of Distributions Made to Victims or Targets of Nazi Persecution**

**Citation:** Section 13

**Effective Date:** Effective for tax years beginning on or after January 1, 2015

**Description:** A taxpayer may exclude the amount received (including accumulated interest) from an eligible settlement fund, or from an eligible grantor trust established for the benefit of the victims or targets of Nazi persecution when computing New York ENI.

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2. **Deduction of Receipts from School Bus Operations**  
**Citation:** Section 208(9)(a)(4)  
**Effective Date:** Effective for tax years beginning on or after January 1, 2015  
**Description:** A taxpayer may exclude income less deductions with respect to amounts received from school districts and nonprofit religious, charitable, or educational organizations for the operation of school buses in determining ENI.
  
3. **Deduction of Taxable Refunds or Credits of State Tax**  
**Citation:** Section 208(9)(a)(5)  
**Effective Date:** Effective for tax years beginning on or after January 1, 2015  
**Description:** A taxpayer may exclude any refund or credit of a tax imposed under Tax Law Article 9 (sections 183, 183-a, 184, and 184-a), or Article 9-A, 23, or former 32 that was properly included as income for Federal income tax purposes, and for which no exclusion or deduction was allowed in determining the taxpayer's ENI for any prior year.
  
4. **Wage and Salary Expenses Allowed as Federal Credits but not as Federal Expenses**  
**Citation:** Section 208(9)(a)(7)  
**Effective Date:** Effective for tax years beginning on or after January 1, 2015  
**Description:** A taxpayer may exclude the amount of wages disallowed under Internal Revenue Code (IRC) section 280C in the computation of their applicable Federal income from ENI.
  
5. **Deferred Gain on Qualified Emerging Technology Investments (QETI)**  
**Citation:** Section 208(9)(a)(14)  
**Effective Date:** Effective for tax years beginning on or after January 1, 2015  
**Description:** A deferral of gain on the sale of a qualified emerging technology investment (QETI) is available to taxpayers for a QETI that is (1) held for more than 36 months and (2) rolled over into the purchase of a replacement QETI within 365 days. Gain deferred under this provision must be recognized when the replacement QETI is sold. However, gain on the sale of the replacement QETI can be deferred if another replacement QETI is acquired within 365 days.
  
6. **Federal IRC Section 179 Deduction Recapture for a Sport Utility Vehicle (SUV)**  
**Citation:** Section 208(9)(a)(16)  
**Effective Date:** Effective for tax years beginning on or after January 1, 2015  
**Description:** A taxpayer that previously claimed an IRC Section 179 deduction with respect to an SUV may exclude the amount of that deduction that was recaptured in computing Federal income.



- 7. Modification for Qualified Residential Loan Portfolios**  
**Citation:** Section 208(9)(a)(19) and Section 208(9)(r)  
**Effective Date:** Effective for tax years beginning on or after January 1, 2015  
**Description:** A thrift institution or a qualified community bank that maintains a qualified residential loan portfolio may deduct from FTI the amount, if any, by which thirty-two percent of its ENI exceeds the amounts deducted by the taxpayer pursuant to sections 166 and 585 of the IRC less any amounts included in Federal taxable income as a result of a recovery of a loan. A taxpayer utilizing this modification may not use the modifications described in items 8 and 9.
- 8. Modification for Community Banks and Small Thrifts**  
**Citation:** Section 208(9)(a)(19) and Section 208(9)(s)  
**Effective Date:** Effective for tax years beginning on or after January 1, 2015  
**Description:** A qualified community bank or a small thrift institution may be allowed a deduction in computing ENI equal to the product of the taxpayer's net interest income from loans, a ratio of gross interest income during the taxable year from qualifying loans to gross interest income during the taxable year from all loans, and fifty percent. A taxpayer utilizing this modification may not use the modifications described in items 7 and 9.
- 9. Captive REIT Modification for Small Thrifts and Community Banks**  
**Citation:** Section 208(9)(a)(19) and Section 208(9)(t)  
**Effective Date:** Effective for tax years beginning on or after January 1, 2015  
**Description:** A small thrift institution or a qualified community bank that maintained a captive real estate investment trust (REIT) as of April 1, 2014 and continues to maintain such REIT must utilize a subtraction equal to one hundred sixty percent of the dividends paid deductions allowed to that captive REIT for the taxable year for Federal income tax purposes. A taxpayer utilizing this modification may not use the modifications described in items 7 and 8.
- 10. Exclusion of Income for Foreign Airlines**  
**Citation:** Section 208(9)(c-1)  
**Effective Date:** Effective for tax years beginning on or after January 1, 2015  
**Description:** Certain foreign airlines may exclude all income from international operations of aircraft effectively connected to the United States, foreign passive income, and income earned overseas from overseas operations of aircraft from ENI. These foreign airlines may also exclude business and investment assets connected with such exempt income from the capital base tax. These tax benefits apply provided the "home country" provides similar treatment to United States airlines.
- 11. Deductions for Qualified Public Utilities, Power Producers and Pipeline Companies**  
**Citation:** Section 208(9)(c-2)(4)and(5) and Section 208(9)(c-3)(4)

## **CORPORATION FRANCHISE TAX**

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**Effective Date:** Effective for tax years beginning on or after January 1, 2015

**Description:** Taxpayers which are qualified public utility corporations, qualified power producers, or qualified pipeline corporations are allowed certain depreciation and expense deductions in determining ENI.

### **12. Contributions to Capital of a Corporation**

**Citation:** Section 208(9)(a)(20)

**Effective Date:** Effective for tax years beginning on or after January 1, 2018

**Description:** In computing New York ENI, a taxpayer may subtract contributions to a corporation's capital made by any governmental entity or civic group (other than a contribution made by a shareholder) that are included in gross income under IRC section 118(b)(2).

## **New York Modifications to Entire Net Income**

In computing New York Business Income, Article 9-A allows certain modifications to entire net income (ENI).

### **13. Deduction for Investment Income**

**Citation:** Section 208(6) and Section 208(8)

**Effective Date:** Effective for tax years beginning on or after January 1, 2015

**Description:** A taxpayer may deduct income, including capital gains in excess of capital losses, from investment capital in determining business income.

Investment capital is defined as investments in stocks that:

1. satisfy the definition of a capital asset under Section 1221 of the IRC at all times the taxpayer owned such stock during the taxable year;
2. are held by the taxpayer for investment for more than one year;
3. the dispositions of which are, or would be, treated by the taxpayer as generating long-term capital gains or losses under the IRC;
4. for stocks acquired on or after January 1, 2015, at any time after the close of the day in which they are acquired, have never been held for sale to customers in the regular course of business; and
5. before the close of the day on which the stock was acquired, are clearly identified in the taxpayer's records as stock held for investment in the same manner as required under IRC Section 1236(a)(1) for the stock of a dealer in securities to be eligible for capital gain treatment (whether or not the taxpayer is in fact a dealer of securities).

In addition, investment capital includes debt and other securities the income of which cannot be apportioned under the U.S. Constitution.

Investment capital does not include stock in a corporation that is conducting a unitary business with the taxpayer, stock in a corporation that is included

combined group pursuant to the commonly owned group election, and stock issued by the taxpayer.

Investment income must be reduced by interest expenses directly and indirectly attributable to those items of income. In lieu of performing expense attribution, taxpayers may instead elect to reduce the income by 40 percent. Finally, the amount of investment income, determined without regard to interest deductions, cannot exceed eight percent of the taxpayer's ENI.

#### 14. **Deduction for Other Exempt Income**

**Citation:** Section 208(6-a) and Section 208(8)

**Effective Date:** Section 208(6-a) is effective for tax years beginning on or after January 1, 2015; Section 208(6-a)(ii) is effective for tax years beginning on or after January 1, 2017; Section 208(6-a)(iii) is effective for tax years beginning on or after January 1, 2019

**Description:** A taxpayer may deduct other exempt income from entire net income (ENI). Other exempt income means the sum of exempt controlled foreign corporation (CFC) income and exempt unitary corporation dividends.

Exempt CFC income defined in Tax Law section 208(6-a)(a) includes:

- i. Subpart F income (other than that described in (ii) below) required to be included in the taxpayer's Federal gross income pursuant to IRC section 951(a) received from a corporation conducting a unitary business with the taxpayer but not included in the taxpayer's combined group;
- ii. mandatory deemed repatriation income required to be included in the taxpayer's Federal gross income pursuant to IRC section 951(a) by reason of IRC section 965(a) received from a corporation that is not included in the taxpayer's combined group; and
- iii. ninety-five percent of global intangible low-taxed income required to be included in the taxpayer's Federal gross income pursuant to IRC section 951A received from a corporation that is not included in the taxpayer's combined group.

The mandatory deemed repatriation related deduction allowed under IRC section 965(c) and the GILTI-related deduction allowed under IRC section 250 must be added back to ENI in years when the income is included in other exempt income.

For tax years beginning on or after January 1, 2018 and before January 1, 2019, GILTI income as well as the corresponding IRC section 250 deduction for a portion of GILTI income, flowed through from the federal return to New York. As a result, the net GILTI amount was generally included in taxable business income.

## CORPORATION FRANCHISE TAX

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Exempt unitary corporation dividends defined in Tax Law section 208(6-a)(b) includes:

- i. dividends received from a corporation conducting a unitary business with the taxpayer but taxable, or would be taxable, under a franchise tax imposed by Article 9 or Article 33 of the Tax Law, (cross-article dividends); and
- ii. dividends (other than those described in (i) above) received from a corporation conducting a unitary business with the taxpayer but not included in the taxpayer's (i.e. alien corporations with no effectively connected income and corporations less than 50 percent directly or indirectly owned by the taxpayer).

The income listed above must be reduced by interest expenses directly or indirectly attributable to the production of such income. In lieu of performing expense attribution, taxpayers may instead elect to reduce the income (other than cross-article dividends) by 40 percent.

Other exempt income cannot exceed ENI.

### Corporate Exemptions

#### 15. Companies Operating In an Innovation Hot Spot

**Citation:** Section 38, Section 208(9)(a)(18), Section 209(11)

**Effective Date:** Effective for tax years beginning on or after January 1, 2015

**Description:** The New York State Business Incubator and Innovation Hot Spot Support Act created special tax benefits for qualified entities operating in Innovation Hot Spots. These tax benefits are allowed for five tax years beginning with the first tax year the qualified entity becomes a tenant in (or part of) an Innovation Hot Spot.

Qualified entities located completely within an Innovation Hot Spot are exempt from the BI and capital tax bases. Instead, these entities must only pay the fixed dollar minimum tax.

Qualified entities located both within and without an Innovation Hot Spot, or that are a corporate partner in a qualified entity, are allowed a deduction in computing ENI for the amount of income or gain attributable to the operations at (or as part of) the Innovation Hot Spot.

#### 16. Exempt Companies

**Citation:** Sections 3 and 209(4)(6) and (9)

**Effective Date:** Effective for tax years beginning on or after January 1, 2015.

**Description:** The following companies or organizations are exempt from taxation under Article 9-A:

- Limited Profit Housing Companies

- Limited Dividend Housing Companies
  - Trust Companies organized under a law of New York, all of the stock of which is owned by not less than 20 savings banks organized under a law of New York
  - Urban Development Corporation and its subsidiaries
  - Domestic corporations exclusively engaged in the operation of one or more vessels in foreign commerce
  - Domestic International Sales Corporations (DISCs), to the extent a DISC is required to have its income imputed to its shareholders
  - Passive Trusts
  - Certain corporations organized other than for profit and those corporations that are generally exempt from Federal tax by the IRC
  - Corporations exempt pursuant to Federal Public Law 86-272 wherein a foreign corporation has limited its activities in New York to the mere solicitation of orders for tangible property by its employees or representatives
  - Real Estate Mortgage Investment Conduits (REMICs)
  - Industrial Development Agencies
  - Housing Development Fund Companies
  - Corporations exempt from tax under IRC Sections 501(c)(2) and (25)
  - Certain cooperative heating and cooling service companies that are organized without capital stock and that are exempt from tax pursuant to IRC Section 501(c)(12). Such corporations pay an annual fee of \$10 to the Commissioner of Taxation and Finance in lieu of all corporation franchise taxes.
  - Federal and State credit unions chartered under 12 U.S. Code Section 1768, I.R.C. Section 501(c)(14)(A), or New York State Banking Law Section 479.
17. **Homeowners Association Exemption from Fixed Dollar Minimum Tax**  
**Citation:** Section 210(1)  
**Effective Date:** Effective for tax years beginning on or after January 1, 2015  
**Description:** Article 9-A exempts qualified homeowners associations that have no homeowner's taxable income from payment of the fixed dollar minimum tax. The associations would still be subject to the other taxable bases under Article 9-A, if applicable.
18. **New Small Business Capital Base Exemption**  
**Citation:** Section 210(1-c)  
**Effective Date:** Effective for tax years beginning on or after January 1, 2015  
**Description:** The law exempts new small businesses from the tax based on allocated business capital. This exemption applies to the first two years of operation of a business that:
- has an ENI of not more than \$390,000 for the taxable year;

## CORPORATION FRANCHISE TAX

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- the aggregate amount of money and other property received by the corporation for stock, as a contribution to capital, and as paid-in surplus, does not exceed \$1 million;
- which has an average of one hundred or fewer individuals, excluding general executive officers, employed full-time in the state during the taxable year; and
- which is not part of an affiliated group, as defined in section 1504 of the IRC, unless such group, if it had filed a report under article 9-A on a combined basis, would have itself qualified as a “small business taxpayer.”

### Preferential Tax Rates

#### 19. **Special Tax Benefits for New York Manufacturers and Qualified Emerging Technology Companies (QETCs)**

##### a. **Special Tax Benefits for New York Manufacturers**

Manufacturers in New York are subject to reduced tax rates and fixed dollar minimum amounts, as well as a lower capital base liability cap.

A *manufacturer* is defined as “a taxpayer...principally engaged in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture, or commercial fishing.” The generation and distribution of electricity, the distribution of natural gas, and the production of steam associated with the generation of electricity are not qualifying activities for a manufacturer.

To be a *qualified New York manufacturer* eligible for the preferential tax treatment, the taxpayer must meet two tests. First, the taxpayer, or the combined group, must be principally engaged in manufacturing. This test is satisfied if more than 50 percent of the taxpayer’s or group’s gross receipts are derived from the sale of goods produced by the activities listed above.

The second test requires the taxpayer to have manufacturing property in New York State with a New York adjusted basis of at least \$1 million, or have all of its real and personal property located in New York State.

A taxpayer, or combined group, that fails the receipts test may still be a *qualified New York manufacturer* if it has at least 2,500 New York manufacturing employees and manufacturing property in New York State with a New York adjusted basis of at least \$100 million.

##### 1. **Zero Percent BI Rate**

**Citation:** Section 210(1)(a)(vi)

**Effective Date:** Effective for tax years beginning on or after January 1, 2015

## CORPORATION FRANCHISE TAX

**Description:** Taxpayers that are qualified New York manufacturers are subject to a 0 percent BI rate.

### 2. Reduced Capital Base Tax Rate

**Citation:** Section 210(1)(b)(1)

**Effective Date:** Effective for tax years beginning on or after January 1, 2015

**Description:** Taxpayers that are qualified New York manufacturers are subject to the following reduced capital base rates:

Tax Year 2015	Tax Year 2016	Tax Year 2017	Tax Year 2018	Tax Year 2019	Tax Year 2020	Tax Year 2021 and Thereafter
0.132%	0.106%	0.085%	0.056%	0.038%	0.019%	0.000%

### 3. Lower Capital Base Liability Cap

**Citation:** Section 210(1)(b)(1)

**Effective Date:** Effective for tax years beginning on or after January 1, 2015

**Description:** The maximum liability under the capital base is \$5 million, except taxpayers that are qualified New York manufacturers are subject to a lower cap of \$350,000.

### 4. Reduced FDM Amounts

**Citation:** Section 210(1)(d)

**Effective Date:** Effective for tax years beginning on or after January 1, 2015

**Description:** Taxpayers that are manufacturers are subject to the following reduced fixed dollar minimum amounts:

NY Receipts	Tax Year 2015	Tax Year 2016	Tax Year 2017	Tax Year 2018 and Thereafter
Not more than \$100,000	\$22	\$21	\$21	\$19
More than \$100,000 but not more than \$250,000	\$66	\$63	\$63	\$56
More than \$250,000 but not more than \$500,000	\$153	\$148	\$148	\$131
More than \$500,000 but not more than \$1,000,000	\$439	\$423	\$423	\$375
More than \$1,000,000 but not more than \$5,000,000	\$1,316	\$1,269	\$1,269	\$1,125
More than \$5,000,000 but not more than \$25,000,000	\$3,070	\$2,961	\$2,961	\$2,625
Over \$25 million	\$4,385	\$4,230	\$4,230	\$3,750



## CORPORATION FRANCHISE TAX

### b. Special Tax Benefits for Qualified Emerging Technology Companies (QETCs)

QETCs in New York are subject to reduced tax rates and fixed dollar minimum amounts, as well as a lower capital base liability cap.

A corporation is a *qualified emerging technology company* if it meets the definition in Public Authorities Law Section 3102-e(1)(c), except that the \$10 million limitation under 3102-e(1)(c)(1) does not apply. A combined group may be considered a QETC if all members of the group meet the definition of a QETC.

A QETC must meet one of two tests:

- it must be engaged in creating or developing emerging technologies referenced in section 3102-e of the Public Authorities Law to qualify under the *primary products or services test*; or
- it must have research and development activities in New York State and have a ratio of research and development funds to net sales equal to or in excess of the average ratio for all surveyed companies classified as determined by the National Science Foundation in the most recent published results from its *Survey of Industry Research and Development*, or any comparable successor survey (the *research and development test*).

#### 1. Reduced BI Rate

**Citation:** Section 210(1)(a)(vii)

**Effective Date:** Effective for tax years beginning on or after January 1, 2015

**Description:** Taxpayers that are QETCs are subject to the following reduced BI rates:

Tax Year 2015	Tax Year 2016	Tax Year 2017	Tax Year 2018 and Thereafter
5.7%	5.5%	5.5%	4.875%

#### 2. Reduced Capital Base Tax Rate

**Citation:** Section 210(1)(b)(1)

**Effective Date:** Effective for tax years beginning on or after January 1, 2015

**Description:** Taxpayers that are QETCs are subject to the following reduced capital base rates:

Tax Year 2015	Tax Year 2016	Tax Year 2017	Tax Year 2018	Tax Year 2019	Tax Year 2020	Tax Year 2021 and Thereafter
0.132%	0.106%	0.085%	0.056%	0.038%	0.019%	0.000%



**3. Lower Capital Base Liability Cap**

**Citation:** Section 210(1)(b)(1)

**Effective Date:** Effective for tax years beginning on or after January 1, 2015

**Description:** The maximum liability under the capital base is \$5 million, except taxpayers that are QETCs are subject to a lower cap of \$350,000.

**4. Reduced FDM Amounts**

**Citation:** Section 210(1)(d)

**Effective Date:** Effective for tax years beginning on or after January 1, 2015

**Description:** Taxpayers that are QETCs are subject to the following reduced fixed dollar minimum amounts:

NY Receipts	Tax Year 2015	Tax Year 2016	Tax Year 2017	Tax Year 2018 and Thereafter
Not more than \$100,000	\$22	\$21	\$21	\$19
More than \$100,000 but not more than \$250,000	\$66	\$63	\$63	\$56
More than \$250,000 but not more than \$500,000	\$153	\$148	\$148	\$131
More than \$500,000 but not more than \$1,000,000	\$439	\$423	\$423	\$375
More than \$1,000,000 but not more than \$5,000,000	\$1,316	\$1,269	\$1,269	\$1,125
More than \$5,000,000 but not more than \$25,000,000	\$3,070	\$2,961	\$2,961	\$2,625
Over \$25 million	\$4,385	\$4,230	\$4,230	\$3,750

**20. Special Tax Benefits for Non-Captive Real Estate Investment Trusts (REITs) and Non-Captive Regulated Investment Companies (RICs)**

**a. FDM Amounts**

**Citation:** Section 210(1)(d)(1)(D-1)

**Effective Date:** Effective for tax years beginning on or after January 1, 2016

**Description:** Taxpayers that are non-captive REITs or non-captive RICs are subject to the following reduced fixed dollar minimum amounts:

If New York receipts are:	FDM tax is:
Not more than \$100,000	\$25
More than \$100,000 but not more than \$250,000	\$75
More than \$250,000 but not more than \$500,000	\$175
Over \$500,000	\$500

**b. Capital Base Exemption**

**Citation:** Section 209(5) and Section 209(7)

**Effective Date:** Effective for tax years beginning on or after January 1, 2015

## **CORPORATION FRANCHISE TAX**

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**Description:** Non-captive REITs and non-captive RICs are exempt from the capital base tax.

### **Corporate Franchise Tax Credits**

21. **Credit for Servicing SONYMA Mortgages**

**Citation:** Section 210-b(10)

**Pre-Reform Citation:** Section 210(21-a), Section 1456(a)

**Credit Type:** Non-refundable/Non-carryforward

**Effective Date of Credit:** Effective for tax years beginning on or after January 1, 2015

**Description:** Banking corporations and mortgage bankers registered under Article 12-D of the Banking Law and meeting certain regulatory requirements established by the State of New York Mortgage Agency (SONYMA) may claim a credit for servicing mortgages acquired by SONYMA. The credit equals 2.93 percent of the total principal and interest collected for each SONYMA mortgage secured by a one-to-four family residence. In addition, banks and mortgage bankers may receive an amount equal to the interest collected during the taxable year on each SONYMA mortgage secured by a five or more family residence multiplied by a fraction. The fraction depends on the types of properties which secure the serviced mortgage loans. The credit may reduce tax liability to zero.

### **Cross-Article Credits**

Credits include amounts that the taxpayer may subtract in calculating New York tax liability or request as a refund or apply as a payment for the next tax period. Full descriptions of all the tax credits available under Article 9-A as well as other tax articles are contained in the Cross-Article Tax Credits section of this report. For tax years 2010, 2011, and 2012, taxpayers are required to defer the use and refund of certain tax credits if they exceed \$2 million in aggregate.

# INSURANCE TAX

This section of the report provides tax expenditure estimates for 54 separate provisions of the corporate franchise tax on insurance companies. The list of tax expenditures contained in Table 4 is based on the Tax Law as of January 1, 2020. The estimates are based on data from the 2016 tax year, the latest year for which Article 33 tax return data are available. They are also extrapolated to the 2019 tax year. The tax years refer to both the 2016 and 2020 calendar years and fiscal tax years beginning in 2016 and 2020. Total insurance tax liability for the 2016 tax year has been included to provide some perspective to the tax expenditure estimates.

## Description of Tax

Article 33 imposes a franchise tax on insurance companies. There are two components of the tax: (1) an income tax based on the higher of four bases plus a tax on subsidiary capital; and (2) a tax based on gross direct premiums written on State-located risks or residents in the State. Life insurance corporations are subject to both the income tax component and the premiums tax. Non-life insurance corporations are subject only to the tax on premiums.

The income tax component is based on one of four alternative bases. A life insurance corporation's tax liability for this component is based on the alternative that results in the largest tax, plus an additional 0.08 percent tax on subsidiary capital allocated to New York. The four bases are:

- 7.1 percent of allocated entire net income; or
- 0.16 percent on allocated business and investment capital; or
- 9 percent of 30 percent of allocated entire net income plus officers' salaries less specified deductions; or
- a fixed dollar minimum tax of \$250.

The second component of the Article 33 tax is a tax on gross premiums, less return premiums thereon, written on risks located or resident in New York. The rate of the tax on premiums varies according to the type of insurance risk covered by a premium. Furthermore, accident and health premiums are taxed at different rates depending on the type of insurer. A 0.7 percent tax rate applies to premiums received by corporations licensed as life and health insurers, including premiums on accident and health contracts. A 2.0 percent tax rate applies to premiums written by corporations licensed as property and casualty insurers. However, a

## INSURANCE TAX

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1.75 percent tax rate applies to premiums on accident and health contracts written by property and casualty insurers.

Life insurance corporations doing business within and without the State allocate entire net income, business and investment capital, and entire net income plus officers' salaries bases to New York based on weighted ratios of premiums and wages earned or paid in New York to those earned or paid everywhere.

In computing the Article 33 tax, life insurance corporations add the tax on gross premiums to the highest of the four alternative taxes. The total tax liability of the two components, less Empire Zone (EZ) credits, cannot be greater than 2 percent or less than 1.5 percent of taxable premiums. Taxpayers may then claim other credits against the total tax liability. The Article 33 tax for non-life insurance corporations is solely the tax on gross premiums, although a fixed dollar minimum tax of \$250 still applies.

### Data Sources

The major sources of data used to compute the tax expenditure estimates under Article 33 Insurance Tax include:

- 2016 Article 33 Insurance Tax Study File — This file, compiled by the Department of Taxation and Finance, includes the tax returns of all insurance companies filing under Article 33.
- New York State Department of Financial Services aggregate data.

### Methodology

The projections of the tax expenditures from 2016 to 2020 use a variety of economic forecast variables.

Tax expenditures whose values are less than \$0.1 million are considered minimal and are designated by an asterisk.

Certain Federal tax expenditure provisions “flow through” and impact the New York Insurance Tax. The tax begins with definitions of income that are derived from provisions of the Federal Internal Revenue Code. As a result of this “coupling” of State definitions of the income base to Federal definitions, exclusions or deductions from income at the Federal level become exclusions or deductions at the State level. Therefore, these provisions automatically become tax expenditures at the State level. The U.S. Congressional Joint Committee on Taxation (JCT) publishes an annual report (*Estimates of Federal Tax Expenditures*) that estimates Federal tax expenditure items. Many items generally flow through to New York, but since state-level data for Federal exclusion or deduction items are not available, state-specific estimates are not possible. Furthermore, it should be noted that New York does not conform to all Federal tax expenditure provisions. States can decide to not follow (or ‘decouple’ from)

Federal provisions. For example, in 2003 New York decoupled from Federal bonus depreciation provisions under IRC Sec. 168(k).

# INSURANCE TAX

**Table 3**  
**2020 New York State Insurance Tax Expenditure Estimates**  
**(2016 Total Insurance Tax Liability = \$1,259.8 Million)**  
**(Millions of Dollars)**

Tax Item	History					Forecast	Reliability
	2012	2013	2014	2015	2016	2020	Level
<b>New York Modifications to Federal Taxable Income</b>							
1. Exclusion of Income from Subsidiary Capital <sup>1</sup>	0.2	1.7	2.6	3.0	1.4	1.0	1
2. Deduction of 50 Percent of Dividends from Non-Subsidiary Corporations <sup>1</sup>	7.6	1.2	12.2	9.3	*	*	1
3. Taxable Refunds or Credits of State Tax	N/A	N/A	N/A	N/A	N/A	N/A	5
4. Wage and Salary Expense Allowed as Federal Credits but not as Federal Expenses	N/A	N/A	N/A	N/A	N/A	N/A	5
5. Unearned Premiums	N/A	N/A	N/A	N/A	N/A	N/A	5
6. Discounted Unpaid Losses	N/A	N/A	N/A	N/A	N/A	N/A	5
7. Reduction of Loss Deduction under IRC Section 832(b)(5)(B)	N/A	N/A	N/A	N/A	N/A	N/A	5
8. IRC Sections 847(5) and 847(6)	N/A	N/A	N/A	N/A	N/A	N/A	5
9. Qualified Emerging Technology Investments (QETI)	N/A	N/A	N/A	N/A	N/A	N/A	5
10. Deduction of Distributions Made to Victims or Targets of Nazi Persecution	N/A	N/A	N/A	N/A	N/A	N/A	5
11. Mandatory Deemed Repatriation Income	--	--	--	--	--	N/A	5
12. Contributions to Capital of a Corporation	--	--	--	--	--	N/A	5
13. Global Intangible Low-Taxed Income (GILTI)	--	--	--	--	--	N/A	5
<b>Alternative Bases</b>							
14. Exclusion of Assets Held as Reserves Under NYS Insurance Law Sections 1303, 1304, and 1305 <sup>1</sup>	*	*	*	*	*	*	4
<b>Exclusions from Premiums Based Tax</b>							
15. Exclusion of Annuities from the Tax on Premiums <sup>1</sup>	10.4	10.7	12.5	10.7	14.6	14.0	1
16. Exclusion of Premiums Written on Certain Joint Underwriting Policies <sup>1</sup>	2.6	2.7	3.1	2.7	3.6	4.0	1
17. Exclusion of Premiums Written on Marine Vessels	6.3	6.1	6.4	5.8	5.5	6.0	1
18. Exclusion of Premiums Written on Certain Reinsurance Policies	278.7	215.6	222.8	200.0	229.7	230.0	1
19. Exclusion for Certain Non-New York Property or Individuals	N/A	N/A	N/A	N/A	N/A	N/A	5
<b>Limitation on Tax</b>							
20. Limitation on Tax Liability <sup>1</sup>	152.4	181.5	118.9	113.6	188.6	189.0	1
<b>Corporate Exemptions</b>							
21. Exemption from Article 33 for Specific Types of Entities Engaged in an Insurance Business	365.2	343.6	353.2	356.2	383.6	420.0	4
<b>Preferential Tax Rates</b>							
22. Preferential Tax Treatment for Captive Insurance Companies	38.4	40.5	35.1	41.9	36.2	40.0	2
<b>Insurance Tax Credits</b>							
23. Fire Insurance Premiums Tax Credit	50.4	53.4	57.0	55.8	58.5	65.0	1
24. Retaliatory Tax Credit	56.9	38.7	44.6	75.6	79.7	85.0	1
25. Credit for Assessments Paid to the Life Insurance Company Guaranty Corporation <sup>1</sup>	0.0	0.0	0.0	76.8	73.9	0.0	4

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Tax Item	History					Forecast	Reliability
	2012	2013	2014	2015	2016	2020	Level
26. Credit for Investment in Certified Capital Companies <sup>2</sup>	12.3	11.0	11.0	10.9	5.9	0.0	1
<b>Cross-Article Credits</b>							
27. Investment Tax Credit for the Financial Services Industry <sup>2</sup>	0.0	0.0	0.0	0.0	0.0	*	1
28. Special Additional Mortgage Recording Tax Credit <sup>2</sup>	0.0	*	0.1	0.0	*	*	1
29. Empire Zone (EZ) and Qualified Empire Zone Enterprise (QEZE) Tax Credits <sup>2</sup>							
a. EZ and Zone Equivalent Area Wage Tax Credit	*	*	*	*	*	*	1
b. EZ Capital Credit	0.0	0.0	0.0	0.0	0.0	*	1
c. QEZE Real Property Tax Credit	2.8	0.1	*	0.0	0.0	*	1
d. QEZE Tax Reduction Credit	21.9	31.2	13.6	7.6	5.3	1.0	1
30. Credit for Employment of Persons with Disabilities <sup>2</sup>	0.0	0.0	0.0	0.0	0.0	*	1
31. Low-Income Housing Credit <sup>2</sup>	0.8	0.9	0.4	1.2	0.5	1.0	1
32. Credit for Purchase of Automated External Defibrillator <sup>2</sup>	0.0	0.0	0.0	0.0	0.0	*	1
33. Green Buildings Credit <sup>2</sup>	0.0	0.0	0.0	0.0	0.0	*	1
34. Long-Term Care Insurance Credit	0.0	0.0	0.0	0.0	0.0	*	1
35. Security Training Tax Credit <sup>2</sup>	0.0	0.0	0.0	0.0	0.0	*	1
36. Brownfields Tax Credits <sup>2</sup>							
a. Brownfield Redevelopment Tax Credit	0.0	0.0	0.0	0.0	0.0	*	1
b. Remediated Brownfield Credit for Real Property Taxes	0.0	0.0	0.0	0.0	0.0	*	1
c. Environmental Remediation Insurance Credit	0.0	0.0	0.0	0.0	0.0	*	1
37. Credit for Rehabilitation of Historic Properties <sup>2</sup>	2.3	3.8	3.7	4.0	1.5	5.0	1
38. Excelsior Jobs Program Tax Credit	0.0	0.0	0.0	0.0	0.0	*	1
39. Economic Transformation and Facility Redevelopment Program Tax Credit	0.0	0.0	0.0	0.0	0.0	*	1
40. Empire State Jobs Retention Program Credit	0.0	0.0	0.0	0.0	0.0	*	1
41. Hire A Vet Credit	--	--	--	0.0	0.0	*	4

1/ Tax expenditure item applies only to life insurance corporations

2/ For tax years 2010, 2011, and 2012, credit is subject to deferral. Values reported reflect the amount of credit computed absent deferral rules.

3/ A new tax expenditure item, a revision of the methodology or revisions in the data sources resulting in an estimate which better reflects the tax expenditure value.

\* Less than \$0.1 million.

-- The tax expenditure was not applicable for these years.

N/A No data available.

### New York Modifications to Federal Taxable Income

In computing New York entire net income, modifications to Federal taxable income are provided for under Article 33 of the Tax Law. These modifications apply only to life insurance corporations.

1. **Exclusion of Income from Subsidiary Capital**

**Citation:** Section 1503(b)(1)(A) and Section 1503(b)(2)(H)

**Effective Date:** Effective for tax years beginning on or after January 1, 1974

**Description:** In computing New York entire net income (ENI), taxpayers may subtract dividends, interest, and gains derived from subsidiary corporations that are not part of the combined group.

Taxpayers may also deduct global intangible low-taxed income (GILTI) as defined in IRC section 951A and the GILTI-related IRC section 78 dividends (less attributable interest and noninterest deductions) received from subsidiary corporations that are not part of the combined group. The related deductions under IRC section 250 must also be added back in computing ENI.

This modification does not include mandatory deemed repatriation income from subsidiary corporations (described in item #11 below).

2. **Deduction of 50 Percent of Dividends from Non-Subsidiary Corporations**

**Citation:** Section 1503(b)(1)(B)

**Effective Date:** Effective for tax years beginning on or after January 1, 1974

**Description:** Life insurance corporations may deduct 50 percent of the company's share of dividend income received from non-subsidiary corporations. This modification does not include mandatory deemed repatriation income from non-subsidiary corporations (described in item #11 below).

3. **Taxable Refunds or Credits of State Tax**

**Citation:** Section 1503(b)(1)(C)

**Effective Date:** Effective for tax years beginning on or after January 1, 1974

**Description:** A taxpayer may exclude any refund or credit of a tax imposed under Tax Law Article 9 (sections 183, 183-a, 184, and 184-a), or Article 9-A, 23, or 33 that was properly included as income for Federal income tax purposes, and for which no exclusion or deduction was allowed in determining the taxpayer's ENI for any prior year.

4. **Wage and Salary Expense Allowed as Federal Credits but not as Federal Expenses**

**Citation:** Section 1503(b)(1)(D)

**Effective Date:** Effective for tax years beginning on or after January 1, 1977



**Description:** In computing New York ENI, a taxpayer may exclude the amount of wages disallowed under IRC section 280C in the computation of their applicable Federal income.

5. **Unearned Premiums**

**Citation:** Section 1503(b)(1)(L)

**Effective Date:** Effective for tax years beginning after December 31, 1986

**Description:** A taxpayer may exclude from ENI the amount of unearned premiums on outstanding business at the end of the tax year included in premiums earned as a result of IRC sections 832(b)(4)(B), 832(b)(7)(B)(i) and 832(b)(8)(A)(i).

6. **Discounted Unpaid Losses**

**Citation:** Section 1503(b)(1)(N)

**Effective Date:** Effective for tax years beginning after December 31, 1986

**Description:** A taxpayer may exclude from ENI the difference between the amount of discounted unpaid losses at the end of the tax year used in the computation of losses incurred as a result of IRC section 832(b)(5)(A), and the amount of unpaid losses at the end of the tax year that would have been used in such computation if such losses were not discounted for federal income tax purposes.

7. **Reduction of Loss Deduction under IRC Section 832(b)(5)(B)**

**Citation:** Section 1503(b)(1)(O)

**Effective Date:** Effective for tax years beginning after December 31, 1986

**Description:** A taxpayer may exclude from ENI the amount by which losses incurred were reduced as a result of IRC section 832(b)(5)(B).

8. **IRC Sections 847(5) and 847(6)**

**Citation:** Section 1503(b)(1)(P)

**Effective Date:** Effective for tax years beginning on or after January 1, 1993

**Description:** A taxpayer may exclude from ENI the amount included in federal gross income as a result of IRC sections 847(5) and 847(6).

9. **Qualified Emerging Technology Investments (QETI)**

**Citation:** Section 1503(b)(1)(Q)

**Effective Date:** Effective for investments sold on or after March 12, 1998

**Description:** A deferral of gain on the sale of a qualified emerging technology investment (QETI) is available to taxpayers for a QETI that is (1) held for more than 36 months and (2) rolled over into the purchase of a replacement QETI within 365 days. Gain deferred under this provision must be recognized when the replacement QETI is sold. However, gain on the sale of the replacement QETI can be deferred if another replacement QETI is acquired within 365 days.

10. **Deduction of Distributions Made to Victims or Targets of Nazi Persecution**

**Citation:** Section 13

## INSURANCE TAX

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**Description:** A taxpayer may exclude the amount received (including accumulated interest) from an eligible settlement fund, or from an eligible grantor trust established for the benefit of the victims or targets of Nazi persecution when computing New York ENI.

### 11. Mandatory Deemed Repatriation

**Citation:** Section 1503(b)(1)(S) and Section 1503(b)(2)(H)

**Effective Date:** Effective for tax years beginning on or after January 1, 2017

**Description:** In computing New York ENI, a taxpayer may subtract from FTI the IRC section 965(a) inclusion amount, less interest and noninterest deductions attributable to it, received from foreign corporations that are not included in a combined report with the taxpayer. The related deduction allowed under IRC section 965(c) must be added back when computing ENI.

### 12. Contributions to Capital of a Corporation

**Citation:** Section 1503(b)(1)(T)

**Effective Date:** Effective for tax years beginning on or after January 1, 2018

**Description:** In computing New York ENI, a taxpayer may subtract contributions to a corporation's capital made by any governmental entity or civic group (other than a contribution made by a shareholder) that are included in gross income under IRC section 118(b)(2).

### 13. Global Intangible Low-Taxed Income (GILTI)

**Citation:** Section 1503(b)(1)(U)-(V) and Section 1503(b)(2)(H)

**Effective Date:** Effective for tax years beginning on or after January 1, 2019

**Description:** In computing New York ENI, a taxpayer may subtract from FTI ninety-five percent of the global intangible low-tax income, less the attributable interest and noninterest deductions, from a non-subsidiary corporation that is not included in a combined report with the taxpayer. In addition, a taxpayer may subtract from FTI any GILTI-related IRC section 78 dividends, that has not otherwise been deducted, less attributable interest and noninterest deductions. The related deductions under IRC section 250 must be added back in computing ENI.

For tax years beginning on or after January 1, 2018 and before January 1, 2019, GILTI income and GILTI-related IRC section 78 dividends received from non-subsidiary corporations were subject to tax. As a result, the corresponding deductions allowed under IRC section 250 for GILTI and GILTI-related IRC section 78 dividends were allowed to flow through from the federal return when computing New York ENI.

## Alternative Bases

One tax expenditure item applicable to life insurance corporations is provided for under the alternative tax base measured by business and investment capital.

15. **Exclusion of Assets Held as Reserves Under NYS Insurance Law Sections 1303, 1304, and 1305**  
**Citation:** State Insurance Law Sections 1303, 1304, and 1305; Tax Law Section 1500(l)(j)  
**Effective Date:** Effective for tax years beginning on or after January 1, 1974  
**Description:** Insurance corporations may exclude assets that are held for loss or claim reserves, valuation reserves, and unearned premium reserves (as specified in the Insurance Law) from the definition of business capital and investment capital for purposes of computing tax liability under the capital base tax.

### Exclusions from Premiums Base Tax

The premiums tax base excludes premiums from several types of insurance.

16. **Exclusion of Annuities from the Tax on Premiums**  
**Citation:** Section 1510(c)(1)  
**Effective Date:** Effective for tax years beginning on or after January 1, 1974  
**Description:** The premiums tax base excludes annuities.

#### **Exclusion of Premiums Written on Certain Joint Underwriting Policies**

**Citation:** Section 1510(c)(2)  
**Effective Date:** Effective for tax years beginning on or after January 1, 1974  
**Description:** The premiums tax base does not include premiums on joint underwriting of group health insurance for persons aged 65 and over.

17. **Exclusion of Premiums Written on Marine Vessels**  
**Citation:** Section 1510(c)(2)  
**Effective Date:** Effective for tax years beginning on or after January 1, 1974  
**Description:** The premiums tax base does not include premiums for ocean marine insurance.

18. **Exclusion of Premiums Written on Certain Reinsurance Policies**  
**Citation:** Section 1510(c)(3)(A-B)  
**Effective Date:** Effective for tax years beginning on or after January 1, 1974  
**Description:** The premiums tax base does not include premiums received by way of reinsurance from corporations or other insurers authorized to transact business in New York. It also excludes premiums received by way of reinsurance from corporations or other insurers not authorized to transact business in New York if such premiums are subject to the Excess Line Tax imposed under the Insurance Law.

19. **Exclusion for Certain Non-New York Property or Individuals**  
**Citation:** Section 1512(b)(1)-(3)  
**Effective Date:** Effective for tax years beginning on or after January 1, 1974 (Section 1512(b)(3) effective for tax years beginning on or after January 1, 1978)  
**Description:** The premiums tax base does not include premiums from:

## **INSURANCE TAX**

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- Property, risks, or residents located outside of New York written by nonprofit life or fire insurance companies;
- Insurance risks on residents outside of the State of New York written by federally exempt life insurance companies organized by nonprofit voluntary employees' beneficiary associations.

### **Limitation on Tax**

Article 33 provides for a maximum tax liability cap for life insurance corporations. The total tax less EZ credits, but before other credits, may not exceed 2 percent of taxable premiums. Taxpayers may apply all other insurance corporation tax credits to reduce the tax as determined under the cap.

#### **20. Limitation on Tax Liability**

**Citation:** Section 1505

**Effective Date:** Effective for tax years beginning on or after January 1, 1977

**Description:** Article 33 limits the total tax liability of a life insurance corporation. Effective for taxable years beginning on or after January 1, 1998, the limitation, or cap, equals 2.0 percent of gross premiums for life insurers. An insurance corporation's tax liability equals the lower of (1) the tax determined under the cap, or (2) the tax determined on the highest of four alternative bases, plus the taxes on the subsidiary capital and premiums bases.

### **Corporate Exemptions**

Article 33 of the Tax Law does not apply to several types of entities that may be engaged in an insurance business. Several additional types of entities are exempt only from the premiums tax.

#### **21. Exemption from Article 33 for Specific Types of Entities Engaged in an Insurance Business**

**Citation:** Section 1512(a)(1)-(8), (c)

**Effective Date:** Effective for tax years beginning on or after January 1, 1974 (Sections 1512(a)(8) and 1512 (c) effective for taxable years beginning on or after January 1, 1978)

**Description:** Entities exempt from tax under Article 33 include:

- Charitable, religious, missionary, educational, and philanthropic non-stock corporations. (1512(a)(2))
- Retirement systems or pension funds engaged solely in an annuity business. (1512(a)(3))
- Nonprofit medical expense indemnity or hospital service corporations. (1512(a)(4))
- Incorporated or unincorporated fraternal benefit societies. (1512(a)(5))
- Corporations for the insurance of domestic animals on a cooperative plan. (1512(a)(6))
- A town or county cooperative insurance corporation exempt from tax under Section 187 of the Tax Law as it existed prior to 1974. (1512(a)(7))

- Not-for-profit voluntary employees' beneficiary associations exempted from Federal income tax the members of which are employees (or beneficiaries or dependent of employees) of a single employer. (1512(a)(8))
- Any nonprofit property/casualty insurance company organized pursuant to Section 6703 of the Insurance Law. (1512(a)(9))
- Entities conducting insurance business as a member of the New York Insurance Exchange. (1512 (c))

### Preferential Tax Rates

#### 22. **Preferential Tax Treatment for Captive Insurance Companies**

**Citation:** Section 1502-b

**Effective Date:** Effective for tax years beginning on or after January 1, 1998

**Description:** Captive insurers are subject to a special premiums tax at lower rates than the rate that applies to other insurers. The tax imposed on captives equals the greater of the sum of the tax imposed on gross direct premiums and the tax imposed on assumed reinsurance premiums, or \$5,000. The tax rates that apply to gross direct premiums and assumed reinsurance premiums decrease as the amount of premiums subject to tax increases, with the highest rate equaling 0.4 percent.

For tax years beginning on or after January 1, 2009 and before January 1, 2014, an overcapitalized captive insurance company must be included in a combined return under either Article 9-A or 32 with the closest corporation that directly or indirectly owns or controls over 50 percent of the voting stock of the overcapitalized captive insurance company. For tax years beginning on or after January 1, 2015, a combinable captive insurance company must be included in a combined return under Article 9-A if it is more than 50 percent owned by an Article 9-A corporation.

### Credits

Credits are amounts, enumerated by Article 33 of the New York State Tax Law, which insurance corporations may subtract from their calculated New York tax liability. Article 33 credits are available to both life and non-life insurance corporations unless otherwise noted. For tax years 2010, 2011, and 2012, taxpayers were required to defer the use and refund of certain tax credits if they exceeded \$2 million in aggregate.

## **INSURANCE TAX**

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### **Insurance Tax Credits**

The credits described below are specific to the Insurance Tax.

23. **Fire Insurance Premiums Tax Credit**  
**Citation:** Section 1511(a)  
**Credit Type:** Non-refundable/Non-Carryforward  
**Effective Date:** Effective for tax years beginning on or after January 1, 1974  
**Description:** A credit is allowed for additional taxes on premiums written by foreign or alien corporations for any insurance against loss or damage by fire, paid by foreign and alien fire insurance companies and foreign mutual fire insurance companies. Such taxes are imposed under the Insurance Law and under the charters of the cities of Buffalo and New York. Taxpayers must have paid or accrued the taxes during the tax year covered by the return.
24. **Retaliatory Tax Credit**  
**Citation:** Section 1511(c), (i)  
**Credit Type:** Refundable  
**Effective Date:** Effective for tax years beginning on or after January 1, 1974  
**Description:** Taxpayers may claim a credit for up to 90 percent of any retaliatory taxes paid to other states by New York domiciled or organized insurers as a result of New York State imposed taxes on insurers domiciled or organized in those other states.
25. **Credit for Assessments Paid to the Life Insurance Company Guaranty Corporation**  
**Citation:** Insurance Law Section 7712(a)(b); Tax Law Section 1511(f)  
**Credit Type:** Non-refundable/Carryforward  
**Effective Date:** Effective for tax years beginning after December 31, 1986  
**Description:** Life insurance corporations may claim a tax credit for a portion of the cost of assessments paid to the life insurance company guaranty corporation in prior years. The maximum credit allowed to all life insurance companies for a particular year is limited to the greater of \$40 million or 40 percent of the total tax liability of all such companies. To calculate its respective credit amount, an individual corporation multiplies the \$40 million/40 percent maximum by the assessments it paid divided by the sum all assessments paid by all corporations.
26. **Credit for Investment in Certified Capital Companies**  
**Citation:** Section 1511(k)  
**Credit Type:** Non-refundable/Carryforward  
**Effective Date:** Effective for tax years beginning after 1998, although the credit may be earned before 1999; the credit has been expanded four times since its enactment, to a combined statewide cap for all five programs of \$400 million, effective January 1, 2007  
**Description:** Under the five programs, taxpayers may claim a credit for 100 percent of the amount invested in certified capital companies

(CAPCOs). The credit can be claimed over 10 years, at a rate of 10 percent per year. The combined statewide cap is \$400 million on the total amount of investments for which credits may be claimed. The total for all five programs may not exceed \$40 million in any year.

### **Cross-Article Credits**

Descriptions of other tax credits that are available under the Insurance Tax as well as other tax articles are contained in the Cross-Article Tax Credits section of the report.





# CORPORATION TAX

This section of the report provides descriptions of 39 separate tax expenditure provisions of the Article 9 tax. It contains estimates of the tax expenditures for tax years 2012 through 2016 (2016 is the latest year for which Article 9 tax return data is available). The list of tax expenditures is based on the Tax Law as of January 1, 2020. The estimates are also extrapolated to the 2020 tax year. The tax year refers to both the 2020 calendar year and fiscal years beginning in 2020. Table 6 summarizes the tax expenditure estimates. It also includes total tax liability of Article 9 to provide perspective.

## Description of Tax

Article 9 of the Tax Law imposes capital stock-based franchise and gross receipts-based taxes on a variety of specialized businesses.

Section 183 imposes a franchise tax on transportation and transmission companies and associations (excluding aviation companies which are taxable under Article 9-A) on the basis of allocated capital stock. Generally, a corporation's stock is allocated to New York in the ratio that the corporation's gross assets employed in the State bear to gross assets everywhere. U.S. obligations and cash in hand are excluded from the calculation. The tax equals the highest of the three amounts computed by the following methods: (1) allocated value of issued capital stock multiplied by 1.5 mills; (2) allocated value of issued capital stock on which dividends are paid 6 percent or more, multiplied by 0.375 mills for each one percent of dividends paid; or (3) a fixed minimum tax of \$75. Effective January 1998, trucking and railroad companies previously taxable under Section 183 became taxable under Article 9-A, unless an election had been made to remain taxable under Article 9. Effective January 1, 2000, gas pipelines became taxable under Article 9-A.

Section 184 imposes an additional franchise tax on transportation and transmission corporations and associations based on their gross earnings within the state. The tax is 3/8 percent of gross earnings received from business conducted in New York. Beginning in 1995, Section 184 no longer applies to inter-exchange carriers, but applies only to those telecommunications corporations or associations principally engaged in a local telephone business. Companies principally engaged in long distance services are excluded from the tax. In addition, the law provided two exclusions to equalize the tax treatment of telecommunications services provided by local carriers, which remain subject to the Section 184 tax, and inter-exchange carriers. One hundred percent of receipts from sales for ultimate consumption from interLATA, interstate, or international services and 30 percent of intraLATA toll services, including interregion regional calling plan services are excluded in the computation of tax under Section 184. In January 1998, trucking and railroad companies formerly taxable under Section 184 became taxable under Article 9-A, unless they elected to remain taxable under Article 9. In January 2000, gas pipelines became taxable under Article 9-A.

## CORPORATION TAX

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Section 185 imposes a franchise tax on farmers, fruit growers, and other like agricultural corporations organized and operated on a cooperative basis. The tax is the highest amount computed under the following calculations: (1) allocated value of issued capital stock multiplied by one mill; (2) allocated value of issued capital stock on which dividends paid are six percent or more, multiplied by  $\frac{1}{4}$  mill for each one percent of dividends paid; or (3) a fixed dollar minimum tax of \$10. Section 185 is repealed for tax years beginning on or after January 1, 2018.

Section 186, which was repealed effective January 1, 2000, provided for a franchise tax on waterworks companies, gas companies, electric or steam heating, lighting, and power companies. The tax was imposed at a rate of .75 percent on New York gross earnings and 4.5 percent on the amount of dividends paid which exceeded 4 percent of the amount of the taxpayer's paid-in capital employed in New York State. The minimum tax alternative of \$125 applied, but only in case and to the extent that the tax computed under the primary method was less than \$125. An additional excess dividends tax may have also applied. Energy and water companies formerly taxable under this Section are now taxable under Article 9-A. However, a company may elect to remain a continuing Section 186 taxpayer, and be subject to the tax as it existed in 1999, if certain conditions apply.

Section 186-a provides for a gross receipts tax on the furnishing of utility services. A utility is defined as any seller of gas, electricity, steam, water, or refrigeration. Utilities that provide telephone or telegraph services which are subject to the supervision of the Public Service Commission pay the tax on their gross receipts not derived from the sale of telecommunications services at a rate of 2.5 percent. Telecommunications service receipts are taxable under Section 186-e. The tax rate imposed on receipts from transportation, transmission, distribution, or delivery of energy for residential customers is 2.0 percent.

The following table shows the history of the Section 186-a rate structure as it pertains to receipts from the sale of an energy commodity and charges for the transportation, transmission, distribution, or delivery of energy.

Calendar Year	2000	2001	2002	2003	2004	2005 and After
Commodity Rate	2.1%	2.0%	1.9%	0.85%	0.4%	0%
T&D Rate	2.5%	2.45%	2.4%	2.25%	2.125%	2.0%

Section 186-e provides for an excise tax on telecommunications services at rate of 2.5 percent on the gross receipts of providers of non-mobile telecommunications services. The tax applies to gross receipts from all intrastate services and interstate and international services that either originate or terminate in New York and are billed to a service address in the State.

A separate excise tax is imposed on the sale of mobile telecommunication services by a telecommunication services provider at the rate of 2.9 percent. This rate applies to gross receipts from any mobile telecommunication service provided on or after May 1, 2015 by a home service provider where the mobile telecommunications customer's place of primary use is within New York State.

Most of the revenue from the Article 9 tax resulted from the gross receipts-based taxes (Sections 184, 186, 186-a, and 186-e).

Section 186-f imposes public safety communications surcharges on certain wireless communications services. A \$1.20 per month surcharge is imposed for each postpaid wireless communications device in service for every customer whose place of primary use is in New York State. A 90 cent surcharge applies to each retail sale of a prepaid wireless communication service. This section took effect on September 1, 2009. The surcharge on prepaid wireless communications service was effective on December 1, 2017.

### **Data Sources**

The major source of data used to compute the tax expenditure estimates under Article 9 is the 2016 Corporation Tax Study File. This file, compiled by the Department of Taxation and Finance, includes all corporations filing under Article 9. It includes selected data items from the tax returns of each corporation. Simulations of the file generate the base case tax expenditures.

### **Methodology**

The projections of the tax expenditures from 2016 to 2020 use a variety of economic forecast variables.

Tax expenditures whose values are less than \$0.1 million are considered minimal and are designated by an asterisk.

# CORPORATION TAX

**Table 4**  
**2020 New York State Corporation and Utilities (Article 9) Tax Expenditure Estimates**  
**(2016 Corporation and Utilities Tax Liability = \$588.5 Million)**  
**(Millions of Dollars)**

Tax Item <sup>1</sup>	History					Forecast 2020	Reliability Level
	2012	2013	2014	2015	2016		
<b>New York Modifications to Gross Income</b>							
1. Exclusion of Interstate and Foreign Income	N/A	N/A	N/A	N/A	N/A	N/A	5
2. Exclusion of Receipts from InterLATA, Interstate, and International Telephone Services	3.4	2.8	3.0	3.2	3.0	4.0	1
3. Exclusion of Thirty Percent of Receipts from IntraLATA Toll Telephone Services	0.7	0.3	0.3	0.5	0.5	1.0	1
4. Exclusion of Cable Television Service	118.0	113.0	112.0	111.0	114.0	115.0	3
5. Exclusion of Receipts from Certain Telecommunications Services for Air Safety and Navigation Purposes	N/A	N/A	N/A	N/A	N/A	N/A	5
<b>Corporate Exemptions</b>							
6. Ferry Companies	N/A	N/A	N/A	N/A	N/A	N/A	5
7. Taxicabs and Omnibuses	N/A	N/A	N/A	N/A	N/A	N/A	5
8. Railroads and Vessels Engaged in Interstate or Foreign Commerce	N/A	N/A	N/A	N/A	N/A	N/A	5
9. Corporations Principally Engaged in Providing Telecommunications for Air Safety and Navigation Purposes	N/A	N/A	N/A	N/A	N/A	N/A	5
10. Foreign Commerce	N/A	N/A	N/A	N/A	N/A	N/A	5
11. Railroad Leasing	N/A	N/A	N/A	N/A	N/A	N/A	5
12. Foreign Taxicabs and Omnibuses	N/A	N/A	N/A	N/A	N/A	N/A	5
13. Exempt Companies	N/A	N/A	N/A	N/A	N/A	N/A	5
14. Exempt Organizations – Section 186-a	N/A	N/A	N/A	N/A	N/A	N/A	5
15. Water Pollution Facilities	N/A	N/A	N/A	N/A	N/A	N/A	5
16. Commercial, Industrial, and Not-For-Profit Relief	N/A	N/A	N/A	N/A	N/A	N/A	5
17. Exempt Organizations – Section 186-e	N/A	N/A	N/A	N/A	N/A	N/A	5
18. Section 186-f Public Safety Communications Surcharge							
a. Lifeline Consumers – Section 186-f	--	--	--	--	--	4.0	4B
b. Exempt Organizations – Section 186-f	N/A	N/A	N/A	N/A	N/A	N/A	5
c. Administrative Fee- Section 186-f	2.3	2.2	2.1	2.2	2.2	4.0	2
<b>Corporation Tax Credits</b>							
19. Credit for Tax Paid in Another Jurisdiction <sup>1</sup>	0.0	0.0	0.0	0.0	0.0	*	1
<b>Cross-Article Credits</b>							
20. Special Additional Mortgage Recording Tax Credit <sup>1,2</sup>	0.0	0.0	0.0	0.0	0.0	*	1
21. Empire Zone (EZ) and Qualified Empire Zone Enterprise (QEZE) Credits <sup>1,2</sup>							
a. EZ Investment Tax Credit and Employment Incentive Credit <sup>2</sup>	0.1	0.1	*	0.1	0.1	*	1
b. EZ Wage Tax Credit <sup>1</sup>	*	*	*	*	*	*	1
c. QEZE Real Property Tax Credit <sup>1</sup>	0.3	0.3	0.1	0.3	*	*	1
22. Credit for Employment of Persons with Disabilities <sup>1,2</sup>	0.0	0.0	0.0	0.0	0.0	*	1
23. Green Building Credit <sup>1,2</sup>	0.0	0.0	0.0	0.0	0.0	*	1
24. Long-Term Care Insurance Credit <sup>1</sup>	0.0	0.0	0.0	0.0	0.0	*	1
25. Security Training Tax Credit <sup>2</sup>	0.0	0.0	0.0	0.0	0.0	*	1
26. Brownfields Tax Credits <sup>2,3</sup>							
a. Brownfield Redevelopment Tax Credit	0.0	0.0	0.0	0.0	0.0	*	1
b. Remediated Brownfield Credit for Real Property Taxes	0.0	0.0	0.0	0.0	0.0	*	1
c. Environmental Remediation Insurance Credit	0.0	0.0	0.0	0.0	0.0	*	1
27. Biofuel Production Credit <sup>2</sup>	0.0	0.0	0.0	0.0	0.0	*	1
28. Economic Transformation and Facility Redevelopment Program Tax Credit	0.0	0.0	0.0	0.0	0.0	*	1
29. Alternative Fuels and Electrical Vehicle Recharging Property Credit <sup>3</sup>	--	0.0	0.0	0.0	0.0	*	1

1/ Amounts in the table are the sum of the expenditure estimates across all Article 9 tax sections. See specific descriptions to determine the sections to which the expenditure applies and to view the section-specific estimates.

2/ For tax year 2012, credits subject to deferral. Values reported reflect the amount of credit computed absent deferral rules.

3/ A new tax expenditure item, a revision of the methodology or revisions in the data sources resulting in an estimate which better reflects the tax expenditure value.

\* Less than \$0.1 million.

-- The tax expenditure was not applicable for these years.

N/A No data available.

## **New York Modifications to Gross Income**

Article 9 of the New York State Tax Law provides for select modifications when computing New York gross income.

**1. Exclusion of Interstate and Foreign Income**

**Citation:** Section 184(1)

**Effective Date:** June 15, 1896

**Description:** Corporations, joint stock corporations, or associations formed for or principally engaged in canal, steamboat, ferry, navigation, or corporations formed for or principally engaged in the operation of vessels may exclude earnings derived from business of an interstate or foreign character.

**2. Exclusion of Receipts from InterLATA, Interstate, and International Telephone Services**

**Citation:** Section 184(1)

**Effective Date:** January 1, 1995

**Description:** Telephone companies subject to the tax may exclude 100 percent of receipts (other than those from the provision of carrier access services) from sales for ultimate consumption of interLATA, interstate, and international services.

**3. Exclusion of Thirty Percent of Receipts from IntraLATA Toll Telephone Services**

**Citation:** Section 184.1

**Effective Date:** Effective for tax years beginning on or after January 1, 1996

**Description:** Telephone companies subject to the tax may exclude 30 percent of receipts (other than those from the provision of carrier access services) from sales for ultimate consumption of intra-LATA toll services, including inter-region regional calling plan services.

**4. Exclusion of Cable Television Service**

**Citation:** Section 186-e(2)(b)(2)

**Effective Date:** January 1, 1995

**Description:** Cable television service is specifically excluded from the definition of telecommunications services and receipts from the sale of such service are not subject to tax.

**5. Exclusion of Receipts from Certain Telecommunications Services for Air Safety and Navigation Purposes**

**Citation:** Section 186-e(2)(b)(3)

**Effective Date:** January 1, 1995

**Description:** Receipts from the sale of telecommunications to air carriers solely for the purposes of air safety and navigation are excluded from the tax. Providers must be at least 90 percent owned (directly or indirectly) by air carriers and have the principal function of fulfilling requirements of the Federal Aviation Administration (FAA) or International Civil Aviation Organization (ICAO) relating to the existence

## **CORPORATION TAX**

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of a communication system between aircraft and dispatcher, aircraft and air traffic control or ground station and ground station (or any combination of these entities).

### **Corporate Exemptions**

#### **6. Ferry Companies**

**Citation:** Sections 183(1)(b) and 184(1)

**Effective Date:** April 14, 1914

**Description:** Ferry companies operating between any of the boroughs of the City of New York under a lease granted by the City are exempt from tax under Sections 183 and 184.

#### **7. Taxicabs and Omnibuses**

**Citation:** Section 183(1)(c)

**Effective Date:** April 11, 1951 (taxicabs); January 1, 1960 (omnibuses)

**Description:** With certain exceptions, and so long as the State tax on motor fuel exceeds two cents per gallon, corporations classified as taxicabs and omnibuses are taxable under Article 9-A and therefore are exempt from the tax imposed by Section 183.

#### **8. Railroads and Vessels Engaged in Interstate or Foreign Commerce**

**Citation:** Section 183(7)

**Effective Date:** November 11, 1981 for taxable periods beginning on or after January 1, 1981 (original exclusion for vessels only, June 15, 1896)

**Description:** A railroad, palace car, or sleeping car corporation, navigation, canal, ferry (except a ferry operating between any of the boroughs of New York under a lease granted by the City), steamboat, or any other corporation formed for or principally engaged in the operation of vessels in interstate or foreign commerce is not subject to the Section 183 tax, even though it maintains an office or otherwise employs capital in New York.

#### **9. Corporations Principally Engaged in Providing Telecommunications for Air Safety and Navigation Purposes**

**Citation:** Sections 183(1)(b) and 184(1)

**Effective Date:** January 1, 1995

**Description:** Corporations principally engaged in selling of telecommunications to air carriers solely for the purposes of air safety and navigation are exempt from the tax under Sections 183 and 184. Providers must be at least 90 percent owned (directly or indirectly) by air carriers and have the principal function of fulfilling requirements of the Federal Aviation Administration (FAA) or International Civil Aviation Organization (ICAO) relating to the existence of a communication system between aircraft and dispatcher, aircraft and air traffic control or ground station and ground station (or any combination of these entities).

10. **Foreign Commerce**

**Citation:** Article 1, Section 3

**Effective Date:** November 11, 1981 (original exclusion for vessels only, June 15, 1896)

**Description:** All corporations incorporated under the laws of the State of New York, exclusively engaged in the operation of vessels in foreign commerce, are exempted from tax on their capital stock, franchises, and earnings for State and local purposes.

11. **Railroad Leasing**

**Citation:** Section 184(3)

**Effective Date:** June 1, 1917

**Description:** In lieu of the tax on gross earnings, a railroad corporation involved in leasing railroad property to another railroad is subject to an excess income tax measured at the rate of 4 ½ percent on that portion of dividends paid in a calendar year in excess of 4 percent on the capital stock of the company.

12. **Foreign Taxicabs and Omnibuses**

**Citation:** Section 184(2)(b)(1)(iv)

**Effective Date:** January 1, 1988

**Description:** A foreign taxicab or omnibus company doing business in New York by making fewer than 12 trips into New York State on an annual basis, but not otherwise owning or leasing property, maintaining an office, or otherwise doing business in the State so as to become subject to tax, pays a tax equal to \$15 per trip.

13. **Exempt Companies**

**Citation:** Section 186-a(2)(a)

**Effective Date:** January 1, 1960 (omnibuses)

**Description:** Persons engaged in operating omnibuses having a seating capacity of more than seven persons; or, street surface, rapid transit, subway, and elevated railroads are not subject to the Section 186-a tax.

14. **Exempt Organizations**

**Citation:** Section 186-a(2)(b)

**Effective Date:** 1937

**Description:** The furnishing of utilities services by the State is exempt from tax. Utility services furnished by municipalities, political and civil subdivisions of the State or a municipality, public districts, and certain corporations and associations organized and operated exclusively for religious, charitable, or educational purposes are exempt from tax under certain circumstances.

15. **Water Pollution Facilities**

**Citation:** Section 186-a(2)(b)

**Effective Date:** January 1, 1969

**Description:** Section 186-a does not apply to a corporation organized and operated exclusively for the purpose of leasing from a city a water works system designed to alleviate water pollution within the city.



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### 16. Commercial, Industrial, and Not-For-Profit Relief

**Citation:** Section 182-a(2)(c)(1)

**Effective Date:** January 1, 2000

**Description:** In addition to the reduction and elimination of the tax on the commodity, the Section 186-a tax on transmission and distribution for commercial, industrial and not-for-profit customers was eliminated through a phased in exclusion according to the following schedule:

<u>Calendar Year</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005 and After</u>
Exclusion	0%	0%	25%	50%	75%	100%

### 17. Exempt Organizations

**Citation:** Section 186-e(1)(c)

**Effective Date:** January 1, 1995

**Description:** Telecommunications services provided by the State, municipalities, political and civil subdivisions of the State or municipality, public districts, and corporations and associations organized and operated exclusively for religious, charitable, or educational purposes are exempt from Section 186-e tax.

### 18. Section 186-f Public Safety Communications Surcharge

#### a. Lifeline Consumers – Section 186-f

**Citation:** Section 186-f(4)

**Effective Date:** December 1, 2017

**Description:** Consumers who receive a Lifeline discount on their wireless communications service are exempt from the public safety communications surcharges.

#### b. Exempt Organizations – Section 186-f

**Citation:** Section 186-f(4)

**Effective Date:** September 1, 2009

**Description:** The public safety communications surcharges do not apply to purchases by the State of New York and its agencies and instrumentalities; the United States of America and its agencies and instrumentalities; the United Nations; and, a nonprofit property/casualty insurance company organized under Insurance Law § 6703.

#### c. Administrative Fee – Section 186-f

**Citation:** Section 186-f(2)

**Effective Date:** September 1, 2009

**Description:** Wireless communications service suppliers and prepaid wireless communications sellers may retain an administrative fee of 1.749 percent of surcharges collected for timely filed and fully paid returns. Prior to December 1, 2017, the administrative fee was 1.166 percent.



### Credits

Credits include amounts, stipulated by the New York State Tax Law, which the taxpayer may subtract in calculating New York tax liability. For tax years 2010, 2011, and 2012, taxpayers are required to defer the use and refund of certain tax credits if they exceed \$2 million in aggregate.

### Corporation Tax Credits

The credits described below are specific to the Corporation Tax.

19. **Credit for Tax Paid in Another Jurisdiction**

**Citation:** Section 186-e(4)(a)(2)

**Credit Type:** Non-refundable/Non-Carryforward

**Effective Date:** January 1, 1995

**Description:** To prevent actual multijurisdictional taxation of sales of telecommunications services, providers of interstate and international telecommunications services may claim a credit for a like tax paid to another state or country on a telecommunications service taxable under Section 186-e. The amount of the credit is the amount of tax lawfully due and paid to the other country or jurisdiction not exceeding the tax due to New York.

### Cross-Article Credits

Descriptions of tax credits that are available under the Corporation Tax as well as other tax articles are contained in the Cross-Article Tax Credits section of the report.



# SALES AND USE TAX

This section of the report provides tax expenditure descriptions and estimates for 160 provisions of the Sales and Use Tax Law. The list of expenditures is based on the Tax Law in effect as of January 1, 2020. The tax expenditure estimates only pertain to the State portion of the tax and do not include estimates of the revenue foregone by local governments levying sales and use taxes.

The report presents historical estimates for calendar years 2013 through 2017. Table 6 lists the tax expenditures and provides historical year and projected 2020 estimates. It also lists the years for which data are available. For recently added tax expenditures, the report displays historical estimates only for years the item existed as a tax expenditure. The effective dates recorded in the report refer to the date the applicable provision took effect.

## Description of Tax

The New York State Sales and Use Tax was enacted in 1965 and took effect August 1, 1965. This tax applies primarily to retail sales of tangible personal property in New York State. The Sales and Use Tax also applies to a variety of services, notably, services to real or personal property, telephone service, and commercial energy use. Hotel occupancy, restaurant meals and certain admissions are also taxed. Generally, the tax base includes tangible personal property unless the law provides a specific exclusion or exemption and does not include services unless the law specifically enumerates the service as taxable.

The Tax Law provides manufacturers with exemptions for the purchase, repair, and maintenance of machinery and equipment used in production. Other exempt items include food, medicine, residential energy, and sales to exempt organizations. Although most services are not subject to sales or use tax, this report examines only services which are specifically exempted by New York.

The Department of Taxation and Finance administers the Sales and Use Tax for the State and its constituent jurisdictions that also impose the tax. The State rate equals 4 percent. Local rates range from 3 percent to 4.75 percent. Communities within the Metropolitan Commuter Transportation District are subject to an additional 3/8 of 1 percent tax rate. In State fiscal year 2018-19, the Department collected about \$14.3 billion for the State and approximately \$17.5 billion for local governments from sales and use taxes.

## SALES AND USE TAX

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### Data Sources

Most Sales Tax expenditure estimates use aggregate, non-tax data sources. This is because no tax return data exists for the many exclusions and exemptions. Thus, the estimates are only suggestive of the revenue loss associated with each provision. Estimates are rounded to the nearest million dollars.

Data sources used to compute the tax expenditure estimates include:

- Federal government publications and surveys such as the U.S. Census Bureau's *Economic Census*;
- New York State data resources from Open New York's open data portal; and
- Industry surveys and information, such as the information provided by the National Auto Dealers Association.

### Methodology

The report bases the historical estimates on the most recent data available. If data are not available for a particular year covered by the report, the tax expenditure is estimated from the most recent data. For example, where 2014 represents the latest year for which relevant data are available, the 2014 data are used to derive historical estimates. Historical estimates may vary from prior year reports due to the availability of more recent data. From the most recent data, tax expenditure estimates are projected to 2020 levels.

A sales tax transaction can be exempt from tax because the good or service is exempt or because its use, purchaser, or seller is exempt. In valuing the exemptions, no account is taken of the fact that if the good or service were made taxable, some of the transactions would remain exempt because of the nature of the use, purchaser, or seller. Hence, the value of a particular good or service may be included in two or more tax expenditure estimates. Because of this overlapping, the revenue value of eliminating an exemption would not necessarily coincide with the estimated value herein.

# SALES AND USE TAX

**Table 5**  
**2020 New York State Sales and Use Tax Expenditure Estimates**  
**(2018-19 Total NY Sales and Use Tax Liability = \$14,300 Million)**  
**(Millions of Dollars)**

Tax Item	Data Source Year(s)	History					Forecast	Reliability
		2013	2014	2015	2016	2017	2020	Level
<b>Services</b>								
1. Certain Information Services		N/A	N/A	N/A	N/A	N/A	N/A	5
2. Certain Information Services Provided Over the Telephone		N/A	N/A	N/A	N/A	N/A	N/A	5
3. Services Performed on a Non-Trade Basis		N/A	N/A	N/A	N/A	N/A	N/A	5
4. Laundering, Tailoring, Shoe Repair, and Similar Services	2013	81.0	83.0	84.0	86.0	90.0	104.0	4B
5. Capital Improvement Installation Services	2013	434.0	464.0	530.0	561.0	586.0	674.0	4C
6. Services Related to Railroad Rolling Stock	2013-2016	2.0	2.0	2.0	2.0	2.0	2.0	4B
7. Services to Property Delivered Outside New York		N/A	N/A	N/A	N/A	N/A	N/A	5
8. Municipal Parking Services	2013-2016	11.0	12.0	12.0	12.0	13.0	13.0	4A
9. Parking and Garaging at a Private Residence	2013-2016	*	*	*	*	*	*	4A
10. Certain Protective and Detective Services		N/A	N/A	N/A	N/A	N/A	N/A	5
11. Medical Emergency Alarm Call Services	2015	1.0	1.0	1.0	1.0	1.0	1.0	4C
12. Coin-Operated Car Wash Services	2013	6.0	6.0	6.0	6.0	6.0	6.0	4C
13. Trash Removal from a Waste Transfer Facility	2013,2014	1.0	1.0	1.0	1.0	1.0	1.0	4B
14. Transportation Services in Connection with Funerals	2013-2016	1.0	1.0	1.0	1.0	1.0	1.0	4C
15. Transportation Services Provided by Affiliated Livery Vehicles <sup>1</sup>	2017	20.0	20.0	20.0	20.0	20.0	20.0	4C
16. Water and Sewer Line Protection Programs <sup>2</sup>	2013	*	*	*	*	*	*	4C
<b>Food</b>								
17. Certain Food Products	2013-2016	1,376.0	1,321.0	1,295.0	1,430.0	1,475.0	1,650.0	4B
18. Food Sold to Airlines	2013-2016	5.0	6.0	6.0	6.0	6.0	6.0	4A
19. Food Sold at School Cafeterias	2013-2016	170.0	169.0	168.0	169.0	174.0	194.0	4A
20. Food Purchased with SNAP Benefits	2013-2016	225.0	205.0	202.0	198.0	204.0	228.0	4A
21. Water Delivered Through Mains or Pipes	2013-2016	96.0	101.0	104.0	107.0	110.0	123.0	4B
22. Mandatory Gratuity Charges	2013-2016	32.0	33.0	36.0	38.0	39.0	43.0	4A
23. Alcoholic Beverage Tastings <sup>1</sup>	2013, 2016	*	*	*	*	*	*	4B
24. Vending Machine Sales of Hot Drinks and Certain Foods	2013-2016	14.0	14.0	14.0	13.0	13.0	14.0	4C
25. Vending Machine Sales of Candy, Juice, Soft Drinks and Bottled Water <sup>1</sup>	2013-2016	3.0	5.0	6.0	6.0	6.0	6.0	4C
26. Food Sold at Senior Citizen Housing Communities	2013	*	*	*	*	*	*	4B
<b>Medical and Health</b>								
27. Drugs, Medicine, and Medical Supplies	2013-2016	1,037.0	1,140.0	1,267.0	1,301.0	1,351.0	1,565.0	4C
28. Feminine Hygiene Products <sup>2</sup>	2015	--	--	--	3.0	7.0	7.0	4C
29. Eyeglasses, Hearing Aids and Prosthetic Aids	2013-2016	188.0	195.0	203.0	212.0	220.0	256.0	4C
30. Veterinarian Services	2013-2016	35.0	40.0	41.0	42.0	44.0	50.0	4B
31. Drugs or Medicines Used in Farm Production	2017	--	--	--	--	--	*	4B

## SALES AND USE TAX

Tax Item	Data Source	History					Forecast	Reliability
	Year(s)	2013	2014	2015	2016	2017	2020	Level
32. Service Dogs	2013	*	*	*	*	*	*	4B
<b>Energy</b>								
33. Residential Energy	2013-2015	775.0	750.0	625.0	577.0	646.0	724.0	4A
34. Fuel, Gas, Electricity, Refrigeration, and Steam Used in Research and Development and Production	2013-2015	169.0	186.0	138.0	139.0	156.0	174.0	4C
35. Fuel, Gas, Electricity, Refrigeration, and Steam Used in Farming and Commercial Horse Boarding	2013	18.0	16.0	12.0	11.0	12.0	14.0	4B
36. Gas and Electricity Used in Transmission, Distribution and Storage	2013-2016	6.0	9.0	7.0	6.0	7.0	8.0	4C
37. Residential Solar Energy Systems	2013-2016	1.0	2.0	2.0	1.0	1.0	1.0	4B
38. Commercial Solar Energy Systems	2013-2016	4.0	4.0	4.0	6.0	7.0	8.0	4C
39. Solar Power Purchase Agreements <sup>2</sup>	2013	--	--	*	*	*	*	4C
40. Commercial Fuel Cell Electricity Generating Systems Equipment <sup>2</sup>	2015	--	--	--	*	2.0	2.0	4B
41. Electricity, Refrigeration, and Steam Sold by Certain Cooperative Corporations	2015,2016	*	*	*	*	*	*	4A
42. Automotive Fuel Receipts Exceeding Two Dollars Per Gallon	2013-2016	359.0	346.0	86.0	49.0	76.0	85.0	4A
43. Alternative Fuels	2013-2016	1.0	1.0	1.0	1.0	1.0	1.0	4A
44. B20 Bio-Diesel Fuel	2013-2016	*	*	*	*	*		4A
<b>Transportation</b>								
45. Commercial Vessels		N/A	N/A	N/A	N/A	N/A	N/A	5
46. Vessels <sup>2</sup>	2016	--	--	*	4.0	4.0	4.0	4B
47. Barge Repairs	2013	*	*	*	*	*	*	4C
48. Commercial Aircraft	2013-2016	19.0	22.0	24.0	26.0	27.0	30.0	4C
49. General Aviation Aircraft <sup>2</sup>	2014	--	--	3.0	10.0	10.0	12.0	4C
50. Fuel Sold to Airlines	2013-2016	130.0	130.0	81.0	105.0	110.0	126.0	4A
51. Parts for Foreign Aircraft		N/A	N/A	N/A	N/A	N/A	N/A	5
52. Services to Private Aircraft	2013-2016	5.0	5.0	5.0	6.0	6.0	6.0	4C
53. Intra-family Sales of Motor Vehicles		N/A	N/A	N/A	N/A	N/A	N/A	5
54. Motor Vehicles and Vessels Sold to Nonresidents		N/A	N/A	N/A	N/A	N/A	N/A	5
55. Motor Vehicles Purchased Out-of-State by a Member of the Military Service <sup>2</sup>	2013	*	4.0	4.0	4.0	4.0	4.0	4C
56. Rental of Trucks in Certain Cases		N/A	N/A	N/A	N/A	N/A	N/A	5
57. Tractor-Trailer Combinations	2013-2016	23.0	24.0	26.0	31.0	33.0	38.0	4B
58. Sales of Property by Railroads in Reorganization	2013-2016	0.0	0.0	0.0	0.0	0.0	0.0	4A
59. Commercial Buses	2013-2016	3.0	6.0	6.0	4.0	4.0	4.0	4A
60. Marine Terminal Facility Equipment	2016	*	*	*	*	*	*	4B
61. Ferry Boats	2016	*	*	*	*	*	*	4A
<b>Communication and Media</b>								
62. Interstate or International Telephone and Telegraph Service	2012,2013	176.0	180.0	176.0	167.0	159.0	185.0	4A
63. Internet Access Service	2013-2017	382.0	421.0	473.0	517.0	517.0	599.0	4C
64. Cable Television Service	2013	324.0	349.0	360.0	379.0	397.0	461.0	4C

## SALES AND USE TAX

Tax Item	Data Source	History					Forecast	Reliability
	Year(s)	2013	2014	2015	2016	2017	2020	Level
65. Newspapers and Periodicals	2013-2017	54.0	53.0	53.0	52.0	52.0	43.0	4B
66. Electronic News Services and Electronic Periodicals <sup>1</sup>		N/A	N/A	N/A	N/A	N/A	N/A	5
67. Shopping Papers	2013-2017	*	*	*	*	*	*	4C
68. Telephone Service Used by the Media		N/A	N/A	N/A	N/A	N/A	N/A	5
69. Certain Coin-Operated Telephone Charges	2013-2017	*	*	*	*	*	*	4C
70. Telecommunications and Internet Equipment	2013-2017	32.0	33.0	27.0	26.0	26.0	29.0	4B
71. Internet Data Centers <sup>1</sup>	2013-2017	4.0	4.0	5.0	7.0	9.0	9.0	4C
72. Radio and Television Broadcasting	2013-2017	4.0	3.0	4.0	5.0	4.0	4.0	4C
73. Film Production		N/A	N/A	N/A	N/A	N/A	N/A	5
74. Certain Mobile Telecommunication Services	2013-2016	7.0	7.0	6.0	6.0	5.0	5.0	4B
<b>Industry</b>								
75. Tools and Supplies Used in Production		N/A	N/A	N/A	N/A	N/A	N/A	5
76. Farm Production and Commercial Horse Boarding	2012-2014	105.0	110.0	103.0	98.0	98.0	108.0	4B
77. Research and Development Property	2013	45.0	48.0	50.0	52.0	55.0	61.0	4B
78. Machinery and Equipment Used in Production	2013-2014	545.0	614.0	608.0	596.0	605.0	662.0	4B
79. Services to Machinery and Equipment Used in Production	2013	14.0	14.0	14.0	14.0	14.0	15.0	4B
80. Wrapping and Packaging Materials		N/A	N/A	N/A	N/A	N/A	N/A	5
81. Milk Crates	2013-2017	*	*	*	*	*	*	4C
82. Commercial Fishing Vessels	2013-2017	1.0	*	*	*	*	*	4B
83. Certain Services Used in Gas or Oil Production	2013-2017	1.0	1.0	1.0	1.0	1.0	1.0	4C
84. Pollution Control Equipment	2013	12.0	13.0	13.0	13.0	13.0	13.0	4C
85. Property Manufactured by the User	2013-2017	1.0	1.0	*	*	*	*	4B
<b>Miscellaneous</b>								
86. Certain Property Sold Through Vending Machines	2013	*	*	*	*	*	*	4C
87. Trade-in Allowance	2013-2017	740.0	780.0	814.0	875.0	897.0	988.0	4B
88. Certain Hotel Room Rent		N/A	N/A	N/A	N/A	N/A	N/A	5
89. Dues for Fraternal Societies	2013-2017	20.0	20.0	21.0	22.0	23.0	26.0	4C
90. Homeowner Association Dues		N/A	N/A	N/A	N/A	N/A	N/A	5
91. Homeowner Association Parking Services		N/A	N/A	N/A	N/A	N/A	N/A	5
92. Property Sold by Morticians	2013-2017	7.0	7.0	6.0	6.0	6.0	6.0	4C
93. Cemetery Monuments <sup>1,2</sup>	2017	--	--	--	--	*	*	4B
94. Flags		N/A	N/A	N/A	N/A	N/A	N/A	5
95. Military Decorations	2013-2017	*	*	*	*	*	*	4C
96. Military Flags and Banners	2013-2017	*	*	*	*	*	*	4C
97. Certain Property Manufactured and Sold by a Veteran <sup>2</sup>	2017	--	--	--	--	*	*	4C
98. Garage Sales		N/A	N/A	N/A	N/A	N/A	N/A	5
99. New Mobile Homes	2013-2017	1.0	1.0	1.0	1.0	1.0	1.0	4A
100. Used Mobile Homes		N/A	N/A	N/A	N/A	N/A	N/A	5
101. Modular Homes	2013-2017	*	*	*	*	*	*	4B
102. Registered Race Horses		N/A	N/A	N/A	N/A	N/A	N/A	5

## SALES AND USE TAX

Tax Item	Data Source	History					Forecast	Reliability
	Year(s)	2013	2014	2015	2016	2017	2020	Level
103. Race Horses Purchased Through Claiming Races		N/A	N/A	N/A	N/A	N/A	N/A	5
104. Race Horses Purchased Out of State		N/A	N/A	N/A	N/A	N/A	N/A	5
105. Training and Maintaining Race Horses	2017	5.0	5.0	5.0	5.0	5.0	5.0	4C
106. Property Sold to Contractors for Capital Improvements or Repairs for Exempt Organizations	2013	166.0	172.0	173.0	178.0	188.0	211.0	4C
107. Property Donated by a Manufacturer to an Exempt Organization		N/A	N/A	N/A	N/A	N/A	N/A	5
108. Sales and Use Tax Paid to Other States		N/A	N/A	N/A	N/A	N/A	N/A	5
109. Precious Metal Bullion and Coins	2013-2017	439.0	390.0	354.0	382.0	383.0	430.0	4C
110. Computer Software Transferred to Affiliated Corporations		N/A	N/A	N/A	N/A	N/A	N/A	5
111. Services to Computer Software		N/A	N/A	N/A	N/A	N/A	N/A	5
112. Self-use of Prewritten Software by its Author		N/A	N/A	N/A	N/A	N/A	N/A	5
113. Computer System Hardware	2013,2014	17.0	14.0	14.0	14.0	15.0	17.0	4C
114. Promotional Materials Mailed Out of State		N/A	N/A	N/A	N/A	N/A	N/A	5
115. Printed Promotional Materials	2015	49.0	50.0	52.0	53.0	56.0	63.0	4C
116. U.S. Postage Used in the Distribution of Promotional Materials		N/A	N/A	N/A	N/A	N/A	N/A	5
117. Clothing and Footwear	2013-2015	800.0	820.0	815.0	828.0	832.0	915.0	4B
118. Coin-Operated Photocopying Machines	2013	*	*	*	*	*	*	4C
119. Luggage Carts	2015	*	*	*	*	*	*	4C
120. Emissions Testing Equipment	2013-2015	*	*	*	*	*	*	4A
121. College Textbooks	2013-2015	25.0	24.0	23.0	24.0	25.0	28.0	4B
122. Live Dramatic or Musical Arts Production	2013-2015	4.0	4.0	4.0	4.0	4.0	4.0	4A
123. Lower Manhattan Commercial Office Space	2013	12.0	14.0	14.0	9.0	7.0	7.0	4B
124. Dodd-Frank Wall Street Reform and Consumer Protection Act <sup>2</sup>	2014	--	--	*	*	*	*	4C
<b>Exempt Organizations</b>								
125. New York State Agencies and Political Subdivisions	2013,2014	1,410.0	1,446.0	1,448.0	1,455.0	1,461.0	1,486.0	4C
126. Industrial Development Agencies	2013	80.0	86.0	84.0	86.0	91.0	102.0	4A
127. Federal Agencies	2013-2015	259.0	237.0	227.0	233.0	246.0	276.0	4B
128. United Nations		N/A	N/A	N/A	N/A	N/A	N/A	5
129. Diplomats and Foreign Missions		N/A	N/A	N/A	N/A	N/A	N/A	5
130. Charitable Organizations	2013-2015	572.0	595.0	625.0	643.0	678.0	761.0	4C
131. Veterans' Posts or Organizations	2013-2015	*	*	*	*	*	*	4C
132. Veterans' Home Gift Shops	2013	*	*	*	*	*	*	4C
133. Indian Nations and Members of Such Indian Nations	2013-2015	3.0	3.0	3.0	3.0	3.0	3.0	4C
134. U.S. Military Base Post Exchanges	2013-2015	7.0	7.0	7.0	7.0	7.0	7.0	4A
135. Nonprofit Health Maintenance Organizations	2013	17.0	17.0	17.0	17.0	18.0	21.0	4A
136. Nonprofit Medical Expense Indemnity or Hospital Service Corporations	2014-2015	5.0	5.0	5.0	5.0	5.0	5.0	4A
137. Nonprofit Property/Casualty Insurance Companies		N/A	N/A	N/A	N/A	N/A	N/A	5



## SALES AND USE TAX

Tax Item	Data Source	History					Forecast	Reliability
	Year(s)	2013	2014	2015	2016	2017	2020	Level
138. Certain State Credit Unions	2013-2015	2.0	2.0	3.0	3.0	3.0	3.0	4A
139. Rural Electric Cooperatives	2013-2015	*	1.0	1.0	1.0	1.0	1.0	4A
140. Municipal Trash Removal Services	2013-2015	38.0	38.0	37.0	38.0	40.0	44.0	4B
<b>Admission Charges</b>								
141. Certain Admission Charges	2013	83.0	86.0	90.0	95.0	99.0	111.0	4B
142. Amusement Park Admissions	2013	3.0	3.0	3.0	3.0	3.0	3.0	4A
143. Events Given for the Benefit of Charitable Organizations, Veterans Posts, and Indian Nations		N/A	N/A	N/A	N/A	N/A	N/A	5
144. Events Given for the Benefit of Certain Orchestras and Opera Companies		N/A	N/A	N/A	N/A	N/A	N/A	5
145. National Guard Organization Events		N/A	N/A	N/A	N/A	N/A	N/A	5
146. Municipal Police and Fire Department Events		N/A	N/A	N/A	N/A	N/A	N/A	5
147. Certain Athletic Games		N/A	N/A	N/A	N/A	N/A	N/A	5
148. Carnivals or Rodeos for Certain Charitable Organizations	2013	1.0	1.0	1.0	1.0	1.0	1.0	4B
149. Agricultural Fairs	2013-2015	*	*	*	*	*	*	4A
150. Historical Homes, Gardens, Sites, and Museums		N/A	N/A	N/A	N/A	N/A	N/A	5
151. Performances at a Roof Garden or Cabaret	2013,2015	3.0	4.0	4.0	4.0	4.0	4.0	4C
<b>Credits</b>								
152. Sales Tax Vendor Credit	2013-2015	77.0	79.0	81.0	82.0	82.0	84.0	2
153. Tangible Personal Property Sold by Contractors in Certain Situations		N/A	N/A	N/A	N/A	N/A	N/A	5
154. Construction Materials Used in Empire Zones		N/A	N/A	N/A	N/A	N/A	N/A	5
155. Bus Companies Providing Local Transit Service	2013	1.0	1.0	1.0	1.0	1.0	1.0	4A
156. Vessel Operators Providing Local Transit Service	2013	*	*	*	*	*	*	4B
157. Qualified Empire Zone Enterprises	2013	20.0	20.0	20.0	20.0	20.0	20.0	4C
158. Economic Transformation and Facility Redevelopment Program	2013,2014	0.0	0.0	0.0	0.0	0.0	0.0	4B
159. New York State Business Incubator and Innovation Hot Spot Program <sup>2</sup>	2013	*	*	*	*	*	*	4C
160. START-UP NY Tax Elimination Credit <sup>2</sup>	2013	--	*	*	*	*	*	4C

1/ A new tax expenditure item or a revision of the methodology, data or data sources resulting in an estimate that better reflects the tax expenditure value.

2/ First estimate in history is a partial calendar year estimate.

-- The tax expenditure was not applicable for these years.

\* Less than \$1 million.

N/A No data available.

## **SALES AND USE TAX**

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### **Services**

1. **Certain Information Services**

**Citation:** Section 1105(c)(1)

**Effective Date:** August 1, 1965; September 1, 1995 for meteorological services; March 1, 2012 for electronic news services.

**Description:** An exclusion is allowed for the furnishing of information that is personal or individual in nature, the services of advertising or other agents acting in a representative capacity, information services used by newspapers, electronic news services, radio broadcasters, and television broadcasters in the collection and dissemination of news, and meteorological services.

2. **Certain Information Services Provided Over the Telephone**

**Citation:** Section 1105(c)(9)

**Effective Date:** September 1, 1990

**Description:** An information service that would be exempt from tax if delivered in printed form is also exempt from tax when provided over the telephone. This exemption complements Section 1105(c)(1), which is Item number 1 above.

3. **Services Performed on a Non-Trade Basis**

**Citation:** Section 1105(c)(3)(i) and Section 1105(c)(5)(i)

**Effective Date:** August 1, 1965

**Description:** An exclusion is allowed for installation, repair, and maintenance services rendered by an individual who is engaged directly by a private homeowner or lessee and who is not in a regular trade or business offering those services to the public.

4. **Laundering, Tailoring, Shoe Repair, and Similar Services**

**Citation:** Section 1105(c)(3)(ii)

**Effective Date:** August 1, 1965

**Description:** Charges for laundering, dry cleaning, tailoring, weaving, pressing, shoe repairing, and shoe shining are excluded from tax.

5. **Capital Improvement Installation Services**

**Citation:** Section 1105(c)(3)(iii)

**Effective Date:** August 1, 1965

**Description:** An exclusion is allowed for installing property which, when installed, will constitute an addition or capital improvement to real property.

6. **Services Related to Railroad Rolling Stock**

**Citation:** Section 1105(c)(3)(viii)

**Effective Date:** September 1, 1985

**Description:** Excluded from tax are repair and maintenance services rendered with respect to railroad rolling stock primarily engaged in carrying freight, but not including any charge for parts.

- 7. Services to Property Delivered Outside New York**  
**Citation:** Section 1115(d)  
**Effective Date:** August 1, 1965  
**Description:** Services to tangible personal property are exempt when the property is delivered outside New York State for use outside the State.
- 8. Municipal Parking Services**  
**Citation:** Section 1105(c)(6)  
**Effective Date:** December 1, 1996  
**Description:** Charges for parking, garaging, or storing motor vehicles are exempt at facilities owned and operated by local governments and local public parking authorities.
- 9. Parking and Garaging at a Private Residence**  
**Citation:** Section 1105(c)(6)  
**Effective Date:** June 1, 1990  
**Description:** Charges for parking, garaging or storing vehicles at a garage that constitutes part of the premises occupied solely as a private one- or two-family dwelling are exempt.
- 10. Certain Protective and Detective Services**  
**Citation:** Section 1105(c)(8)  
**Effective Date:** June 1, 1990  
**Description:** Protective and detective services provided by a port watchman licensed by the Waterfront Commission of New York Harbor are exempt from tax.
- 11. Medical Emergency Alarm Call Services**  
**Citation:** Section 1115(r)  
**Effective Date:** September 1, 1994  
**Description:** Exempt from tax are medical emergency alarm services.
- 12. Coin-Operated Car Wash Services**  
**Citation:** Section 1115(t)  
**Effective Date:** December 1, 1997; December 1, 2004 for certain vacuuming services; December 1, 2005 for additional automated services.  
**Description:** The sales tax exempts the service of washing, waxing, or vacuuming a motor vehicle or other property by means of coin-operated equipment.
- 13. Trash Removal from a Waste Transfer Facility**  
**Citation:** Section 1105(c)(5)(iv)  
**Effective Date:** December 1, 2005  
**Description:** Excluded from tax is the removal of waste material from a waste transfer station or construction and demolition debris processing facility, where the waste to be removed was not originally generated by the facility.

## SALES AND USE TAX

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14. **Transportation Services in Connection with Funerals**  
**Citation:** Sections 1101(b)(34)  
**Effective Date:** June 1, 2009  
**Description:** Excluded from tax is the transportation service of transporting persons in connection with funerals.
15. **Transportation Services Provided by Affiliated Livery Vehicles**  
**Citation:** Sections 1101(b)(34)  
**Effective Date:** June 1, 2009  
**Description:** Charges for transportation services provided by affiliated livery vehicles within New York City are excluded from the sales tax on certain transportation services.
16. **Water and Sewer Service Line Protection Programs**  
**Citation:** Section 1115(ii)  
**Effective Date:** October 21, 2013  
**Description:** Water and sewer service line protection programs sold to owners of residential property are exempt from tax.

### Food

17. **Certain Food Products**  
**Citation:** Sections 1115(a)(1), 1105(d)(i)(3)  
**Effective Date:** August 1, 1965  
**Description:** Exempt from tax are food, food products, beverages, dietary foods, and health supplements sold for human consumption. The exemption does not include candy and confectionery, fruit drinks which contain less than 70 percent of natural fruit juice, soft drinks, sodas, beer, wine, or other alcoholic beverages. Sales of food (other than sandwiches) or drink of a type commonly sold in food stores are exempt when sold by a restaurant or other establishment unheated and for off-premises consumption.
18. **Food Sold to Airlines**  
**Citation:** Section 1105(d)(ii)(A)  
**Effective Date:** August 1, 1965  
**Description:** The sales tax does not apply to food or drink that is sold to an airline for consumption by passengers while in flight.
19. **Food Sold at School Cafeterias**  
**Citation:** Section 1105(d)(ii)(B)  
**Effective Date:** September 1, 1968  
**Description:** Food or drink sold to nursery school, kindergarten, elementary, or secondary school students at a restaurant or cafeteria located at the school is excluded from tax. Also excluded are food and nonalcoholic beverages sold at a restaurant, tavern, or other establishment located on the premises of a college or university when sold

- to enrolled students under a contractual arrangement whereby the students do not pay cash at the time they are served.
20. **Food Purchased with SNAP Benefits**  
**Citation:** Section 1115(k)  
**Effective Date:** October 1, 1987  
**Description:** Food and beverages eligible to be purchased with the Supplemental Nutrition Assistance Program (SNAP, formerly known as “food stamps”) are exempt from tax.
  21. **Water Delivered Through Mains or Pipes**  
**Citation:** Section 1115(a)(2)  
**Effective Date:** August 1, 1965  
**Description:** Water delivered to consumers through mains or pipes is exempt.
  22. **Mandatory Gratuity Charges**  
**Citation:** Section 1105(d) and Regulation Section 527.8(l)  
**Effective Date:** August 1, 1965  
**Description:** A separately stated charge specifically designated as a gratuity is exempt where all such monies received are paid over to employees.
  23. **Alcoholic Beverage Tastings**  
**Citation:** Section 1115(a)(33), 1118(13)  
**Effective Date:** December 1, 1997 for wine; April 13, 2015 for kegs, cans, bottles, corks, caps, and labels; June 1, 2015 for beer, cider and liquor; March 28, 2019 for mead  
**Description:** Wine, beer, cider, liquor and mead furnished at a tasting held in accordance with the alcoholic beverage control law to a customer or prospective customer for consumption at the tasting is exempt from tax. Also exempt are kegs, cans, bottles, corks, caps, and labels used to package the alcoholic beverages served at the tastings.
  24. **Vending Machine Sales of Hot Drinks and Certain Foods**  
**Citation:** Section 1105(d)(i)(3)  
**Effective Date:** December 1, 1997; December 1, 1999 for credit/debit card-operated machines.  
**Description:** Exempt from tax are hot drinks sold through coin-operated vending machines and vending machines accepting credit cards or debit cards. In addition, vending machine sales of other food and beverage, including food and beverage sold for on-premises consumption, are exempt if the food or beverage would be exempt when sold at a grocery store.
  25. **Vending Machine Sales of Candy, Juice, Soft Drinks and Bottled Water**  
**Citation:** Section 1115(a)(1)

## SALES AND USE TAX

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**Effective Date:** September 1, 2000; \$2.00 exemption and inclusion of bottled water effective June 1, 2019

**Description:** Candy, fruit drinks, soft drinks and bottled water sold for \$2.00 or less are exempt from tax when sold from a vending machine that accepts forms of payment other than coin or currency. For vending machines that only accept coin and currency, the exemption threshold is \$1.50. For September 1, 2000 through May 31, 2014, the exemption threshold was 75 cents. For June 1, 2014 through May 31, 2019, the exemption threshold was \$1.50.

**Termination Date:** Expires May 31, 2021

### 26. **Food Sold at Senior Citizen Housing Communities**

**Citation:** Section 1115(w)

**Effective Date:** December 1, 2000

**Description:** Sales by a senior citizen independent housing community of food or drink (except alcoholic beverages) for on-premises consumption are exempt from tax when served to residents and their guests at the dining facility or in the resident's room.

## Medical and Health

### 27. **Drugs, Medicine, and Medical Supplies**

**Citation:** Section 1115(a)(3), (g)

**Effective Date:** August 1, 1965 for drugs and medicines; September 1, 1976 for medical equipment and supplies and services to medical equipment.

**Description:** Exempt from tax are drugs and medicines intended for use, internally or externally, in the cure, mitigation, treatment, or prevention of illnesses or diseases in human beings. The exemption extends to medical equipment and supplies and services to medical equipment. This exemption does not include medical equipment and supplies purchased by a person who provides medical or dental services for compensation.

### 28. **Feminine Hygiene Products**

**Citation:** Section 1115(a)(3-a)

**Effective Date:** September 1, 2016

**Description:** The retail sale of feminine hygiene products is exempt from tax.

### 29. **Eyeglasses, Hearing Aids, and Prosthetic Aids**

**Citation:** Section 1115(a)(4), (g)

**Effective Date:** August 1, 1965 (Sec. 1115(a)(4)); September 1, 1969 (Sec. 1115(g))

**Description:** Eyeglasses, hearing aids, prosthetic aids, and artificial devices and component parts purchased to correct physical incapacity in human beings, as well as services performed upon these items, are exempt from tax.

30. **Veterinarian Services**

**Citation:** Section 1115(f)(1)

**Effective Date:** June 1, 1967

**Description:** Services rendered by a licensed veterinarian in the practice of veterinary medicine are exempt from tax. Tangible personal property designed for use by domestic animals or poultry is also exempt when sold by a veterinarian. However, the veterinarian pays sales tax on the purchase of such property.

31. **Drugs or Medicines Used in Farm Production**

**Citation:** Section 1115(f)(2)

**Effective Date:** June 1, 2018

**Description:** Drugs or medicines for use on livestock or poultry used in farm production are exempt from tax. Prior to June 1, 2018, only a refund or credit for tax paid on these drugs or medicines was available.

32. **Service Dogs**

**Citation:** Section 1115(s)

**Effective Date:** September 24, 1995

**Description:** The sale of any good or service necessary to acquire, sustain, or maintain a guide dog, a hearing dog, or a service dog which is used by a person with a disability is exempt.

## Energy

33. **Residential Energy**

**Citation:** Sections 1105-A, 1115(a)(25)

**Effective Date:** October 1, 1980 (Section 1105-A); September 1, 1985 (Section 1115(a)(25))

**Description:** Receipts from the retail sale of wood used for residential heating purposes, fuel oil, propane (except when sold in containers that hold less than 100 pounds), natural gas, electricity and steam, and gas, electric, and steam services used for residential purposes are taxed at the rate of zero percent and thus are exempt from State sales tax. Residential use of natural gas obtained from a gas well located on the landowner's property is exempt.

34. **Fuel, Gas, Electricity, Refrigeration, and Steam Used in Research and Development and Production**

**Citation:** Section 1115(b)(ii), (c)(1)

**Effective Date:** August 1, 1965

**Description:** Fuel, gas, electricity, refrigeration, and steam; and gas, electric, refrigeration, and steam service used directly and exclusively in research and development in the experimental or laboratory sense, or used directly and exclusively in the production of tangible personal property, gas, electricity, refrigeration, or steam, for sale, by



## SALES AND USE TAX

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- manufacturing, processing, assembling, generating, refining, mining, or extracting are exempt from the sales tax.
35. **Fuel, Gas, Electricity, Refrigeration, and Steam Used in Farming and Commercial Horse Boarding**  
**Citation:** Section 1115(c)(2)  
**Effective Date:** September 1, 2000  
**Description:** Fuel, gas, electricity, refrigeration, and steam; and gas, electric, refrigeration, and steam service used in the production of tangible personal property, for sale, by farming or in a commercial horse boarding operation are exempt from tax.
36. **Gas and Electricity Used in Transmission, Distribution and Storage**  
**Citation:** Section 1115(w)  
**Effective Date:** June 1, 2000  
**Description:** Gas or electricity or gas or electric service used directly and exclusively to provide gas or electric service consisting of operating a gas pipeline or gas distribution line or an electric transmission or distribution line and ensuring the necessary working pressure in an underground gas storage facility is exempt.
37. **Residential Solar Energy Systems**  
**Citation:** Section 1115(ee)(1)  
**Effective Date:** September 1, 2005  
**Description:** Residential solar energy systems equipment and the service of installing such systems is exempt from tax.
38. **Commercial Solar Energy Systems**  
**Citation:** Section 1115(ii)(1)  
**Effective Date:** January 1, 2013  
**Description:** Commercial solar energy systems equipment and the service of installing such systems is exempt from tax.
39. **Solar Power Purchase Agreements**  
**Citation:** Section 1115(ee)(2), (ii)(2)  
**Effective Date:** December 1, 2015  
**Description:** Electricity sold by a solar energy company is exempt when the electricity is generated by equipment owned by the solar energy company and installed at the purchaser's residential or non-residential premises.
40. **Commercial Fuel Cell Electricity Generating Systems Equipment**  
**Citation:** Section 1115(kk)  
**Effective Date:** June 1, 2016  
**Description:** Exempt from tax is the retail sale of commercial fuel cell electricity generating systems equipment and the service of installing and maintaining the systems. Electricity generated by a fuel cell is also eligible for the exemption from sales tax under certain circumstances.



41. **Electricity, Refrigeration, and Steam Sold by Certain Cooperative Corporations**  
**Citation:** Section 1115(b)(iii)  
**Effective Date:** March 1, 2006  
**Description:** Exempt from tax are electricity, steam, and refrigeration produced by a cogeneration facility owned and operated by certain cooperative corporations and distributed to tenants.
42. **Automotive Fuel Receipts Exceeding Two Dollars Per Gallon**  
**Citation:** Section 1111(m)  
**Effective Date:** June 1, 2006  
**Description:** Certain motor fuel and diesel motor fuel sales are subject to tax at the rate of 8 cents per gallon. This effectively exempts the portion of the taxable receipt exceeding two dollars per gallon.
43. **Alternative Fuels**  
**Citation:** Section 1115(a)(42)  
**Effective Date:** September 1, 2006  
**Description:** E85, CNG, or hydrogen is exempt from sales tax when used directly and exclusively in the engine of a motor vehicle.  
**Termination Date:** Expires August 31, 2021
44. **B20 Bio-Diesel Fuel**  
**Citation:** Section 1111(n)  
**Effective Date:** September 1, 2006  
**Description:** Bio-diesel fuel that is B20 is exempt from 20 percent of the cents-per-gallon sales tax rate imposed on certain sales of diesel motor fuel.  
**Termination Date:** Expires August 31, 2021

### Transportation

45. **Commercial Vessels**  
**Citation:** Sections 1101(b)(16), 1105(c)(3)(iv), 1115(a)(8)  
**Effective Date:** August 1, 1965 (Sections 1105(c)(3)(iv), 1115(a)(8)); December 1, 1996 (Section 1101(b)(16))  
**Description:** Sales of commercial vessels primarily engaged in interstate or foreign commerce and property used by or purchased for the use of such vessels for fuel, provisions, supplies, maintenance, and repairs are exempt. Services rendered with respect to commercial vessels are also exempt.

## SALES AND USE TAX

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46. **Vessels**

**Citation:** Section 1115(jj)

**Effective Date:** June 1, 2015

**Description:** Receipts in excess of \$230,000 for a vessel (as defined in Section 2250 of the Vehicle and Traffic Law), including any outboard motor or trailer when sold in conjunction with the vessel, are exempt from sales tax.

47. **Barge Repairs**

**Citation:** Section 1115(q)

**Effective Date:** December 1, 1993

**Description:** Exempt from tax are maintenance and repair services (including parts) performed on a barge having a cargo capacity of at least 1,000 short tons used exclusively to transport goods in the conduct of its owner's business and primarily engaged in transportation between New York State and any other state or foreign country.

48. **Commercial Aircraft**

**Citation:** Sections 1101(b)(17), 1105(c)(3)(v), 1115(a)(21)

**Effective Date:** March 1, 1979 (Sections 1105(c)(3)(v), 1115(a)(21)); December 1, 1996 (Section 1101(b)(17))

**Description:** Exempt from tax are commercial aircraft primarily engaged in intrastate, interstate, or foreign commerce; machinery or equipment to be installed on such aircraft; property used by or purchased for the use of such aircraft for maintenance and repairs; flight simulators purchased by commercial airlines; and services rendered with respect to exempt purchases.

49. **General Aviation Aircraft**

**Citation:** Section 1115(a)(21-a)

**Effective Date:** September 1, 2015

**Description:** General aviation aircraft, and machinery and equipment to be installed on the aircraft, are exempt from sales tax.

50. **Fuel Sold to Airlines**

**Citation:** Section 1115(a)(9)

**Effective Date:** August 1, 1965

**Description:** Fuel sold to an airline for use in its airplanes is exempt from tax.

51. **Parts for Foreign Aircraft**

**Citation:** Section 1118(8)

**Effective Date:** September 1, 1977

**Description:** Parts, engines, consumable technical supplies, and maintenance and ground equipment used exclusively in the operation, handling, or maintenance of aircraft are exempt from use tax if it is a foreign airline that brings such items into New York from a foreign country. These items must be used on aircraft owned by the foreign airline, and

are exempt only if similar items would not be subject to tax in the airline's home country if taken into such country by a U.S. airline.

52. **Services to Private Aircraft**

**Citation:** Section 1115(dd)

**Effective Date:** December 1, 2004

**Description:** A sales and use tax exemption is provided for maintenance and certain other services performed on private aircraft, as well as the tangible personal property purchased and used in performing the services and any related storage charges.

53. **Intra-family Sales of Motor Vehicles**

**Citation:** Section 1115(a)(14)

**Effective Date:** September 1, 1969 for transactions between spouses, and September 1, 1972 for transactions between parents and children.

**Description:** Motor vehicles sold between spouses, or by a parent to a child or child to parent are exempt from tax.

54. **Motor Vehicles and Vessels Sold to Nonresidents**

**Citation:** Section 1117(a)

**Effective Date:** August 1, 1965, as amended December 1, 1994 and March 1, 2001.

**Description:** Sales of motor vehicles and vessels in New York to nonresidents are exempt from the sales tax provided the nonresident purchaser is not registering the newly purchased vehicle or vessel for use in New York.

55. **Motor Vehicles Purchased Out-of-State by a Member of the Military Service**

**Citation:** Section 1115(a)(14-a)

**Effective Date:** December 18, 2013

**Description:** Motor vehicles purchased in another state by a person while he or she was in the military service of the United States are exempt from tax.

56. **Rental of Trucks in Certain Cases**

**Citation:** Section 1115(a)(22)

**Effective Date:** May 15, 1981

**Description:** Certain rentals or leases of trucks, tractors, or tractor-trailer combinations to an authorized carrier, pursuant to a written contractual agreement are exempt.

57. **Tractor-Trailer Combinations**

**Citation:** Section 1115(a)(26), (g)

**Effective Date:** January 1, 1988

**Description:** Exempt from tax are tractors, trailers or semitrailers, and property installed on such vehicles for their equipping, maintenance, or repair, provided the vehicle is used in combination where the gross weight

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- of such combination exceeds 26,000 pounds. Related services performed on these vehicles are also exempt.
58. **Sales of Property by Railroads in Reorganization**  
**Citation:** Section 1115(h)  
**Effective Date:** August 1, 1975  
**Description:** Sales of tangible personal property by a railroad in reorganization to a profitable railroad are exempt if the transactions are part of a reorganization plan.
59. **Commercial Buses**  
**Citation:** Section 1115(a)(32), (u)  
**Effective Date:** December 1, 1997  
**Description:** Exempt from tax are buses and parts, equipment, and lubricants used in operating the bus, provided the vehicle weighs at least 26,000 pounds and measures 40 feet and is used to transport persons for hire. Related services performed on these vehicles are also exempt.
60. **Marine Terminal Facility Equipment**  
**Citation:** 1115(a)(41)  
**Effective Date:** December 1, 2005  
**Description:** Exempt from tax are machinery and equipment for use directly and predominantly in loading, unloading, and handling cargo at a marine terminal facility located in a city with a population of one million or more which in 2003, handled more than 350,000 twenty-foot equivalent units (TEUs).
61. **Ferry Boats**  
**Citation:** Section 1115(a)(43)  
**Effective Date:** September 1, 2008  
**Description:** Exempt from tax are ferry boats and property used in conjunction with exempt boats for fuel, provisions, supplies, maintenance and repairs.

### Communication and Media

62. **Interstate or International Telephone and Telegraph Service**  
**Citation:** Section 1105(b)  
**Effective Date:** August 1, 1965  
**Description:** Charges for interstate and international telephone and telegraph services are exempt.
63. **Internet Access Service**  
**Citation:** Section 1115(v)  
**Effective Date:** February 1, 1997  
**Description:** The sales tax exempts Internet access service. Incidental services such as Internet communications or navigation software, an

email address, and news headlines when offered in conjunction with Internet access are considered part of the exempt service.

64. **Cable Television Service**

**Citation:** Section 1105(c)(9)

**Effective Date:** September 1, 1990

**Description:** Cable television service is exempt from tax.

65. **Newspapers and Periodicals**

**Citation:** Sections 1101(b)(6), 1115(a)(5), Regulation Section 528.6, Section 1118(5)

**Effective Date:** August 1, 1965 (Section 1115(a)(5)); December 1, 1994 (Section 1101(b)(6))

**Description:** The sales of newspapers and periodicals are exempt from tax. In addition, the paper and ink used to publish newspapers and periodicals are exempt.

66. **Electronic News Services and Electronic Periodicals**

**Citation:** Section 1115(gg)

**Effective Date:** March 1, 2012

**Description:** Certain electronic news services and electronic periodicals are exempt from tax.

67. **Shopping Papers**

**Citation:** Section 1115(a)(20), (i)

**Effective Date:** September 1, 1977

**Description:** Receipts from the retail sale of a shopping paper to the publisher are exempt as well as the receipts from the sale of printing services performed in publishing such paper. In addition, the paper and ink used to publish a shopping paper are exempt.

68. **Telephone Service Used by the Media**

**Citation:** Section 1115(b)(i)

**Effective Date:** August 1, 1965; March 1, 2012 for electronic news services

**Description:** Charges for telephone and telegraph service used by newspapers, electronic news services, radio broadcasters, and television broadcasters in the collection or dissemination of news are exempt if the charges are toll charges or charges for mileage.

69. **Certain Coin-Operated Telephone Charges**

**Citation:** Section 1115(e)

**Effective Date:** September 1, 1998

**Description:** Coin-operated telephone charges of 25 cents or less are exempt.

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70. **Telecommunications and Internet Equipment**  
**Citation:** Sections 1115(a)(12-a), 1105(c)(3)(x)  
**Effective Date:** September 1, 2000  
**Description:** Exempt from tax is tangible personal property used directly and predominantly in the receiving, initiating, amplifying, processing, transmitting, re-transmitting, switching, or monitoring of switching of telecommunications services for sale or Internet access services for sale.
71. **Internet Data Centers**  
**Citation:** Section 1115(a)(37), (y)  
**Effective Date:** September 1, 2000  
**Description:** Machinery, equipment, and certain other tangible personal property sold to a person operating an Internet data center that is required for and directly related to the provision of Internet Web site hosting and other Web site services at the data center are exempt. Also exempt are certain services to the exempt tangible personal property and building security services.
72. **Radio and Television Broadcasting**  
**Citation:** Section 1115(a)(38), (aa)  
**Effective Date:** September 1, 2000  
**Description:** Exempt from tax are purchases by radio and television broadcasters of machinery, equipment, parts, tools, and supplies used in the production and transmission of live or recorded programs. Installing, maintaining, servicing, or repairing the exempt items is also exempt. Moreover, the services of producing, fabricating, processing, printing, or imprinting tangible personal property furnished to the service provider by the broadcaster and performed in connection with the production, post-production, or the transmission of live or recorded programs are exempt.
73. **Film Production**  
**Citation:** Section 1115(a)(39) and Section 1115(bb)  
**Effective Date:** December 1, 2002  
**Description:** Tangible personal property used or consumed directly and predominantly in the production of a film for sale is exempt, regardless of the medium by which the film is conveyed to the purchaser. The exemption also extends to services rendered to the exempt property and to fuel and utility services used directly and exclusively in production.
74. **Certain Mobile Telecommunication Services**  
**Citation:** Section 1115(cc)  
**Effective Date:** August 1, 2002  
**Description:** The sale of mobile telecommunication services by a home service provider is exempt from tax if the mobile telecommunications customer's place of primary use is outside of New York State.

## **Industry**

75. **Tools and Supplies Used in Production**  
**Citation:** Sections 1105-B(a), 1115(a)(36)  
**Effective Date:** March 1, 1981, December 1, 1998 (Section 1115(a)(36))  
**Description:** Receipts from the retail sale of parts with a useful life of one year or less, tools and supplies for use or consumption directly and predominantly in the production of tangible personal property, gas, electricity, refrigeration, or steam for sale by manufacturing, processing, generating, assembling, refining, mining, or extracting are exempt from sales tax.
76. **Farm Production and Commercial Horse Boarding**  
**Citation:** Sections 1115(a)(6), 1105(c)(3)(vi), 1105(c)(5)(iii)  
**Effective Date:** August 1, 1965 (Section 1115(a)(6)); September 1, 1982 (Section 1105(c)(3)(vi)), September 1, 2000 (Section 1105(c)(5)(iii))  
**Description:** Exempt from tax is tangible personal property for use or consumption predominantly in the production, for sale, of tangible personal property by farming or in a commercial horse boarding operation. Also exempt are the services of installing, repairing, maintaining, and servicing tangible personal property and real property used predominantly in farming or in a commercial horse boarding operation.
77. **Research and Development Property**  
**Citation:** Section 1115(a)(10)  
**Effective Date:** August 1, 1965  
**Description:** Tangible personal property purchased for use or consumption directly and predominantly in research and development in the experimental or laboratory sense is exempt from tax.
78. **Machinery and Equipment Used in Production**  
**Citation:** Section 1115(a)(12)  
**Effective Date:** August 1, 1965  
**Description:** Exempt from sales tax are machinery and equipment for use or consumption directly and predominantly in the production of tangible personal property, gas, electricity, refrigeration, or steam for sale by manufacturing, processing, generating, assembling, refining, mining, or extracting.
79. **Services to Machinery and Equipment Used in Production**  
**Citation:** Section 1105-B(b)  
**Effective Date:** March 1, 1981  
**Description:** The services of installing, repairing, maintaining, or servicing exempt production machinery and equipment or exempt parts, tools, and supplies are exempt.



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80. **Wrapping and Packaging Materials**  
**Citation:** Section 1115(a)(19)  
**Effective Date:** July 1, 1974  
**Description:** Cartons, containers, wrapping, and packaging materials and supplies are nontaxable when used by a vendor in packaging or packing tangible personal property for sale and actually transferred to the purchaser.
81. **Milk Crates**  
**Citation:** Section 1115(a)(19-a)  
**Effective Date:** September 1, 2007  
**Description:** Exempt from tax are milk crates purchased by a dairy farmer or licensed milk distributor used exclusively and directly for packaging and delivering milk and milk products to customers.
82. **Commercial Fishing Vessels**  
**Citation:** Sections 1115(a)(24), 1105(c)(3)(vii)  
**Effective Date:** August 1, 1985  
**Description:** Exempt from tax are the sales of commercial fishing vessels used directly and predominantly in the harvesting of fish for sale, and property used by or purchased for the use of such vessels for fuel, provisions, supplies, maintenance, and repairs. Related services are also exempt.
83. **Certain Services Used in Gas or Oil Production**  
**Citation:** Section 1105(c)(3)(ix), (c)(5)  
**Effective Date:** December 1, 1998  
**Description:** Exempt from tax are the services of installing, maintaining, repairing, or servicing tangible personal property used directly and predominately in producing gas or oil for sale. Also exempt are maintenance and repair services rendered to real property or land used directly and predominately in producing gas or oil for sale.
84. **Pollution Control Equipment**  
**Citation:** Section 1115(a)(40)  
**Effective Date:** March 1, 2001  
**Description:** Machinery or equipment used directly and predominantly in the control, prevention, or abatement of pollution or contaminants from manufacturing or industrial facilities is exempt to the extent not exempted under expenditure Item number 78.
85. **Property Manufactured by the User**  
**Citation:** Section 1110(c)  
**Effective Date:** March 1, 2001  
**Description:** The Compensating Use Tax imposed on certain self-produced items used by a manufacturer on its own premises is computed on the cost of materials rather than on the manufacturer's normal selling price.



**Miscellaneous**

86. **Certain Property Sold Through Vending Machines**  
**Citation:** Section 1115(a)(13), (13-a)  
**Effective Date:** August 1, 1965 (Section 1115(a)(13)); 50-cent exemption effective Department 1, 1997 (Section 1115(a)(13-a))  
**Description:** Tangible personal property sold through coin-operated vending machines at 10 cents or less is exempt, provided the retailer is primarily engaged in making such sales. Also exempt is tangible personal property sold through coin-operated bulk vending machines at 50 cents or less, provided the retailer is primarily engaged in making such sales.
87. **Trade-in Allowance**  
**Citation:** Section 1101(b)(3)  
**Effective Date:** August 1, 1965  
**Description:** A credit for a trade-in on an automobile or other item qualifies as a reduction of the taxable receipts, provided the item traded in is intended for resale by the vendor.
88. **Certain Hotel Room Rent**  
**Citation:** Section 1105(e)(1),(2)  
**Effective Date:** August 1, 1965  
**Description:** The rent for occupancy of a hotel room by a permanent resident or where the rent is not more than two dollars per day is exempt from tax.
89. **Dues for Fraternal Societies**  
**Citation:** Section 1105(f)(2)(i), 1105(f)(2)(ii)(A), (B)  
**Effective Date:** August 1, 1965  
**Description:** Dues and initiation fees paid to a fraternal society, order, or association operating under the lodge system or any fraternal association of students of a college or university are excluded from tax. Dues of \$10 or less per year paid to a social or athletic club are also exempt.
90. **Homeowner Association Dues**  
**Citation:** Section 1105(f)(2)(ii)(C)  
**Effective Date:** September 1, 1995  
**Description:** The Tax Law exempts the dues paid to a homeowner association operating social or athletic facilities for its members.
91. **Homeowner Association Parking Services**  
**Citation:** Section 1105(c)(6)  
**Effective Date:** December 1, 1997  
**Description:** Charges paid by a homeowner association member for parking, garaging, or storing motor vehicles at a facility owned or operated by the association are exempt.

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92. **Property Sold by Morticians**  
**Citation:** Section 1115(a)(7)  
**Effective Date:** August 1, 1965  
**Description:** Exempt from tax is tangible personal property sold by a mortician, undertaker, or funeral director. However, sales to them for use in conducting funerals do not qualify as a sale for resale and are taxable.
93. **Cemetery Monuments**  
**Citation:** Section 1115(a)(44)  
**Effective Date:** September 1, 2017; June 1, 2019 for tangible personal property that will become a physical component part of the monument  
**Description:** The retail sale of monuments, as that term is defined in Not-For-Profit Corporation Law § 1502(f), and tangible personal property that will become a physical component part of the monument is exempt from tax.
94. **Flags**  
**Citation:** Section 1115(a)(11)  
**Effective Date:** August 1, 1965  
**Description:** Flags of the United States of America and the State of New York are exempt.
95. **Military Decorations**  
**Citation:** Section 1115(a)(11-a)  
**Effective Date:** December 1, 2006  
**Description:** Purchases of military decorations (e.g., ribbons, medals, and lapel pins) by a veteran or active member of the United States military are exempt from tax.
96. **Military Flags and Banners**  
**Citation:** Section 1115(a)(11-b)  
**Effective Date:** December 1, 2012  
**Description:** Military service flags, prisoner of war flags and blue star banners are exempt from tax.
97. **Property Manufactured and Sold by a Veteran**  
**Citation:** Section 1115(a)(18-a)  
**Effective Date:** March 1, 2017  
**Description:** Tangible personal property manufactured and sold by a veteran for the benefit of the veteran's service organization is exempt from tax. The exemption applies to the first \$2,500 of such sales in a calendar year.
98. **Garage Sales**  
**Citation:** Section 1115(a)(18)  
**Effective Date:** September 1, 1973  
**Description:** Certain sales of property at private residences are not taxable if the sales do not take place more than three days in a calendar

year, are reasonably expected not to exceed \$600, if no member of the household conducts a trade or business selling similar products, and the sale is not held to liquidate an estate.

99. **New Mobile Homes**

**Citation:** Section 1111(f)

**Effective Date:** September 1, 1983

**Description:** Thirty percent of the receipts or consideration from sales of new mobile homes is exempt from tax.

100. **Used Mobile Homes**

**Citation:** Section 1115(a)(23)

**Effective Date:** January 1, 1982

**Description:** Sales of used mobile homes are tax exempt.

101. **Modular Homes**

**Citation:** Section 1111(p)

**Effective Date:** December 1, 2009

**Description:** Forty percent of a vendor's receipt from the sale of a new modular home module is exempt from sales tax.

102. **Registered Race Horses**

**Citation:** Section 1115(a)(29)

**Effective Date:** June 1, 1994

**Description:** Certain registered racehorses purchased or used for entry in events on which pari-mutuel wagering is authorized are exempt. The exemption does not apply to a horse that had never raced in such an event during the first four years of its life.

103. **Race Horses Purchased Through Claiming Races**

**Citation:** Section 1111(g)

**Effective Date:** July 1, 1985

**Description:** The sale in New York of race horses through claiming races, if not otherwise exempt, is taxable on the full purchase price. However, on the second or later sale of the same horse in the same calendar year within the State, the tax applies only to the excess of the purchase price over the highest of the prior purchase prices.

104. **Race Horses Purchased Out of State**

**Citation:** Section 1118(9), (10)

**Effective Date:** July 28, 1981 (Section 1118(9)); July 1, 1985 (Section 1118(10))

**Description:** Certain race horses purchased outside New York and brought into the State for the purpose of entering racing events are exempt from use tax. For race horses not otherwise exempt and entered in racing events in New York on more than five days, the use tax does not apply to the value of the race horse in excess of \$100,000.

**Estimates:** No data available

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**105. Training and Maintaining Race Horses**

**Citation:** Section 1115(m)

**Effective Date:** July 19, 1988

**Description:** Exempt from tax are the services of training and maintaining race horses. Also exempt is the tangible personal property actually transferred by a trainer to the race horse owner in conjunction with such services.

**106. Property Sold to Contractors for Capital Improvements or Repairs for Exempt Organizations**

**Citation:** Section 1115(a)(15), (16)

**Effective Date:** September 1, 1969

**Description:** Tangible personal property sold to a contractor, subcontractor, or repairman is exempt from tax if the property is used in erecting structures, maintaining, servicing, repairing, or adding to or altering the real property of an exempt organization and such property becomes an integral component part of the realty.

**107. Property Donated by a Manufacturer to an Exempt Organization**

**Citation:** Section 1115(l)

**Effective Date:** September 1, 1986

**Description:** Tangible personal property manufactured and donated by the manufacturer to an exempt organization is exempt from tax provided that the manufacturer offers the same kind of property for sale in the regular course of business and that the manufacturer has not made any other use of the donated property.

**108. Sales and Use Tax Paid to Other States**

**Citation:** Section 1118(7)

**Effective Date:** August 1, 1965

**Description:** Exempt from tax are property or services upon which a sales or use tax was properly paid to another state, providing such state allows a corresponding exemption for taxable purchases in New York, and no credit or refund is available from such other state. Tax is due to New York to the extent that the tax imposed by New York is at a higher rate than the rate of such other state.

**109. Precious Metal Bullion and Coins**

**Citation:** Section 1115(a)(27)

**Effective Date:** September 1, 1989

**Description:** Precious metal bullion and coins sold for investment are exempt.

**110. Computer Software Transferred to Affiliated Corporations**

**Citation:** Section 1115(a)(28)

**Effective Date:** September 1, 1991

**Description:** Computer software that was originally purchased as a nontaxable custom computer program, and is subsequently sold by the

original purchaser to a corporation that is a member of an affiliated group to which the original purchaser also belongs, is exempt from tax.

**111. Services to Computer Software**

**Citation:** Section 1115(o)

**Effective Date:** September 1, 1991

**Description:** Installing, maintaining, servicing, or repairing prewritten computer software is exempt from tax.

**112. Self-use of Prewritten Software by its Author**

**Citation:** Section 1110(g)

**Effective Date:** September 1, 1991

**Description:** The Use Tax on prewritten computer software used by its author or creator is calculated on the cost of the blank medium, such as the disks or tapes, and not at the price at which the software is normally offered for sale.

**113. Computer System Hardware**

**Citation:** Section 1115(a)(35)

**Effective Date:** June 1, 1998; March 1, 2001 for Internet Web sites

**Description:** Exempt from tax are purchases, leases, or rentals of computer system hardware used or consumed directly and predominantly in designing and developing computer software for sale or in providing the service, for sale, of designing and developing Internet Web sites.

**114. Promotional Materials Mailed Out of State**

**Citation:** Section 1115(n)(1), (2)

**Effective Date:** September 1, 1989

**Description:** Exempt from tax are promotional materials mailed out of state, envelopes, and Cheshire labels used in mailing promotional materials from points in New York State to customers outside New York State. A pro rata exemption is also allowed for charges for the use of a mailing list, in connection with mailing such promotional materials.

**115. Printed Promotional Materials**

**Citation:** Section 1115(n)(4), (5) and (6)

**Effective Date:** March 1, 1997

**Description:** Exempt from tax are printed promotional materials distributed by U.S. mail or common carrier. Also exempt are certain services purchased in connection with the exempt promotional materials, such as mailing list services and a printer's storage service.

**116. U.S. Postage Used in the Distribution of Promotional Materials**

**Citation:** Section 1115(n)(3)

**Effective Date:** September 1, 1991

**Description:** Separately stated charges by a vendor to the purchaser of promotional materials, or of taxable services to such promotional material,

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for the cost of mailing the promotional materials by means of the United States Postal Service are exempt from tax.

**117. Clothing and Footwear**

**Citation:** Section 1115(a)(30)

**Effective Date:** March 1, 2000

**Description:** Exempt from tax are items of clothing and footwear costing less than \$110. The exemption also applies to most fabric, thread, yarn, buttons, snaps, hooks, zippers, and like items which become a physical component part of exempt clothing or are used to make or repair the exempt clothing.

**118. Coin-Operated Photocopying Machines**

**Citation:** Section 1115(a)(31)

**Effective Date:** December 1, 1997

**Description:** Copies made using a coin-operated photocopy machine where the charge is 50 cents or less per copy are exempt from tax.

**119. Luggage Carts**

**Citation:** Section 1115(a)(13-b)

**Effective Date:** December 1, 1997

**Description:** Exempt from tax are temporary transportation devices (e.g., luggage carts) sold through coin operated equipment, provided the retailer is primarily engaged in making such sales.

**120. Emissions Testing Equipment**

**Citation:** Section 1115(a)(31)

**Effective Date:** September 1, 1997

**Description:** Exempt from tax is enhanced emissions inspection equipment certified by the Department of Environmental Conservation for use in an enhanced emissions inspection and maintenance program as required by the Federal Clean Air Act of 1990, when purchased by an authorized inspection station.

**121. College Textbooks**

**Citation:** Section 1115(a)(34)

**Effective Date:** June 1, 1998

**Description:** Course textbooks purchased by full or part-time students enrolled in an institution of higher education are exempt.

**122. Live Dramatic or Musical Arts Production**

**Citation:** Section 1115(x)

**Effective Date:** March 1, 2001

**Description:** Exempt from tax are certain items of tangible personal property and certain services that are used directly and predominantly in producing certain live dramatic or musical arts performances.

**123. Lower Manhattan Commercial Office Space**

**Citation:** Section 1115(ee)

**Effective Date:** September 1, 2005

**Description:** Exempt from tax is a commercial tenant's, landlord's, and contractor's purchases and uses of certain property used to outfit, furnish, and equip certain leased commercial office space in eligible areas in Lower Manhattan.

**124. Dodd-Frank Wall Street Reform and Consumer Protection Act**

**Citation:** Section 1115(jj)

**Effective Date:** September 1, 2015

**Description:** A sales tax exemption is granted to certain related-party sales arising as a result of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

### Exempt Organizations

**125. New York State Agencies and Political Subdivisions**

**Citation:** Section 1116(a)(1)

**Effective Date:** August 1, 1965

**Description:** Exempt from tax is the State of New York, or any of its agencies, instrumentalities, public corporations, or political subdivisions where it is the purchaser, user, or consumer, or where it is a vendor of services or property of a kind not ordinarily sold by private persons.

**126. Industrial Development Agencies**

**Citation:** Section 1116(a)(1), and General Municipal Law Article 18-A

**Effective Date:** May 26, 1969

**Description:** An Industrial Development Agency or Authority (IDA) qualifies as an exempt government organization under Section 1116(a)(1) and receives all the benefits of that status. In addition, Article 18-A of the General Municipal Law grants tax exempt status to purchases made by an IDA project beneficiary (as agent of the IDA) and for sales by an IDA even where it is a vendor of services or property of a kind ordinarily sold by private persons.

**127. Federal Agencies**

**Citation:** Section 1116(a)(2), and 12 U.S. Code, Section 1768

**Effective Date:** August 1, 1965

**Description:** Exempt from tax is the United States of America, and any of its agencies and instrumentalities where it is the purchaser, user, or consumer, or where it sells services or property of a kind not ordinarily sold by private persons.

**128. United Nations**

**Citation:** Section 1116(a)(3)

**Effective Date:** August 1, 1965



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- Description:** Exempt from tax is the United Nations, or any international organization of which the United States is a member, where it is the purchaser, user, or consumer, or where it sells services or property of a kind not ordinarily sold by private persons.
129. **Diplomats and Foreign Missions**  
**Citation:** Federal treaties with diplomat's country  
**Effective Date:** Effective dates vary by Federal treaties  
**Description:** Diplomats of foreign countries and foreign missions are exempt from all national, state, and local taxes if the treaty with the foreign nation provides a reciprocal exemption for U.S. diplomats abroad.
130. **Charitable Organizations**  
**Citation:** Section 1116(a)(4)  
**Effective Date:** August 1, 1965  
**Description:** Exempt from tax are purchases by nonprofit organizations organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, fostering national or international amateur sports competition, or for the prevention of cruelty to children or animals.
131. **Veterans Posts or Organizations**  
**Citation:** Section 1116(a)(5), (g)  
**Effective Date:** September 1, 1974 (Section 1116(a)(5)); December 1, 1993 (Section 1116(g))  
**Description:** Exempt from tax are purchases by certain posts or organizations of past or present members of the Armed Forces of the United States. Hotel occupancy purchased by individual members acting as duly authorized representatives of the post or organization are also exempt.
132. **Veterans' Homes Gift Shops**  
**Citation:** Section 1115(ff)  
**Effective Date:** December 1, 2006  
**Description:** Sales of tangible personal property by any gift shop located in a veterans' home are exempt.
133. **Indian Nations and Members of Such Indian Nations**  
**Citation:** Section 1116(a)(6); Federal restrictions  
**Effective Date:** September 1, 1976  
**Description:** The following Indian Nations residing in New York are exempt where they are the purchaser, user, or consumer: Cayuga, Oneida, Onondaga, Poospatuck, Saint Regis Mohawk, Seneca, Shinnecock, Tonawanda, and Tuscarora. In addition, members of these Nations are excluded from tax for purchases made by them on the reservation in New York State.



134. **U.S. Military Base Post Exchanges**  
**Citation:** 4 U.S. Code, Sections 104-110  
**Effective Date:** August 1, 1965  
**Description:** Sales, except sales of motor fuel, made on a military base at a post exchange or commissary are exempt.
135. **Nonprofit Health Maintenance Organizations**  
**Citation:** Section 1116(a)(7)  
**Effective Date:** April 1, 1980  
**Description:** Purchases by a nonprofit health maintenance organization subject to the provisions of Article 44 of the Public Health Law are tax exempt.
136. **Nonprofit Medical Expense Indemnity or Hospital Service Corporations**  
**Citation:** Insurance Law Article 43, Section 4310(j)  
**Effective Date:** June 15, 1939  
**Description:** The Insurance Law provides for an exemption from all State and local taxes (including State and local sales taxes) for certain entities. These entities include nonprofit corporations organized for the purpose of family medical expense indemnity, dental expense indemnity, hospital services, or health services.
137. **Nonprofit Property/Casualty Insurance Companies**  
**Citation:** Insurance Law, Article 67, Section 6707  
**Effective Date:** December 20, 2000  
**Description:** The Insurance Law provides for an exemption from sales tax for a nonprofit property/casualty insurance company subject to the provisions of Article 67 with respect to any property owned by it or under its jurisdiction, control, or supervision.
138. **Certain State Credit Unions**  
**Citation:** Section 1116(a)(9)  
**Effective Date:** March 1, 2006  
**Description:** New York State chartered credit unions are exempt from tax if they had converted to a State charter from a federal charter on or after January 1, 2006.
139. **Rural Electric Cooperatives**  
**Citation:** Section 1116(a)(8)  
**Effective Date:** September 1, 1983  
**Description:** Exempt from tax on their purchases are cooperatives and foreign corporations doing business in this State pursuant to the Rural Electric Cooperative Law.
140. **Municipal Trash Removal Services**  
**Citation:** Section 1116(e)  
**Effective Date:** June 30, 1980

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**Description:** Receipts from the service of trash removal are exempt from tax where such service is rendered by or on behalf of a municipal corporation of the State other than New York City.

### **Admission Charges**

141. **Certain Admission Charges**

**Citation:** Section 1105(f)(1)

**Effective Date:** August 1, 1965; December 1, 1997 for circus admissions

**Description:** Exempt from tax are admission charges of ten cents or less, plus admission charges to: race tracks; boxing or wrestling matches; live circus performances, dramatic, or musical arts performances; motion picture theaters; and sporting facilities where the patron is to be a participant, such as bowling alleys, health and fitness centers, and swimming pools.

142. **Amusement Park Admissions**

**Citation:** Section 1122

**Effective Date:** July 27, 2004

**Description:** An exemption from Sales and Use Tax applies to 75 percent of the admission charge to certain amusement parks when the charge includes a fee for the use of amusement rides within the park.

143. **Events Given for the Benefit of Charitable Organizations, Veterans Posts, and Indian Nations**

**Citation:** Section 1116(d)(1)(A)

**Effective Date:** August 1, 1965

**Description:** In general, admissions are exempt if all of the proceeds go exclusively to the benefit of a tax-exempt charitable organization, Indian Nations, or organization of past or present members of the Armed Forces.

144. **Events Given for the Benefit of Certain Orchestras and Opera Companies**

**Citation:** Section 1116(d)(1)(B)

**Effective Date:** August 1, 1965

**Description:** Admissions are exempt if all of the proceeds go exclusively to the benefit of a society or organization conducted for the sole purpose of maintaining symphony orchestras or operas and receiving substantial support from voluntary contributions.

145. **National Guard Organization Events**

**Citation:** Section 1116(d)(1)(c)

**Effective Date:** August 1, 1965

**Description:** Admissions are exempt if all of the proceeds go exclusively to the benefit of a National Guard organization.

146. **Municipal Police and Fire Department Events**  
**Citation:** Section 1116(d)(1)(D)  
**Effective Date:** August 1, 1965  
**Description:** Admissions are exempt if all of the proceeds go exclusively to the benefit of a police or fire department of a political subdivision of the State, including its pension or disability funds, or to volunteer fire and ambulance companies.
147. **Certain Athletic Games**  
**Citation:** Section 1116(d)(2)(A)  
**Effective Date:** August 1, 1965  
**Description:** Admissions to any athletic game or exhibition are exempt where the proceeds go exclusively to the benefit of elementary or secondary schools.
148. **Carnivals or Rodeos for Certain Charitable Organizations**  
**Citation:** Section 1116(d)(2)(B)  
**Effective Date:** July 30, 1983  
**Description:** Admissions to carnivals or rodeos in which any professional performer or operator participates for compensation are exempt when the entire net profit inures exclusively to the benefit of a tax-exempt charitable organization having as its charitable purpose the operation of a school.
149. **Agricultural Fairs**  
**Citation:** Section 1116(d)(3)(A)  
**Effective Date:** August 1, 1965  
**Description:** Admissions to agricultural fairs are exempt if no part of net earnings inures to the benefit of any stockholders or members of the association conducting the fair, and if the proceeds from the fair are used exclusively for the improvement, maintenance, and operation of such agricultural fairs.
150. **Historical Homes, Gardens, Sites, and Museums**  
**Citation:** Section 1116(d)(3)(B), (c)  
**Effective Date:** August 1, 1965  
**Description:** Admissions to an historical home or garden, historic sites, houses and shrines, or museums which are maintained and operated by a society or organization devoted to the preservation and maintenance of such historic places are exempt, provided that no part of net earnings goes to the benefit of any private stockholder or individual.
151. **Performances at a Roof Garden or Cabaret**  
**Citation:** Section 1123  
**Effective Date:** December 1, 2006  
**Description:** The admission charge to a roof garden, cabaret, or similar place to attend a dramatic or musical arts performance is exempt from tax when separate from other charges such as charges for food or drink.

## **SALES AND USE TAX**

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### **Credits**

152. **Sales Tax Vendor Credit**

**Citation:** Section 1137(f)

**Effective Date:** September 1, 1994; September 1, 2006 for current rates; September 1, 2010 for limitation of the credit to quarterly and annual filers.

**Description:** A vendor allowance is provided to vendors that timely file and fully pay quarterly or annual returns. The credit is equal to five percent of State and local taxes remitted up to \$200 per return.

153. **Tangible Property Sold by Contractors in Certain Situations**

**Citation:** Section 1119(a)

**Effective Date:** August 1, 1965

**Description:** A credit for taxes paid is allowed on the sale to or use by a contractor or subcontractor of tangible personal property if that property is used solely in the performance of a preexisting lump sum or unit price construction contract. The credit would only be applicable following a sales and use tax rate change.

154. **Construction Materials Used in Empire Zones**

**Citation:** Section 1119(a)

**Effective Date:** September 1, 1986

**Description:** A credit for taxes paid is allowed on the sale of tangible personal property purchased for use in constructing, expanding, or rehabilitating industrial or commercial real property located in an Empire Zone, but only to the extent that such property becomes an integral component part of the real property.

155. **Bus Companies Providing Local Transit Service**

**Citation:** Section 1119(b)

**Effective Date:** March 1, 1974

**Description:** A credit for taxes paid is allowed on the sale to, or use by, an omnibus carrier in New York of any omnibus, parts, equipment, lubricants, motor fuel, diesel fuel, maintenance or service, or repair purchased and used in the operation of any such omnibus by such carrier. The amount of credit is based on the ratio of the vehicle mileage in local transit service in New York to the total vehicle mileage in the State.

156. **Vessel Operators Providing Local Transit Service**

**Citation:** Section 1119(b)

**Effective Date:** December 1, 2004

**Description:** A credit or refund for taxes paid is allowed on the sale to, or use by a vessel operator of any vessel, parts, equipment, lubricants, diesel motor fuel, maintenance, servicing, or repairs purchased and used in the operation of certain vessels providing local transit service (e.g., water taxis). The credit or refund is provided according to the percentage of the vessel's use in local transit service.

157. **Qualified Empire Zone Enterprises**

**Citation:** Section 1119(d)

**Effective Date:** September 1, 2009

**Description:** A credit or refund is available for tax paid on tangible personal property and certain services purchased by a Qualified Empire Zone Enterprise (QEZE) and used directly and predominantly in an Empire Zone in which the QEZE has qualified for benefits. A refund or credit is also allowed for tax paid on tangible personal property sold to a contractor, subcontractor or repairman if the property is used in erecting a structure or building of a QEZE, or used in adding to, altering, improving, maintaining, servicing, or repairing the real property of a QEZE.

158. **Economic Transformation and Facility Redevelopment Program**

**Citation:** Section 1119(f)

**Effective Date:** March 31, 2011

**Description:** A refund is available to a participant in this program (or its contractor) for State tax paid on tangible personal property used in the construction, expansion, or rehabilitation of industrial or commercial real property located in an economic transformation area, but only to the extent that such property becomes an integral component part of the real property.

159. **New York State Business Incubator and Innovation Hot Spot Program**

**Citation:** Section 1119(d)

**Effective Date:** March 28, 2013

**Description:** A credit or refund for taxes paid is allowed on tangible personal property and certain services purchased by a qualified entity that is a tenant in or part of a New York State innovation hot spot.

160. **START-UP New York Tax Elimination Credit**

**Citation:** Section 1119(d)

**Effective Date:** March 1, 2014

**Description:** A credit or refund is available for tax paid on tangible personal property and certain services purchased by an approved business that is located in a tax-free NY area. In addition, a credit or refund is available for certain purchases of tangible personal property by contractors, subcontractors, and repairmen that is used in constructing, improving, maintaining, servicing, or repairing real property of such an approved business.



# PETROLEUM BUSINESS TAX

This section provides tax expenditure estimates for 34 provisions of the Petroleum Business Tax. Table 7 provides a list of expenditures based on the Tax Law as of January 1, 2020. The estimates are based on data for the 2018 calendar year (the latest complete year for which tax return data is available) and then extrapolated to the 2020 calendar year. Total Petroleum Business Tax liability for calendar 2018 is provided as a benchmark for the tax expenditure estimates.

## Description of Tax

Article 13-A of the Tax Law imposes a business privilege tax on petroleum businesses operating in New York State. The tax is measured by the quantity of various petroleum products refined or sold in the State or imported for sale or use in the State. Imposition of the tax occurs at different points in the distribution chain, depending upon the type of petroleum product. Motor fuel (gasoline) is subject to tax upon importation to New York State. Highway diesel motor fuel is taxable upon removal from an in-state registered fuel terminal. Non-highway diesel motor fuel and residual petroleum products become taxable on the final sale or use of the product in New York.

The Article 13-A business privilege tax was added to the Tax Law in 1983 and was imposed on the gross receipts of such businesses. On September 1, 1990, the tax was restructured, converting the annual gross receipts tax to a monthly tax measured by gallons.

Some of the exemptions, credits, and reimbursements provided for in the restructuring applied to the prior gross receipts tax. Although these provisions already had been in place, the effective dates and estimates cited herein reflect the date on which they were restructured.

## **PETROLEUM BUSINESS TAX**

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### **Data Sources**

The major sources of data used to compute the tax expenditure estimates under Article 13-A include:

- Petroleum Business Tax (PBT) Master File for 2014-2018. This is an unverified file of all taxpayers filing a return under Article 13-A.
- Refund data from the Department of Taxation and Finance's Audit Division.
- Nontax data sources such as: Data from the U.S. Department of Energy and U.S. Department of Defense and New York State Energy Research and Development Authority.

### **Methodology**

The projections of the tax expenditures from 2018 to 2020 are based, where possible, on forecasted consumption of various petroleum products. These forecasts were produced by the United States Department of Energy - Energy Information Agency. The remaining expenditure estimates used forecasts of appropriate economic variables.

Tax expenditures whose values are less than \$0.1 million are considered minimal and are designated by an asterisk.



# PETROLEUM BUSINESS TAX

**Table 6**  
**2020 New York State Petroleum Business Tax Expenditure Estimates**  
**(2018 Calendar Year Total Petroleum Business Tax Liability = \$1,128.1 Million)**  
**(Millions of Dollars)**

Tax Item	History					Forecast	Reliability
	2014	2015	2016	2017	2018	2020	Level
<b>Exemptions</b>							
<b>Products</b>							
1. Kerosene	2.9	2.5	1.1	8.0	1.9	2.0	2
2. Bunker Fuel	41.8	9.5	3.4	11.3	6.5	6.5	2
3. Liquid Petroleum Gases	71.2	65.1	56.2	57.8	65.0	64.7	4
4. CNG and Hydrogen	0.9	1.0	1.2	1.2	1.1	1.1	2
5. E-85	1.2	1.0	0.9	1.3	1.2	1.2	2
6. B-20	0.5	0.3	0.3	0.3	0.3	0.3	2
<b>Sales</b>							
7. Governments	67.6	60.8	54.7	50.3	58.3	60.9	2
8. Residential Heating	214.9	187.7	158.7	148.9	168.0	176.5	2
9. Fuel Used for Manufacturing Purposes	9.5	5.7	5.3	4.7	4.2	4.3	2
10. Fuel Used for Farm Production	9.8	9.0	8.8	8.4	8.7	8.8	2
11. Not-for-Profit Organizations and Veterans Groups	11.8	9.2	6.5	6.1	7.3	7.3	2
12. Fuel Used for Railroad Purposes	2.8	2.9	2.2	3.4	4.2	4.4	2
13. Certain Commercial Gallonage	5.8	6.0	2.6	2.4	5.9	6.0	2
14. Fuel Used for Non-Residential Heating Purposes	9.0	7.7	6.5	6.1	7.2	7.6	2
<b>Credit, Refund, or Reimbursement</b>							
15. Residential Heating Fuel	*	*	*	*	*	*	2
16. Governments	6.1	9.3	4.3	2.3	6.1	6.1	2
17. Omnibus Carriers	5.6	5.3	4.4	5.2	5.5	5.5	2
18. Non-Public School Operators	0.2	0.3	0.3	0.2	0.2	0.2	2
19. Regulated Electric Utilities	0.2	0.2	0.1	0.1	0.1	0.1	2
20. Fuel Used for Manufacturing Purposes	0.1	0.2	0.2	0.4	0.2	0.2	2
21. Certain Commercial Gallonage	*	*	*	0.1	*	*	2
22. Fuel Used by Commercial Fishers	0.2	0.2	0.2	0.2	0.2	0.2	2
23. Fuel Used for Farm Production	0.3	0.7	0.4	0.4	0.5	0.5	2
24. Fuel Used for Railroad Purposes	0.5	*	*	*	*	*	2
25. Fuel Used for Non-Residential Heating Purposes	*	*	*	*	*	*	2
26. Fuel Used for Mining or Extracting Purposes	1.5	1.1	1.1	1.2	1.0	1.0	2
27. Bad Debts	*	*	*	*	*	*	2
28. Not-for-Profit Organizations and Veterans Groups	*	*	*	*	*	*	2
29. Fuel Used by Passenger Commuter Ferries	0.3	0.3	0.3	0.2	0.4	0.4	2
30. E-85	*	*	0.2	0.2	0.7	0.7	2
31. B-20	*	0.3	*	*	*	*	2

## PETROLEUM BUSINESS TAX

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Tax Item	History					Forecast	Reliability
	2014	2015	2016	2017	2018	2020	Level
<b>Exempt Entities</b>							
32. Fuel Used by Voluntary Ambulance Services and Volunteer Fire Departments	*	*	*	*	*	*	2
33. Governments, the United Nations and Certain Not-for-Profit Organizations	*	*	*	*	*	*	4
34. Certain Airlines	2.0	2.0	1.8	1.9	2.1	2.2	2

\* Less than \$0.1 million.

-- The tax expenditure was not applicable for these years

N/A No data available.

## Exemptions

The Petroleum Business Tax allows certain exemptions for gallonage otherwise included in the calculation of tax.

## Products

### 1. Kerosene

**Citation:** Section 301-b(a)(1)

**Effective Date:** September 1, 1990

**Description:** Exemptions from tax apply to kerosene sold or used by a petroleum business registered as a diesel motor fuel distributor. The exemption applies to kerosene which has not been blended or mixed with any diesel motor fuel, motor fuel, or residual petroleum product and is not used by the petroleum business as fuel to operate a motor vehicle or sold to a consumer to use as fuel for operation of a motor vehicle.

### 2. Bunker Fuel

**Citation:** Section 301-b(a)(4)

**Effective Date:** September 1, 1990

**Description:** This section exempts from tax residual petroleum products sold by a business registered as a “residual petroleum business” to a consumer for exclusive use as bunker fuel, or, for use by the residual petroleum business as bunker fuel for its own vessels. Bunker fuel is petroleum fuel used in ships.

### 3. Liquid Petroleum Gases

**Citation:** Section 301-b(a)(5)

**Effective Date:** September 1, 1990

**Description:** An exemption from tax is allowed for liquid petroleum gases such as butane, ethane, or propane.

**Data Source:** Crude oil: U.S. Department of Energy; Liquid Petroleum Gases: PBT Master File and U.S. Department of Energy

### 4. CNG and Hydrogen

**Citation:** Section 301-b(a)(8)

**Effective Date:** September 1, 2006

**Description:** Exemptions from tax apply to compressed natural gas (CNG) and hydrogen which are suitable for use in the engine of a motor vehicle. This provision sunsets on September 1, 2021.

### 5. E-85

**Citation:** Section 301-b(a)(6)

**Effective Date:** September 1, 2006

**Description:** Exemptions from tax apply to sales of E-85 provided the E-85 is delivered to and placed in a storage tank of a filling station to be dispensed directly into a motor vehicle for use in the operation of the motor vehicle. This provision sunsets on September 1, 2021.

## **PETROLEUM BUSINESS TAX**

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### **6. B-20**

**Citation:** Section 301-b(a)(7)(i,ii)

**Effective Date:** September 1, 2006

**Description:** A partial exemption from tax applies to sales of B-20 (20% biodiesel and 80% diesel motor fuel). The partial exemption is equal to a 20 percent reduction of the otherwise applicable PBT rates on diesel motor fuel. This provision sunsets on September 1, 2021.

## **Sales**

### **7. Governments**

**Citation:** Section 301-b(c), 301-e(e)(4)

**Effective Date:** September 1, 1990

**Description:** The petroleum business tax exempts the sales of motor fuel, diesel motor fuel, or residual petroleum products to the State of New York, the United States of America, or any of their agencies, instrumentalities, or political subdivisions. The exemption applies where such fuel is used by these entities for its own use or consumption. An exemption from tax also exists for naphtha based aviation fuel used solely for propelling military jet aircraft of the United States Armed Forces.

### **8. Residential Heating**

**Citation:** Section 301-b(d)(1)

**Effective Date:** September 1, 1990

**Description:** An exemption from tax applies to non-highway diesel motor fuel and residual petroleum product sold by a registered distributor of the product to a consumer, exclusively for residential heating purposes.

### **9. Fuel Used for Manufacturing Purposes**

**Citation:** Section 301-a(f)(4), 301-a(g)(4)

**Effective Date:** January 1, 1998

**Description:** The sale or use of residual fuel or non-highway diesel fuel for use and consumption directly and exclusively in the production of tangible personal property for sale by manufacturing, processing, or assembly are exempt from the full petroleum business tax. Prior to January 1, 1998 (effective in September 1994), the above sales or uses of such fuels were exempt from the supplemental portion of the petroleum business tax. (See item 20: "Fuel Used for Manufacturing Purposes" for reimbursement if the tax was paid on subsequent sales.)

### **10. Fuel Used for Farm Production**

**Citation:** Section 301-b(g)

**Effective Date:** September 1, 1994

**Description:** The sale or use of non-highway diesel motor fuel and residual petroleum product for off-highway farm production of goods for sale are exempt from the tax. However, the fuel must be delivered on the farm site. (See item 23: "Fuel Used for Farm Production.")

**11. Not-for-Profit Organizations and Veterans Groups**

**Citation:** Section 301-b(h)

**Effective Date:** January 1, 1996

**Description:** Not-for-profit organizations and veterans' groups purchasing and using residual fuel, non-highway diesel motor fuel for their exclusive use are eligible for a full, up-front exemption from the tax. These organizations include not-for-profit groups organized for religious, charitable, scientific, testing for public safety, literary or educational purposes, to foster national or international amateur sports competition, for the prevention of cruelty to children or animals, or veteran groups as listed in Section 1116(a)(4) or (5) of the Tax Law. (See item 28: "Not-for-Profit Organizations and Veterans Groups" for a full credit/reimbursement of the tax.)

**12. Fuel Used for Railroad Purposes**

**Citation:** Section 301-a(e)(4); 301-j(a)(3)

**Effective Date:** January 1, 1997

**Description:** The sale of non-highway diesel motor fuel for use or consumption directly and exclusively in the operation of a locomotive or a self-propelled vehicle run only on rails or tracks is exempt from the supplemental portion of the tax. Such fuel is also taxed at a preferential rate under the base portion of the tax which is computed as the automotive diesel base rate less 1.3 cents. (See item 24: "Fuel Used for Railroad Purposes" for refund/reimbursement of tax.)

**13. Certain Commercial Gallonage**

**Citation:** Section 301-j(a)(2)

**Effective Date:** March 1, 1997

**Description:** Commercial gallonage defined as non-highway type diesel motor fuel and residual fuel that does not qualify for the utility credit/reimbursement or the manufacturing exemption or the not-for-profit exemption or the non-residential heating rate or will not be used in a commercial vessel is exempt from the supplemental portion of the tax. This fuel is primarily used for electric generation purposes. (See item 21: "Certain Commercial Gallonage" for refund/reimbursement of tax.)

**14. Fuel Used for Non-Residential Heating Purposes**

**Citation:** Section 301-b(d)(2)

**Effective Date:** April 1, 2001

**Description:** A partial exemption from tax applies to non-highway diesel motor fuel and residual petroleum product sold by a registered distributor of the product to a consumer exclusively for non-residential heating purposes. The rate of the partial exemption was calculated as the then-current PBT supplemental tax rate (imposed under Section 301-j) plus 20 percent of the then current PBT base rate (imposed under Section 301-a) for the applicable fuel above. Effective September 1, 2002, this partial exemption is calculated as the then-current supplemental tax rate plus 46 percent of the then-current PBT base rate.

### Credit, Refund, or Reimbursement

A credit, refund, or reimbursement is allowed against taxes paid by certain petroleum businesses for particular petroleum products.

15. **Residential Heating Fuel**

**Citation:** Section 301-c(a)(1)

**Effective Date:** September 1, 1990

**Description:** A reimbursement is allowed for taxes paid by subsequent purchasers of non-highway diesel motor fuel purchased in the State and sold to a consumer for use exclusively for residential heating purposes.

16. **Governments**

**Citation:** Section 301-c(b)

**Effective Date:** September 1, 1990

**Description:** This section provides a reimbursement for taxes paid pursuant to the petroleum business tax on motor fuel and diesel motor fuel purchased in the State and then sold by the purchaser to the State of New York, the United States of America, or any of their instrumentalities, agencies, or political subdivisions.

17. **Omnibus Carriers**

**Citation:** Section 301-c(c)

**Effective Date:** April 1, 1992

**Description:** A reimbursement is allowed for taxes paid on motor fuel and diesel motor fuel purchased in the State by an omnibus carrier. The reimbursement applies to fuel used in the operation of: i) an omnibus in local transit service pursuant to a certificate of convenience and necessity issued by the Commissioner of the Department of Transportation, or issued by the Interstate Commerce Commission of the United States, or pursuant to a contract, franchise, or consent with a city having a population of one million or more; and ii) as a school bus used for the transportation of children in the State pursuant to the Education Law.

18. **Non-Public School Operators**

**Citation:** Section 301-c(d)

**Effective Date:** April 1, 1992

**Description:** This section provides a reimbursement for taxes paid on motor fuel and diesel motor fuel purchased in the State by a non-public school operator and consumed by the operator exclusively for education related activities.

19. **Regulated Electric Utilities**

**Citation:** Section 301-d

**Effective Date:** September 1, 1990

**Description:** This section extends a credit, refund, or reimbursement for the tax surcharge and part of the basic tax for fuel used in the production of

electricity. For periods July 1991 and August 1991, this credit was available only for petroleum used to produce residential electricity.

### 20. Fuel Used for Manufacturing Purposes

**Citation:** Section 301-c(j)

**Effective Date:** January 1, 1998

**Description:** Purchasers who subsequently sell residual fuel or non-highway diesel fuel used and consumed for manufacturing purposes may be reimbursed for the full Petroleum Business Tax. (See item 9: "Fuel Used for Manufacturing Purposes" for the up-front exemption.) Prior to January 1, 1998 (effective in September 1994), the above purchasers making such sales were eligible for reimbursement of the supplemental portion of the petroleum business tax.

### 21. Certain Commercial Gallonage

**Citation:** Section 301-c(i)(1, 2)

**Effective Date:** March 1, 1997

**Description:** Reimbursements are allowed to a consumer where such consumer purchased non-highway type diesel fuel or residual fuel, absorbed the supplemental portion of the tax in the purchase price and used such gallonage as "commercial gallonage." The reimbursement is calculated as the amount of such gallonage multiplied by the then-applicable supplemental tax rate. (See item 13: "Certain Commercial Gallonage" for refund/reimbursement of tax.) Prior to March 1997 (and subsequent to September 1994), commercial gallonage was eligible for a credit/reimbursement at a rate of one-half the then-applicable supplemental tax plus surcharge on the supplemental tax under Section 301-k.

### 22. Fuel Used by Commercial Fishers

**Citation:** Section 301-c(g)

**Effective Date:** September 1, 1994

**Description:** A reimbursement is allowed for diesel motor fuel and motor fuel used in the operation of a commercial fishing vessel by commercial fishers while such vessel is engaged in harvesting fish for sale.

### 23. Fuel Used for Farm Production

**Citation:** Section 301-c(e), (f)

**Effective Date:** September 1, 1994

**Description:** Reimbursements are allowed for non-highway diesel motor fuel and residual fuel purchased in this State and sold by such purchaser to a consumer for farm use. In addition, a purchaser of motor fuel or highway diesel motor fuel who uses the fuel for farm production is eligible for a reimbursement of the PBT. The reimbursement is only allowed if it is not more than 1,500 gallons of gasoline or 4,500 gallons of highway diesel motor fuel purchased in a 30-day period, or for greater amounts with prior clearance by the Commissioner of Taxation and Finance. The motor fuel or highway diesel motor fuel must be delivered on the farm site and consumed

## **PETROLEUM BUSINESS TAX**

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off-highway in the production of goods for sale. (See item 10: "Fuel Used for Farm Production" for the up-front exemption)

### **24. Fuel Used for Railroad Purposes**

**Citation:** Section 301-c(k)(1, 2)

**Effective Date:** January 1, 1997

**Description:** Reimbursements are allowed to subsequent purchasers, who are registered as distributors of diesel motor fuel, have absorbed the full PBT non-highway diesel rate and then sell such fuel as "railroad diesel." The amount of the reimbursement is equal to the difference between the full non-highway diesel rate and the railroad diesel rate. (See item 12: "Fuel Used for Railroad Purposes" for the exemption from tax.)

### **25. Fuel Used for Non-Residential Heating Purposes**

**Citation:** Section 301-c(a)(2)

**Effective Date:** April 1, 2001

**Description:** A partial reimbursement from tax applies to non-highway diesel motor fuel purchased in the State and then sold by such purchaser to a consumer exclusively for non-residential heating purposes. The partial reimbursement is provided only when such non-highway diesel motor fuel is delivered into a storage tank (which is not equipped with a hose or other apparatus where such fuel can be dispensed into the tank of a motor vehicle) – and where such tank is attached to the heating unit burning such fuel. Additionally, the purchaser must possess documentary proof that it absorbed the full amount of the PBT.

The rate of the partial reimbursement was calculated as the then-current PBT supplemental tax rate (imposed under Section 301-j) plus 20 percent of the then-current PBT base rate (imposed under Section 301-a) applicable for the specific diesel motor fuel rate above. Effective September 1, 2002, this partial exemption is calculated as the then-current supplemental tax rate plus 46 percent of the then-current PBT base rate.

### **26. Fuel Used for Mining or Extracting Purposes**

**Citation:** Section 301-c(l)

**Effective Date:** April 1, 2001

**Description:** A purchaser may obtain a reimbursement of the PBT paid on non-highway diesel motor fuel or residual petroleum product when such fuel is purchased exclusively for use and consumption directly and exclusively in the production of tangible personal property for sale by mining or extracting. The reimbursement is provided only where such fuel is delivered at the mining or extracting site and is consumed other than on the public highways of the State. Additionally, the purchaser must possess documentary proof that it absorbed the full amount of the PBT.

### **27. Bad Debts**

**Citation:** Section 301-l

**Effective Date:** September 1, 1994



**Description:** A registered petroleum business or aviation fuel business may apply for a refund for PBT that it has paid with respect to gallonage sold in-bulk by the business for the purchaser's own consumption. The same must then give rise to a debt that becomes worthless for Federal income tax purposes. In addition, a sale of motor fuel and highway diesel motor fuel to a filling station is a sale in-bulk for such filling station's own use and consumption. Sales by a filling station are not eligible for this refund.

28. **Not-for-Profit Organizations and Veterans Groups**

**Citation:** Section 301-c(h)

**Effective Date:** January 1, 1996

**Description:** Purchasers who subsequently sell residual fuel or non-highway diesel motor fuel used and consumed exclusively by certain not-for-profit organizations and veterans' groups may apply for a full refund of the PBT. These organizations include the organizations listed in Section 1116(a)(4) or (5) of the Tax Law. (See item 8: "Not-for-Profit Organizations and Veterans Groups" for the full up-front exemption.)

29. **Fuel Used by Passenger Commuter Ferries**

**Citation:** 301-c(m)

**Effective Date:** December 1, 2000

**Description:** A reimbursement is allowed for non-highway diesel motor fuel and residual petroleum product used and consumed by a passenger commuter ferry when such fuel is used exclusively in providing a mass transportation service.

30. **E-85**

**Citation:** Section 301-c(n)

**Effective Date:** September 1, 2006

**Description:** A reimbursement of tax applies for purchases of E-85 where the tax was paid by the purchaser and the E-85 was delivered to and placed in a storage tank of a filling station to be dispensed directly into a motor vehicle for use in the operation of the motor vehicle. This provision sunsets on September 1, 2021.

31. **B-20**

**Citation:** 301-c(o)

**Effective Date:** September 1, 2006

**Description:** A partial reimbursement of tax applies for purchases of B-20 where the tax was paid by the purchaser and subsequently resold. The partial reimbursement is equal to 20 percent of the PBT tax paid on diesel motor fuel. This provision sunsets on September 1, 2021.

### **EXEMPT ENTITIES**

**32. Fuel Used by Volunteer Ambulance Services and Volunteer Fire Departments**

**Citation:** Section 301-c (p)

**Effective Date:** June 1, 2013

**Description:** A reimbursement is allowed for petroleum business tax paid on motor fuel and diesel motor fuel purchased by volunteer ambulance services (as defined in section three thousand one of the Public Health Law), volunteer fire companies and volunteer fire departments (as defined in section three of the volunteer firefighters' benefit law) and volunteer rescue squads. To qualify, the entity must be the purchaser, user or consumer of the motor fuel or diesel motor fuel and use it in a vehicle owned and operated by such entity exclusively for its purposes.

**33. Governments, The United Nations, and Certain Not-for-Profit Organizations**

**Citation:** Section 305

**Effective Date:** July 1, 1983

**Description:** Organizations exempt under the Sales Tax Law Section 1116(a) that import petroleum into New York exclusively for their own use and consumption are not considered petroleum businesses and are exempt from the PBT. These organizations include: the State of New York, the United States of America and any of its agencies, instrumentalities, or political subdivisions; the United Nations; or any international organization of which the United States is a member; any trust, corporation, association, fund, or foundation operated exclusively for religious, charitable, or scientific purposes, or to foster international amateur sports competition, for the prevention of cruelty to children or animals, or veteran's groups; certain Indian nations or tribes; and certain not-for-profit health maintenance organizations.

**34. Certain Airlines**

**Citation:** 301-e(f)

**Effective Date:** June 1, 2005

**Description:** Aviation fuel businesses (i.e., airlines) which service four or more cities in the State with direct non-stop flights between these cities are fully exempt from the PBT. This provision will allow these airlines to "burn" jet fuel on take-offs in New York State without paying the PBT whether the associated flights or legs of flights are intra or interstate in destination.

# REAL ESTATE TRANSFER TAX

This section of the report provides tax expenditure estimates for 18 separate provisions of the Real Estate Transfer Tax. Table 7 provides a list of expenditures based on the Tax Law as of January 1, 2020. The estimates are based on liability data from the 2017-18 fiscal year. Base year 2017-18 liability is also extrapolated to the 2020-21 fiscal year. The estimates are based on an examination of liability incurred between April 1 and March 31. Real Estate Transfer Tax liability for the 2017-18 fiscal year has been included to provide some perspective to the tax expenditure estimates.

## Description of Tax

Adopted in 1968, Article 31 of the New York State Tax Law imposes a Real Estate Transfer Tax on the conveyance of real property or an interest in real property where the consideration exceeds \$500. Payment is due no later than fifteen days after the delivery of the instrument affecting the conveyance (such as a deed). The rate of tax equals two dollars for every five hundred dollars (or fraction thereof) of consideration. Responsibility for payment rests with the person making the conveyance, the grantor. If the grantor (the seller) has failed to pay the tax or is exempt from liability, the grantee (the buyer) is responsible for payment.

The transfer tax also applies to conveyances of shares of stock in a cooperative housing corporation, the creation of long-term leaseholds and subleases, and transfers or acquisitions of a controlling interest in an entity which owns an interest in real property.

Together with the basic transfer tax, an additional one percent tax (the “mansion” tax) is imposed on the conveyance of residential real property or interest therein where the consideration is one million dollars or more. The additional tax is imposed upon the grantee. However, if the grantee is exempt from tax, then the tax is imposed on the grantor.

## Data Sources

The major source of data used to compute the tax expenditure estimates include:

- Real Estate Transfer Tax Return Database — This file, compiled by the Department of Taxation and Finance, includes information on selected transfers of real property. It includes data items from the TP-584 tax return filed with these transfers and is an unverified data file.

# REAL ESTATE TRANSFER TAX

## Methodology

Historical estimates are projected to Fiscal Year 2019-20 levels using various economic forecast variables.

**Table 7**  
**2020 New York State Real Estate Transfer Tax Expenditure Estimates**  
**(Fiscal Year 2018 Total Real Estate Transfer Tax Liability = \$ 1,125.07 Million)**

Tax Item	History				Forecast	Reliability
	2014-15	2015-16	2016-17	2017-18	2020-21	Level
<b>Exclusions</b>						
1. Continuing Lien Deduction	2.5	2.1	1.8	1.9	2.1	2
<b>Exemptions</b>						
2. State of New York	N/A	N/A	N/A	N/A	N/A	5
3. The United Nations and United States of America	N/A	N/A	N/A	N/A	N/A	5
4. Conveyances to the United Nations, United States of America, or State of New York	5.3	2.2	2.1	2.6	3.1	2
5. Conveyances Which Secure a Debt or Other Obligation	0.1	0.2	*	*	0.1	2
6. Conveyances that Confirm, Correct, Modify, or Supplement a Prior Conveyance	0.1	0.2	0.2	0.2	0.2	2
7. Bona Fide Gifts and Conveyance Without Consideration	0.7	0.4	0.2	0.3	0.4	2
8. Tax Sale	0.3	0.1	0.1	*	0.2	2
9. Mere Changes of Identity	2.8	2.7	0.2	0.1	1.8	2
10. Deeds of Partition	*	*	*	*	*	2
11. Federal Bankruptcy Act	1.4	5.6	1.9	1.4	3.4	2
12. Contract to Sell or Option to Purchase Without Use	0.1	0.1	*	0.3	0.1	2
13. Option or Contract to Purchase With Right to Occupy	*	*	*	*	*	2
14. Excelsior Tax Incentives – Program Leases	0.0	0.0	0.0	0.0	*	2
<b>Credits</b>						
15. Credit for Prior Transfer Tax Paid	*	0.2	0.2	0.5	0.3	2
16. Cooperative Housing Corporation Transfer Credit	0.9	1.2	0.2	0.3	0.6	2
<b>Preferential Tax Rates</b>						
17. Real Estate Investment Trust Transfers (Initial Formation REITS)	0.0	0.0	0.0	0.0	0.0	2
18. Real Estate Investment Trust Transfers (Existing REITS)	D/	D/	D/	D/	1.8	2

-- The tax expenditure was not applicable for these years.

\* Less than \$0.1 million

N/A No data available.

D/ Tax Law prohibits the disclosure of individual taxpayer information.

### Exclusions

#### 1. Continuing Lien Deduction

**Citation:** Section 1402

**Effective Date:** August 1, 1968 (amended May 1, 1983)

**Description:** The Real Estate Transfer Tax excludes the amount of any lien or encumbrance remaining at the time of sale involving a one-, two-, or three-family house or individual residential condominium unit, from the total consideration used to calculate the tax due. Additionally, consideration does not include the value of any lien or encumbrance at the time of sale where consideration is less than \$500,000.

### Exemptions

Section 1405 of the New York State Tax Law exempts certain organizations from payment of the transfer tax. Liability for any tax incurred, when an exempt organization is the grantor, becomes the responsibility of the grantee and is payable no later than 15 days after delivery of the instrument affecting the conveyance. Where both parties are exempt there is no tax due. Section 1405 also exempts certain conveyances from tax.

#### 2. State of New York

**Citation:** Section 1405(a)(1)

**Effective Date:** August 1, 1968

**Description:** This section exempts the State of New York or any of its agencies, instrumentalities, political subdivisions, or public corporations (including a public corporation created pursuant to an agreement with another state or Dominion of Canada) from liability for the transfer tax.

#### 3. The United Nations and United States of America

**Citation:** Section 1405(a)(2)

**Effective Date:** August 1, 1968

**Description:** The real estate transfer tax excuses the United Nations, the United States of America, and any of its agencies or instrumentalities from incurring liability for payment of the tax.

#### 4. Conveyances to the United Nations, United States of America, or State of New York

**Citation:** Section 1405(b)(1)

**Effective Date:** August 1, 1968

**Description:** Exempt from tax are conveyances to the United Nations, the United States of America, the State of New York, or any of their agencies, political subdivisions, instrumentalities, or any public corporation (including public corporations created pursuant to an agreement with another state or Dominion of Canada).

## **REAL ESTATE TRANSFER TAX**

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5. **Conveyances which Secure a Debt or Other Obligation**  
**Citation:** Section 1405(b)(2)  
**Effective Date:** August 1, 1968  
**Description:** The transfer tax exempts conveyances used to secure a debt or other obligation.
  
6. **Conveyances that Confirm, Correct, Modify, or Supplement a Prior Conveyance**  
**Citation:** Section 1405(b)(3)  
**Effective Date:** August 1, 1968  
**Description:** The real estate transfer tax does not apply to conveyances which without additional consideration confirm, correct, modify, or supplement a prior conveyance.
  
7. **Bona Fide Gifts and Conveyance Without Consideration**  
**Citation:** Section 1405(b)(4)  
**Effective Date:** August 1, 1968  
**Description:** Conveyances exempted from the tax include: conveyances made without consideration, bona fide gifts, bequests, or inheritances.
  
8. **Tax Sale**  
**Citation:** Section 1405(b)(5)  
**Effective Date:** August 1, 1968  
**Description:** The real estate transfer tax exempts any conveyance given in connection with a tax sale.
  
9. **Mere Changes of Identity**  
**Citation:** Section 1405(b)(6)  
**Effective Date:** July 1, 1989  
**Description:** The transfer tax does not apply to a conveyance used to effectuate a mere change in identity or form of ownership where there is no change in beneficial ownership. This exemption is not applicable to conveyances to a cooperative housing corporation of the real property comprising the cooperative dwelling.
  
10. **Deeds of Partition**  
**Citation:** Section 1405(b)(7)  
**Effective Date:** August 1, 1968  
**Description:** Exempt from the tax are conveyances which consist of a deed of partition. Partition is the division of property between several persons who are co-owners of the property. The object of a partition is to end the joint tenancy or tenancy in common and divide the property among the respective co-owners.
  
11. **Federal Bankruptcy Act**  
**Citation:** Section 1405(b)(8)  
**Effective Date:** August 1, 1968  
**Description:** This section exempts from taxation any conveyance given pursuant to the Federal Bankruptcy Act.

12. **Contract to Sell or Option to Purchase Without Use**

**Citation:** Section 1405(b)(9)

**Effective Date:** July 1, 1989

**Description:** The real estate transfer tax exempts a conveyance which consists of a contract to sell real property without the use or occupancy of such property. Likewise, exempt from tax are conveyances granting an option to purchase real property without the use or occupancy of the property.

13. **Option or Contract to Purchase With Right to Occupy**

**Citation:** Section 1405(b)(10)

**Effective Date:** July 1, 1989

**Description:** An exemption from the transfer tax is allowed for conveyances of an option or contract to purchase real property, which includes the right to use or occupy the property, providing:

- a. the consideration is less than \$200,000;
- b. such property or at least one unit of a two- or three-family house was used solely as the grantor's personal residence; and
- c. the real property consists of a one-, two-, or three-family house, an individual residential condominium unit or the sale of stock in a cooperative housing corporation in connection with a grant or transfer of a proprietary leasehold covering an individual residential cooperative unit.

14. **Excelsior Tax Incentives – Program Leases**

**Citation:** Section 1405(b)(11)

**Effective Date:** January 1, 2014

**Description:** Under the Real Estate Transfer Tax certain leases created for a term in excess of 49 years, as well as assignments of any existing leases, are taxable. An exemption is allowed for these leases of real property located in tax-free NY areas to an approved business participating in the Excelsior Business Program.

## Credits

The real estate transfer tax allows credits for taxes paid in certain transactions.

15. **Credit for Prior Transfer Tax Paid**

**Citation:** Section 1405-A

**Effective Date:** July 1, 1989

**Description:** A grantor is allowed credit against the tax due on a conveyance of real property to the extent tax was paid by the grantor on a prior creation of a leasehold for all or a portion of the same real property or on the granting of a contract or option to purchase all or a part of the same real property.

## **REAL ESTATE TRANSFER TAX**

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### **16. Cooperative Housing Corporation Transfer Credit**

**Citation:** Section 1405-B

**Effective Date:** July 1, 1989

**Description:** A credit is allowed for a proportionate part of the amount of tax paid upon the conveyance to the cooperative housing corporation of real property comprising the cooperative dwelling(s). The credit applies to the conveyance of cooperative shares to unit purchases. It is allowed only to the extent that the original conveyance of the real property to the cooperative housing corporation effectuates a mere change in identity or form of ownership, and not a change in the beneficial ownership of the property.

### **Preferential Tax Rates**

The Real Estate Transfer Tax allows a preferential tax rate in the following instances.

### **17. Real Estate Investment Trust Transfers (Initial Formation REITs)**

**Citation:** Section 1402(b)

**Effective Date:** June 9, 1994 (amended July 13, 1996)

**Description:** The transfer tax rate is reduced to \$1.00 per \$500 (or fractional part thereof) on transfers of real property effected through qualifying “real estate investment trust transfers” in order to form a REIT occurring on or after June 9, 1994.

### **18. Real Estate Investment Trust Transfers (Existing REITs)**

**Citation:** Section 1402(b)

**Effective Date:** July 13, 1996

**Description:** The transfer tax rate is reduced to \$1.00 per \$500 (or fractional part thereof) on transfers of real property to existing REITs effected through qualifying “real estate investment trust transfers” occurring on or after July 13, 1996 and before September 1, 2020.



# CROSS-ARTICLE TAX CREDITS

Many of the tax credits New York State offers are available to taxpayers regardless of the tax article to which they are subject. This section provides descriptions of these credits and notes where there may be article-specific differences. The section also provides an estimate for the credit under each article where it is available. Credits that are only available under one tax article are reported in their respective section.

The historical data reflects the separation between Article 9-A for general business corporations (CFT) and Article 32 for banks (Bank). Starting in 2015, Article 32 no longer exists, which necessitates the "--" indication in the 2015 column for Banks and the Bank forecast column. The 2015 and 2016 CFT values and the 2020 forecast for CFT includes the estimated impact from taxpayers formerly filing under Article 32 but now filing under Article 9-A as a result of the recently enacted corporate tax reform.

Taxpayers using and refunding over \$2 million in certain tax credits in tax years 2010, 2011, and 2012 were required to defer excess amounts. Taxpayers could begin to redeem deferred credits starting in the 2013 tax year. All deferred nonrefundable tax credits are aggregated into the *temporary deferral nonrefundable payout credit* and may be applied to the extent permitted by the taxpayer's liability. Amounts in excess of any liability limitations will be allowed to be carried forward indefinitely for future use. All deferred refundable credits are aggregated into the *temporary deferral refundable payout credit*. Taxpayers may use and refund 50 percent of the total credit in tax year 2013, 75 percent of the remainder in tax year 2014, and the remaining balance in tax year 2015.

Because the temporary credit deferral program was essentially a shift in the timing of credit utilization, credit amounts reported in the Tax Expenditure Report do not account for the impact of deferral. Thus, data for the 2010-2012 tax years reflect the cost of credits as if deferral was not in place. This allows for a consistent basis against which to measure trends in credit utilization without needing to adjust for the timing distortion caused by the deferral program.

Because credit amounts in 2010-2012 are reported without regard to deferral, including the amounts of the deferral payout credits would amount to double-counting of the cost of credits. In the years where deferral was in effect, the impact on the financial plan was lower than the reported credit amounts. Likewise, in years where deferral payout credits are claimed, the total cost of credits is higher than what is shown. However, the two amounts will offset each other.

Finally, some credits contained in this section can no longer be earned in the current year. They are retained in this report, however, because taxpayers

## **CROSS-ARTICLE TAX CREDITS**

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possess a large, unused reserve of certain credits that can be carried forward and applied against future tax liabilities. These credits can be identified by looking at the effective dates included for each credit.

# CROSS-ARTICLE TAX CREDITS

**Table 8**  
**2020 New York State Cross-Article Tax Credits Estimates**

Tax Item	History						Forecast
	2012	2013	2014	2015	2016	2017 <sup>3</sup>	2020
1. Investment Tax Credit and Employment Incentive Credit <sup>4</sup>							
PIT <sup>1</sup>	23.1	22.7	32.9	29.3	29.3	28.3	32.0
CFT <sup>2, 7</sup>	85.7	144.2	102.3	118.5	90.1		110.0
<b>Total</b>	<b>108.8</b>	<b>166.9</b>	<b>135.2</b>	<b>147.8</b>	<b>119.4</b>		<b>142.0</b>
2. Investment Tax Credit for the Financial Services Industry <sup>4</sup>							
PIT	0.1	0.2	1.5	*	*	*	*
CFT	6.4	7.3	25.6	58.9	35.3		3.0
Bank	13.3	2.1	16.6	--	--		-
Insurance	0.0	0.0	0.0	0.0	0.0		*
<b>Total</b>	<b>19.8</b>	<b>9.6</b>	<b>43.7</b>	<b>58.9</b>	<b>35.3</b>		<b>3.0</b>
3. Special Additional Mortgage Recording Tax Credit <sup>4</sup>							
PIT	11.6	21.0	22.0	31.3	23.5	14.6	20.0
CFT	5.8	3.8	5.6	24.7	24.3		30.0
Bank	29.1	17.8	18.1	--	--		--
Insurance	0.0	*	0.1	0.0	*		*
Article 9, §183	0.0	0.0	0.0	0.0	0.0		*
Article 9, §184	0.0	0.0	0.0	0.0	0.0		*
Article 9, §185	0.0	0.0	0.0	0.0	0.0		--
Article 9, §186	0.0	0.0	0.0	0.0	0.0		*
<b>Total</b>	<b>46.5</b>	<b>42.6</b>	<b>45.8</b>	<b>56.0</b>	<b>47.8</b>		<b>50.0</b>
4. Empire Zone (EZ), Qualified Empire Zone Enterprise (QEZE), and Zone Equivalent Areas Tax Credits <sup>4,5</sup>							
a. EZ Investment Tax Credit and Employment Incentive Credit							
PIT	10.7	9.5	10.6	8.9	9.1	7.2	2.0
CFT	86.6	51.3	193.5	337.1	204.0		44.0
Article 9, §185	0.1	*	*	0.1	0.1		--
b. EZ/ZEA Wage Tax Credit							
PIT	11.7	10.1	9.6	5.5	5.4	3.8	1.0
CFT	11.0	11.2	10.0	7.2	2.4		1.0
Bank	*	0.0	0.0	--	--		--
Insurance	*	*	*	*	*		*
Article 9, §185	*	*	*	*	*		--
c. EZ Capital Credit							
PIT	0.2	0.2	0.1	*	*	*	*
CFT	*	*	0.0	*	*		*
Bank	*	*	*	--	--		--
Insurance	0.0	0.0	0.0	0.0	0.0		*
d. QEZE Real Property Tax Credit							
PIT	80.4	70.0	49.5	44.8	28.4	16.3	6.0
CFT	110.3	99.1	77.3	63.4	56.6		12.0
Bank	2.8	1.7	1.1	--	--		--
Insurance	2.8	0.1	*	0.0	0.0		*
Article 9, §185	0.3	0.3	0.1	0.3	*		--
e. QEZE Tax Reduction Credit							
PIT	74.9	40.2	40.3	33.7	24.7	12.2	5.0
CFT	22.8	20.0	11.2	8.8	6.0		2.0
Bank	4.4	2.9	2.3	--	--		--
Insurance	21.9	31.2	13.6	7.6	5.3		1.0
<b>Total</b>	<b>440.8</b>	<b>347.9</b>	<b>418.9</b>	<b>517.4</b>	<b>341.9</b>		<b>74.0</b>
5. Farmers' School Property Tax Credit							
PIT	35.7	38.2	40.0	41.5	42.0	43.2	45.0
CFT	1.3	1.3	1.3	1.2	1.5		2.0
<b>Total</b>	<b>37.1</b>	<b>39.5</b>	<b>41.3</b>	<b>42.7</b>	<b>43.6</b>		<b>47.0</b>
6. Credit for Employment of Persons with Disabilities <sup>4</sup>							
PIT	*	0.1	*	*	*	*	*
CFT	*	*	0.1	*	*		*

# CROSS-ARTICLE TAX CREDITS

Tax Item	History						Forecast
	2012	2013	2014	2015	2016	2017 <sup>3</sup>	2020
Bank	*	0.0	0.0	--	--		--
Insurance	0.0	0.0	0.0	0.0	0.0		*
Article 9, §183	0.0	0.0	0.0	0.0	0.0		*
Article 9, §184	0.0	0.0	0.0	0.0	0.0		*
Article 9, §185	0.0	0.0	0.0	0.0	0.0		--
Article 9, §186	0.0	0.0	0.0	0.0	0.0		*
<b>Total</b>	<b>0.0</b>	<b>0.1</b>	<b>0.1</b>	<b>*</b>	<b>*</b>		<b>*</b>
7. Qualified Emerging Technology Company (QETC) Credits <sup>4</sup>							
a. QETC Capital Tax Credit							
PIT	1.5	1.2	1.0	1.9	1.0	0.9	1.5
CFT	*	0.3	0.2	*	*		*
b. QETC Employment Credit							
PIT	0.3	0.1	0.2	0.3	0.3	0.1	0.2
CFT	0.4	0.4	0.6	1.4	2.8		1.0
<b>Total</b>	<b>2.2</b>	<b>2.0</b>	<b>2.0</b>	<b>3.6</b>	<b>4.1</b>		<b>2.7</b>
8. Low-Income Housing Credit <sup>4</sup>							
PIT	*	*	*	*	*	*	*
CFT	0.5	0.5	0.1	32.5	39.1		50.0
Bank	26.0	20.1	28.3	--	--		--
Insurance	0.8	0.9	0.4	1.2	0.5		1.0
<b>Total</b>	<b>27.3</b>	<b>21.5</b>	<b>28.8</b>	<b>33.7</b>	<b>39.6</b>		<b>51.0</b>
9. Credit for Purchase of an Automated External Defibrillator <sup>4</sup>							
PIT	0.1	*	*	0.1	*	0.1	*
CFT	*	*	*	*	0.1		*
Bank	0.0	*	*	--	--		--
Insurance	0.0	0.0	0.0	0.0	0.0		*
<b>Total</b>	<b>0.1</b>	<b>*</b>	<b>*</b>	<b>0.1</b>	<b>0.1</b>		<b>*</b>
10. Green Buildings Credit <sup>4</sup>							
PIT	0.1	0.1	*	*	*	0.0	*
CFT	0.0	0.0	0.0	0.0	0.0		*
Bank	0.0	0.0	0.0	--	--		--
Insurance	0.0	0.0	0.0	0.0	0.0		*
Article 9, §183	0.0	0.0	0.0	0.0	0.0		*
Article 9, §184	0.0	0.0	0.0	0.0	0.0		*
Article 9, §185	0.0	0.0	0.0	0.0	0.0		--
Article 9, §186	0.0	0.0	0.0	0.0	0.0		*
<b>Total</b>	<b>0.1</b>	<b>0.1</b>	<b>*</b>	<b>*</b>	<b>*</b>		<b>*</b>
11. Long-Term Care Insurance Credit							
PIT	79.6	85.3	90.4	89.9	87.9	90.9	90.0
CFT	0.1	0.2	0.1	0.1	0.1		0.2
Bank	*	*	*	--	--		--
Insurance	0.0	0.0	0.0	0.0	0.0		*
Article 9, §183	0.0	0.0	0.0	0.0	0.0		*
Article 9, §184	0.0	0.0	0.0	0.0	0.0		*
Article 9, §185	0.0	0.0	0.0	0.0	0.0		--
Article 9, §186	0.0	0.0	0.0	0.0	0.0		*
Article 9, §186-a	0.0	0.0	0.0	0.0	0.0		*
Article 9, §186-e	0.0	0.0	0.0	0.0	0.0		*
<b>Total</b>	<b>79.7</b>	<b>85.5</b>	<b>90.5</b>	<b>90.0</b>	<b>88.0</b>		<b>90.2</b>
12. Empire State Film and Commercial Credits							
a. Empire State Film Production Credit							
PIT	3.4	3.3	7.2	10.8	17.7	10.2	15.0
CFT	245.2	341.8	382.7	435.3	433.9		380.0
b. Empire State Film Post Production Credit							
PIT	0.1	1.0	0.9	1.6	0.7	1.6	1.0
CFT	0.2	2.0	5.4	9.6	13.2		24.0
c. Empire State Commercial Production Credit <sup>4</sup>							
PIT	*	*	0.6	*	*	0.5	*
CFT	0.2	0.7	0.7	0.2	0.2		7.0
<b>Total</b>	<b>249.1</b>	<b>348.8</b>	<b>397.5</b>	<b>457.5</b>	<b>465.7</b>		<b>427.0</b>
13. Security Training Tax Credit <sup>4</sup>							
PIT	*	0.1	*	0.1	0.1	0.0	*
CFT	*	*	*	0.0	*		*

## CROSS-ARTICLE TAX CREDITS

Tax Item	History					Forecast	
	2012	2013	2014	2015	2016	2017 <sup>3</sup>	2020
Bank	0.0	0.0	0.0	--	--		--
Insurance	0.0	0.0	0.0	0.0	0.0		*
Article 9, §183	0.0	0.0	0.0	0.0	0.0		*
Article 9, §184	0.0	0.0	0.0	0.0	0.0		*
Article 9, §185	0.0	0.0	0.0	0.0	0.0		--
Article 9, §186	0.0	0.0	0.0	0.0	0.0		*
Article 9, §186-a	0.0	0.0	0.0	0.0	0.0		*
Article 9, §186-e	0.0	0.0	0.0	0.0	0.0		*
<b>Total</b>	<b>0.0</b>	<b>0.1</b>	<b>*</b>	<b>0.1</b>	<b>0.1</b>		<b>*</b>
<b>14. Brownfields Tax Credits<sup>4</sup></b>							
<b>a. Brownfield Redevelopment Tax Credit</b>							
PIT	31.1	2.3	3.0	7.4	17.0	15.8	25.0
CFT	45.8	87.5	51.5	28.3	81.0		100.0
Bank	4.1	*	6.6	--	--		--
Insurance	0.0	0.0	0.0	0.0	0.0		*
Article 9, §183	0.0	0.0	0.0	0.0	0.0		*
Article 9, §184	0.0	0.0	0.0	0.0	0.0		*
Article 9, §185	0.0	0.0	0.0	0.0	0.0		--
<b>b. Remediated Brownfield Credit for Real Property Taxes</b>							
PIT	2.3	0.3	1.0	1.0	0.8	0.8	2.0
CFT	3.2	3.4	3.8	3.9	1.8		3.0
Bank	0.0	0.0	0.0	--	--		--
Insurance	0.0	0.0	0.0	0.0	0.0		*
Article 9, §183	0.0	0.0	0.0	0.0	0.0		*
Article 9, §184	0.0	0.0	0.0	0.0	0.0		*
Article 9, §185	0.0	0.0	0.0	0.0	0.0		--
<b>c. Environmental Remediation Insurance Credit</b>							
PIT	*	*	*	*	*	0.0	*
CFT	0.0	*	0.0	0.0	0.0		*
Bank	0.0	0.0	0.0	--	--		--
Insurance	0.0	0.0	0.0	0.0	0.0		*
Article 9, §183	0.0	0.0	0.0	0.0	0.0		*
Article 9, §184	0.0	0.0	0.0	0.0	0.0		*
Article 9, §185	0.0	0.0	0.0	0.0	0.0		-
<b>Total</b>	<b>86.5</b>	<b>93.5</b>	<b>65.9</b>	<b>40.6</b>	<b>100.6</b>		<b>130.0</b>
<b>15. Biofuel Production Credit<sup>4</sup></b>							
PIT	*	*	*	*	*	*	*
CFT	5.0	0.0	0.0	0.0	0.0		*
Article 9, §183	0.0	0.0	0.0	0.0	0.0		*
Article 9, §184	0.0	0.0	0.0	0.0	0.0		*
Article 9, §185	0.0	0.0	0.0	0.0	0.0		--
Article 9, §186	0.0	0.0	0.0	0.0	0.0		*
Article 9, §186-a	0.0	0.0	0.0	0.0	0.0		*
Article 9, §186-e	0.0	0.0	0.0	0.0	0.0		*
<b>Total</b>	<b>5.0</b>	<b>*</b>	<b>*</b>	<b>*</b>	<b>*</b>		<b>*</b>
<b>16. Land Conservation Easement Credit<sup>4</sup></b>							
PIT	1.4	1.4	1.6	1.6	1.7	1.9	2.0
CFT	*	*	*	*	*		*
<b>Total</b>	<b>1.4</b>	<b>1.4</b>	<b>1.6</b>	<b>1.6</b>	<b>1.7</b>		<b>2.0</b>
<b>17. Clean Heating Fuel Credit<sup>4</sup></b>							
PIT	0.7	1.9	2.9	3.1	3.0	3.5	4.0
CFT	0.3	1.0	1.9	1.0	0.8		1.0
<b>Total</b>	<b>1.0</b>	<b>2.9</b>	<b>4.8</b>	<b>4.1</b>	<b>3.8</b>		<b>5.0</b>
<b>18. Rehabilitation of Historic Properties Credit<sup>4</sup></b>							
PIT	1.5	4.2	2.8	16.5	18.8	16.3	25.0
CFT	5.7	0.8	0.4	50.5	53.2		60.0
Bank	2.0	17.2	27.0	--	--		--
Insurance	2.3	3.8	3.7	4.0	1.5		5.0
<b>Total</b>	<b>11.5</b>	<b>26.0</b>	<b>33.9</b>	<b>71.0</b>	<b>73.5</b>		<b>90.0</b>
<b>19. Excelsior Jobs Program Tax Credits</b>							
PIT	*	0.6	1.3	1.2	1.4	1.9	41.0
CFT	13.1	19.0	26.6	18.4	21.7		120.0

# CROSS-ARTICLE TAX CREDITS

Tax Item	History						Forecast
	2012	2013	2014	2015	2016	2017 <sup>3</sup>	2020
Bank	0.0	0.7	1.1	--	--		--
Insurance	0.0	0.0	0.0	0.0	0.0		*
<b>Total</b>	<b>13.1</b>	<b>20.3</b>	<b>29.0</b>	<b>19.6</b>	<b>23.1</b>		<b>161.0</b>
20. Credit for Companies who Provide Transportation to Individuals with Disabilities							
PIT	*	0.2	0.7	0.6	0.8	0.7	1.0
CFT	*	*	*	*	*		*
<b>Total</b>	<b>*</b>	<b>0.2</b>	<b>0.7</b>	<b>0.6</b>	<b>0.8</b>		<b>1.0</b>
21. Economic Transformation and Facility Redevelopment Program Tax Credit <sup>6</sup>							
PIT	*	*	*	*	*	*	*
CFT	0.0	0.0	0.0	0.0	0.0		*
Bank	0.0	0.0	0.0	--	--		--
Insurance	0.0	0.0	0.0	0.0	0.0		*
Article 9, §185	0.0	0.0	0.0	0.0	0.0		--
<b>Total</b>	<b>*</b>	<b>*</b>	<b>*</b>	<b>*</b>	<b>*</b>		<b>*</b>
22. New York Youth Jobs Program Tax Credit							
PIT	1.0	0.7	1.6	3.1	6.8	9.4	30.0
CFT	1.3	0.4	0.6	1.9	3.7		10.0
<b>Total</b>	<b>2.3</b>	<b>1.1</b>	<b>2.2</b>	<b>5.0</b>	<b>10.5</b>		<b>40.0</b>
23. Empire State Jobs Retention Program Credit <sup>8</sup>							
PIT	--	*	0.3	0.3	0.4	0.5	1.0
CFT	7.0	6.7	6.2	9.4	8.4		6.0
Bank	0.0	0.0	0.0	--	--		--
Insurance	0.0	0.0	0.0	0.0	0.0		*
<b>Total</b>	<b>7.0</b>	<b>6.7</b>	<b>6.5</b>	<b>9.7</b>	<b>8.8</b>		<b>7.0</b>
24. Alcoholic Beverage Production Credit (Beer Production Credit) <sup>9</sup>							
PIT	0.6	0.6	0.5	0.8	1.2	1.3	1.0
CFT	1.3	1.8	2.6	2.1	1.7		2.0
<b>Total</b>	<b>1.9</b>	<b>2.4</b>	<b>3.1</b>	<b>2.9</b>	<b>2.9</b>		<b>3.0</b>
25. Alternative Fuels and Electric Vehicle Recharging Property Credit							
PIT	--	*	*	*	0.1	0.1	1.0
CFT	--	*	*	*	0.5		2.0
Article 9, §183	--	0.0	0.0	0.0	0.0		*
Article 9, §184	--	0.0	0.0	0.0	0.0		*
Article 9, §185	--	0.0	0.0	0.0	0.0		--
<b>Total</b>	<b>--</b>	<b>*</b>	<b>*</b>	<b>*</b>	<b>0.6</b>		<b>3.0</b>
26. START-UP NY Tax Elimination Credit							
PIT	--	--	*	0.6	0.2	0.5	5.0
CFT	--	--	*	*	0.1		2.0
<b>Total</b>	<b>--</b>	<b>--</b>	<b>*</b>	<b>0.6</b>	<b>0.3</b>		<b>7.0</b>
27. Credit for the Excise Tax on Telecommunication Services Paid by START-UP New York Businesses							
PIT	--	--	*	*	*	0.0	*
CFT	--	--	0.0	0.0	*		*
<b>Total</b>	<b>--</b>	<b>--</b>	<b>*</b>	<b>*</b>	<b>*</b>		<b>*</b>
28. Real Property Tax Relief Credit for Manufacturing							
PIT	--	--	3.1	5.9	7.0	8.1	17.0
CFT	--	--	3.5	2.4	2.2		8.0
<b>Total</b>	<b>--</b>	<b>--</b>	<b>6.6</b>	<b>8.3</b>	<b>9.2</b>		<b>25.0</b>
29. Hire A Vet Credit							
PIT	--	--	--	*	*	*	1.0
CFT	--	--	--	0.0	*		4.0
Insurance	--	--	--	*	0.0		*
<b>Total</b>	<b>--</b>	<b>--</b>	<b>--</b>	<b>*</b>	<b>*</b>		<b>5.0</b>
30. Musical and Theatrical Production Credit							
PIT	--	--	--	*	0.7	1.2	1.0
CFT	--	--	--	0.0	1.8		3.0

## CROSS-ARTICLE TAX CREDITS

Tax Item	History						Forecast
	2012	2013	2014	2015	2016	2017 <sup>3</sup>	2020
<b>Total</b>			--	*	2.5		4.0
31. Workers with Disabilities Tax Credit							
PIT	--	--	--	*	*	*	2.0
CFT	--	--	--	0.0	*		2.0
<b>Total</b>				*	*		<b>4.0</b>
32. Employee Training Incentive Program <sup>8</sup>							
PIT	--	--	--	*	*	*	4.0
CFT	--	--	--	0.0	0.0		1.0
<b>Total</b>				*	*		<b>5.0</b>
33. Farm Workforce Retention Credit							
PIT	--	--	--	--	--	3.2	4.0
CFT	--	--	--	--	--		1.0
<b>Total</b>							<b>5.0</b>
34. Empire State Apprenticeship Tax Credit							
PIT	--	--	--	--	--		1.0
CFT	--	--	--	--	--		4.0
<b>Total</b>							<b>5.0</b>
35. Life Sciences Research and Development Tax Credit <sup>8</sup>							
PIT	--	--	--	--	--		5.0
CFT	--	--	--	--	--		5.0
<b>Total</b>							<b>10.0</b>
36. Farm Donations to Food Pantries Credit							
PIT	--	--	--	--	--		9.0
CFT	--	--	--	--	--		1.0
<b>Total</b>							<b>10.0</b>
37. Employer Provided Child Care Credit							
PIT	--	--	--	--	--		0.5
CFT	--	--	--	--	--		0.5
<b>Total</b>							<b>1.0</b>
38. Employer Recovery Hiring Tax Credit							
PIT	--	--	--	--	--		1.0
CFT	--	--	--	--	--		1.0
<b>Total</b>							<b>2.0</b>

1/ Personal Income Tax

2/ Corporation Franchise Tax

3/ Data for non-PIT items is not yet available

4/ For tax year 2012, credits subject to deferral. Values reported reflect the amount of credit computed absent deferral rules.

5/ The total forecast for the EZ/QEZE Program, including \$6 million for Sales Tax, is \$80 million.

6/ The total forecast for the Economic Transformation and Facility Redevelopment Program, including a minimal amount for Sales Tax, is minimal.

7/ Data for tax years prior to 2015 include the costs of the retail enterprise tax credit and the rehabilitation credit for historic barns, although those amounts were typically zero or minimal.

8/ The Employee Training Incentive Program, the Empire State Jobs Retention Program, and the Life Sciences Research and Development Tax Credit are funded out of the Excelsior Jobs Program.

9/ For tax years beginning on or after January 1, 2016, the Beer Production Credit was expanded to include wine, liquor, and cider. The amended credit was renamed the Alcoholic Beverage Production Credit.

\* Less than \$0.1 million

-- Tax expenditure not applicable for these years

## CROSS-ARTICLE TAX CREDITS

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### 1. Investment Tax Credit and Employment Incentive Credit

#### a. Investment Tax Credit (ITC)

**Citation:** Section 210-b(1), Section 606(a), a-1

**Pre-Reform Citation:** Section 210(12)

**Credit Type:** Refundable to New Businesses Only

**Effective Date of Credit:** Effective for tax years beginning on or after January 1, 1969; the sections of this credit covering research and development (R&D) property and pollution control facilities represent a consolidation of previously separate tax benefits and are effective for tax years beginning on or after January 1, 1987

**Description:** The law allows a credit based on the cost or other basis for Federal tax purposes of depreciable tangible personal property, including buildings and their structural components, acquired, constructed, reconstructed, or erected after December 31, 1968 having a useful life of four years or more, located within the State of New York, and used primarily for the production of goods by a variety of processes. The claiming of a depreciation or expense deduction for such property under certain other tax provisions, or the leasing of the property to another individual or corporation, unless explicitly allowed, disqualifies the taxpayer from exercising a claim under this provision. A taxpayer may carry forward any unused credit and apply it against the tax for subsequent years or, in the case of a qualified new business, claim it as a refund.

Taxpayers who provide three or more services, such as a studio lighting grid, lighting and grip equipment, or industrial scale electrical capacity to qualified film productions are eligible to claim the ITC on property used in the qualified film production facility.

The law allows a credit for expenditures paid or incurred during the tax year for the construction, reconstruction, erection, or improvement of pollution control, waste treatment, and acid rain control facilities. To qualify for the credit, facilities must be located within the State, used in regular business activities, and certified by the State Commissioner of Environmental Conservation.

Tangible property, including buildings and structural components of buildings used for the purpose of research and development in the laboratory or experimental sense is eligible for a higher credit rate. However, credit is not allowed with respect to property that has been leased to another individual or corporation, or that has been the basis of a claim for an elective expense deduction or a regular ITC. Furthermore, the credit is not allowed with respect to tangible personal property and other tangible property principally used by the taxpayer in the production or distribution of electricity, natural gas after extraction from wells, steam, or water delivered through a pipe.



**PIT Filers** – The credit rate equals 4 percent of the investment credit base. The taxpayer may claim a rate of 7 percent on R&D property but is not allowed to also claim the employment incentive credit. Where the allowable credit exceeds the taxpayer's liability for a given year, the taxpayer may carry forward the excess credit for 10 subsequent tax years. In the case of a new business, excess credit may be received as a refund.

**CFT Filers** – The credit rate equals 5 percent of the first \$350 million of the investment credit base. A 4 percent rate applies to amounts above \$350 million. The taxpayer may claim a rate of 9 percent on R&D property but is not allowed to also claim the employment incentive credit. Where the allowable credit exceeds the taxpayer's liability for a given year, the taxpayer may carry forward the excess credit for 15 subsequent tax years. In the case of a new business, excess credit may be received as a refund.

NOTE: When qualified ITC property is disposed of or ceases to be in qualified use prior to the end of its useful life, a portion of the credit must be recaptured. Any ITC recapture may be added to the tax otherwise due in the year of disposition or disqualification.

b. **Employment Incentive Credit (EIC)**

**Citation:** Section 210-b(2), Section 606(a-1)

**Pre-Reform Citation:** Section 210(12-D)

**Credit Type:** CFT - Non-refundable/Carryforward; PIT - Refundable to New Businesses Only

**Effective Date of Credit:** Effective for tax years beginning on or after January 1, 1987 for corporate franchise taxpayers; January 1, 1997 for personal income taxpayers

**Description:** Taxpayers that increase employment may be eligible for the employment incentive credit, which is allowed for each of the two years succeeding the taxable year in which the ITC is earned. The amount of the credit is as follows:

- 1.5 percent of the ITC base if employment is at least 101 percent but less than 102 percent of the employment base year;
- 2.0 percent of the ITC base if employment is at least 102 percent but less than 103 percent of the employment base year;
- 2.5 percent of the ITC base if employment is at least 103 percent of the employment base year.

NOTE: As part of corporate tax reform, passed in the SFY 2014-15 Enacted Budget, the rehabilitation credit for historic barns and the retail enterprise tax credit were eliminated under Article 9-A (the Corporate Franchise Tax). These credits are still available under the personal income tax, but information on the amount of credits used and refunded in any year is not separately available.

## CROSS-ARTICLE TAX CREDITS

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### 2. Investment Tax Credit for the Financial Services Industry

**Citation:** Section 210-b(1), Section 606(a)(2)(A), Section 1511(q)

**Pre-Reform Citation:** Section 210(12), Section 1456(i)

**Credit Type:** Refundable to New Businesses Only

**Effective Date of Credit:** PIT/CFT/Bank - Effective for property placed in service on or after October 1, 1998 and before October 1, 2015; Insurance - Available for property placed in service on or after January 1, 2002 and before October 1, 2015.

**Description:** An ITC and EIC are allowed for qualified property used in the financial services industry and employment increases respectively. The rate of credit, maximum amounts, refund/carryforward provisions, and recapture rules are generally the same as for the regular ITC/EIC available under the corporate franchise and personal income taxes.

Qualified property includes property principally used in the ordinary course of the taxpayer's trade or business:

- as a broker or dealer in connection with the purchase or sale of stocks, bonds, or other securities (as defined in Internal Revenue Code (IRC) Section 475(c)(2)), or of commodities (as defined in IRC Section 475(e)), or in providing lending, loan arrangement, or loan origination services to customers in connection with the purchase or sale of securities as defined in IRC Section 475(c)(2);
- of providing investment advisory services for a regulated investment company as described in IRC Section 851; or
- as an exchange registered as a national securities exchange (such as the New York Stock Exchange) or a board of trade defined under the New York Not-For-Profit Corporation Law, or an entity wholly owned by one or more national security exchanges or boards of trade that provides automation or technical services to the national security exchanges or boards of trade.

Property purchased by a taxpayer affiliated with a regulated broker, dealer, registered investment advisor, or national securities exchange or board of trade, or property leased by a taxpayer to an affiliated regulated broker, dealer, registered investment advisor, national securities exchange, or board of trade is eligible for this credit if the property is used by the affiliate in an activity described above.

Taxpayers must also satisfy an annual employment test that measures New York State employment in the current tax year against one of three standards:

- 80% current-year test: 80% or more of the employees performing the administrative and support functions resulting from or relating to the qualifying uses of the property are located in New York State;
- 95% three-year back-office test: The average number of employees located in New York State performing the administrative and support functions resulting from or related to the qualifying uses of such equipment during the tax year is equal to or greater than 95% of the

number during the 36 months immediately preceding the year for which the credit is claimed; or

- **90% end-of-year test:** The number of New York State employees during the current tax year is equal to or greater than 90 percent of the number on December 31, 1998 or, if the taxpayer was not a calendar year taxpayer in 1998, the last day of its first taxable year ending after December 31, 1998.

### 3. **Special Additional Mortgage Recording Tax Credit**

**Citation:** Section 187, Section 210-b(9, 27), Section 606(f)(3), Section 1511(e)

**Pre-Reform Citation:** Section 210(17, 21), Section 1456(c)

**Credit Type:** Non-refundable/Carryforward (Refundable under PIT/CFT for certain Residential Mortgages Only)

**Effective Date of Credit:** CFT/Bank/Insurance/Corporation - Effective for tax years beginning after December 31, 1978; PIT - Effective for tax years beginning after 2003

**Description:** Taxpayers may claim a credit equal to the special additional mortgage recording tax paid on certain mortgages. The credit is not available for special additional tax paid on mortgages of real property principally improved by one or more structures containing in the aggregate not more than six residential dwelling units, each dwelling unit having its own separate cooking facilities, where the real property is located in one or more of the counties comprising the Metropolitan Commuter Transportation District or Erie County.

Effective for special additional mortgage recording tax paid in tax years beginning after January 1, 1994, an S corporation could elect to treat the unused portion of the credit as either a refund or carryforward instead of passing the credit through to shareholders. S corporations could also elect to take a refund regardless of whether the credit is carried from a New York C year or a New York S year. Under Article 9-A, credit earned on or after January 1, 2015 is refundable for certain residential mortgages.

### 4. **Empire Zone (EZ), Qualified Empire Zone Enterprise (QEZE), and Zone Equivalent Area Tax Credits**

The Empire Zones (EZ) Program expired on June 30, 2010. No new entrants will be admitted to the Program, but existing participants can continue to earn credits for several years. Taxpayers will be allowed to utilize the remainder of their five year period for the EZ wage tax credit and the remainder of their benefit period for the Qualified Empire Zone (QEZE) credits (15 or 10 years, depending on the date of first certification). Taxpayers will be allowed to earn additional Empire Zone Investment Tax Credit (EZ-ITC) until April 1, 2014, but qualified investment projects (QUIPs) can earn EZ-ITC for their next nine tax years. The Empire Zone Employment Incentive Credit (EZ-EIC) will be fully available for the three years after an EZ-ITC is claimed if the taxpayer meets the requisite employment tests. Finally, taxpayers can continue to earn the EZ capital

## CROSS-ARTICLE TAX CREDITS

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credit through March 31, 2014 for certified contributions in fulfillment of a pledge made to an EZ community development project.

a. **EZ-ITC and EZ-EIC\***

**Citation:** Section 187-k, Section 187-l, Section 210-b(3), Section 210-b(4), Section 606(j), Section 606(j-1)

**Pre-Reform Citation:** Section 210(12-B), Section 210(12-C)

**Credit Type:** EZ-ITC - 50 percent Refundable to New Businesses Only; EZ-EIC - Non-refundable/Carryforward for corporate taxpayers; EZ-EIC - 50 percent Refundable to New Businesses Only for Personal Income Taxpayers

**Effective Date of Credit:** PIT/CFT - Effective for tax years beginning on or after January 1, 1986; Article 9, Section 185 Agricultural Cooperatives - Effective for tax years beginning on or after January 1, 2004

**Description:** Taxpayers may qualify for an enhanced investment tax credit (EZ-ITC) equal to a percentage of the cost or other Federal basis of tangible personal property, including buildings and structural components of buildings, located within a designated EZ. The credit is also available to taxpayers in the financial services industry and contains the same rules and qualifications as the regular financial services ITC. The credit rate is 10 percent for corporate taxpayers and 8 percent for personal income taxpayers.

Taxpayers may also claim an EZ-EIC similar to the regular EIC, based upon EZ-ITC claimed and employment increased within an EZ. The amount of the EZ-EIC allowed is 30 percent of the EZ-ITC for each of the three years following the year for which the original EZ-ITC was allowed. The EZ-EIC is allowed only for those years during which the average number of employees (except general executive officers) in the EZ is at least 101 percent of the average number of employees (except general executive officers) in the EZ during the tax year immediately preceding the tax year for which the original EZ-ITC was allowed.

b. **EZ/ZEA Wage Tax Credit**

**Citation:** Section 187-m, Section 210-b(46), Section 606(k), Section 1511(g)

**Pre-Reform Citation:** Section 210(19), Section 1456(e)

**Credit Type:** 50 percent Refundable to New Business Only

**Effective Date of Credit:** PIT/CFT/Bank/Insurance - Effective for tax years beginning on or after January 1, 1986; Article 9, Section 185 Agricultural Cooperatives - Effective for tax years beginning on or after January 1, 2004

**Description:** A taxpayer may claim a wage tax credit (EZ-WTC) for doing business and creating full-time jobs in an Empire Zone. The credit equals the product of the average number of newly hired targeted EZ employees receiving EZ wages multiplied by \$3,000. The corresponding credit amount for non-targeted employees is \$1,500. Taxpayers certified in Investment Zones may claim an additional \$500

## CROSS-ARTICLE TAX CREDITS

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for each employee paid over \$40,000 in wages. The EZ-WTC is available for five years. Taxpayers employing individuals in areas that met EZ eligibility criteria but were not so designated - Zone Equivalent Areas, or ZEAs - could claim a credit for ZEA wages paid for full-time employment in jobs created in the ZEA. The ZEA credit expired in 2004, but taxpayers are allowed to use carryforwards until exhausted. The total wage tax credit cannot exceed 50 percent of tax due before credits.

NOTE: Excess amounts of EZ-ITC and EZ-WTC are 50 percent refundable to new business taxpayers or taxpayers designated as owners of a qualified investment project (QUIP) or a significant capital investment project (SCIP). Owners of QUIPs or SCIPs may also refund 50 percent of excess EZ-EIC.

c. **EZ Capital Credit**

**Citation:** Section 210-b(46), Section 606(l), Section 1511(h)

**Pre-Reform Citation:** Section 210(20), Section 1456(d)

**Credit Type:** Non-refundable/Carryforward

**Effective Date of Credit:** Effective for tax years beginning on or after January 1, 1986

**Description:** Taxpayers may qualify for a credit for direct equity investments in certified zone businesses and contributions to community development projects. The credit equals 25 percent of the sum of each type of investment. The maximum credit per taxpayer is \$100,000 for each investment type for an aggregate limit of \$200,000 and cannot exceed one half of the taxpayer's pre-credit tax. Taxpayers may carry unused credits forward indefinitely.

d. **QEZE Real Property Tax Credit**

**Citation:** Section 14, Section 15, Section 187-j, Section 210-b(5), Section 606(bb), Section 1511(r)

**Pre-Reform Citation:** Section 210(27), Section 1456(o)

**Credit Type:** Refundable

**Effective Date of Credit:** PIT/CFT/Bank/Insurance - Effective for tax years beginning on or after January 1, 2001; Article 9, Section 185 Agricultural Cooperatives - Effective for tax years beginning on or after January 1, 2004

**Description:** For taxpayers certified prior to April 1, 2005, the QEZE real property tax credit (RPTC) is the product of three factors. The benefit period factor is 1.0 in the first ten years of certification, declining by 0.2 each year thereafter. The employment increase factor is based upon the QEZE's job growth. The final factor is the QEZE's real property taxes for the current tax year.

For taxpayers certified on or after April 1, 2005 and located in an Investment Zone (IZ), the credit equals 25 percent of the wages and health and retirement benefits of net new employees. Taxpayers located in a Development Zone (DZ) use the same formula but include an additional factor, the DZ employment increase factor, scaled to

## CROSS-ARTICLE TAX CREDITS

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reward greater job increases. The credit can exceed these amounts if the capital investment limitation is greater, but the credit is capped at the amount of real property taxes.

Taxpayers certified on or after April 1, 2009 must reduce the computed credit amount by 25 percent.

### e. **QEZE Tax Reduction Credit**

**Citation:** Section 14, Section 16, Section 210-b(6), Section 606(cc), Section 1511(s)

**Pre-Reform Citation:** Section 210(28), Section 1456(p)

**Credit Type:** Non-refundable/Non-carryforward

**Effective Date of Credit:** Effective for tax years beginning on or after January 1, 2001

**Description:** The QEZE tax reduction credit is the product of four factors: the benefit period factor, the employment increase factor, the zone allocation factor, and the tax factor. The first two factors are discussed above. The zone allocation factor measures the QEZE's economic presence in the zone. The tax factor depends on the type of filer:

<b>Tax Type</b>	<b>For Tax Years Beginning on or after January 1, 2016 the Tax Factor is:</b>
Personal Income Tax	The amount of personal income tax attributable to allocated QEZE income
Corporation Franchise Tax	The QEZE's tax on the BI base
Insurance Tax	The greater of the QEZE's tax on the ENI or ENI plus compensation bases

For corporation franchise taxpayers located entirely within an EZ, the tax reduction credit can be applied against the fixed dollar minimum tax, potentially reducing a taxpayer's liability to zero.

### 5. **Farmers' School Property Tax Credit**

**Citation:** Section 210-b(11), Section 606(n)

**Pre-Reform Citation:** Section 210(22)

**Credit Type:** Refundable

**Effective Date of Credit:** Effective for tax years beginning on or after January 1, 1997

**Description:** Taxpayers primarily engaged in farming may claim a credit equal to 100 percent of total school property taxes paid on qualified New York agricultural property up to 350 acres, and 50 percent of the school taxes paid on acres in excess of 350. To be eligible, taxpayers must earn two-thirds of their Federal income from farming, with three-year income averaging allowed in determining this threshold. Recapture provisions apply if the taxpayer converts the property to a nonqualified use in the two years subsequent to first use of the credit.

**PIT Filers** - For purposes of this test, total gross income is reduced by the sum (not to exceed \$30,000) of earned income, pensions, social security, interest, and dividends. The credit begins to phase out for taxpayers with NYAGI in



excess of \$200,000, after subtracting principal on farm indebtedness, and is phased out completely at \$300,000.

**CFT Filers** - The credit begins to phase out for taxpayers with New York entire net income in excess of \$200,000 and is phased out completely at \$300,000. Shareholders may elect to claim their pro rata share of the corporation's income and principal payments on farm indebtedness when determining the farmers' school tax credit. In such instances, the corporation does not claim any credit.

### 6. Credit for Employment of Persons with Disabilities

**Citation:** Section 187-a, Section 210-b(12), Section 606(o), Section 1511(j)

**Pre-Reform Citation:** Section 210(23), Section 1456(f)

**Credit Type:** Non-refundable/Carryforward

**Effective Date of Credit:** Effective for tax years beginning on or after January 1, 1998, applicable to individuals who begin work on or after January 1, 1997

**Description:** Employers may claim a credit equal to 35 percent of the first \$6,000 of first year wages paid to employees with disabilities (a maximum of \$2,100 per employee). However, if the first year's wages qualify for the Federal work opportunity tax credit, the New York credit will apply to second year wages. To be eligible for the State credit, the disabled employee must work for the employer on a full-time basis for at least 180 days or 400 hours, and must be certified by the State Department of Education or another designated State agency. Visually handicapped individuals may receive certification from the appropriate agency responsible for vocational rehabilitation of the blind and visually impaired.

### 7. Qualified Emerging Technology Company (QETC) Credits

#### a. QETC Capital Tax Credit

**Citation:** Section 210-b(8), Section 606(r)

**Pre-Reform Citation:** Section 210(12-F)

**Credit Type:** Non-refundable/Carryforward

**Effective Date of Credit:** Effective for tax years beginning on or after January 1, 1999

**Description:** Taxpayers who make a qualified investment in a certified QETC can receive a credit that varies depending upon how long the investment is held. Taxpayers claim the credit in the year the investment is made and certify the duration of the holding period. Investments held for four years from the close of the tax year in which the credit is first claimed qualify for a 10 percent credit. Investments held for nine years qualify for a 20 percent credit. If the property is sold, transferred, or disposed of prior to the end of the holding period, the taxpayer must recapture a portion of the credit. The aggregate limits for all years are \$150,000 for the 10 percent credit, and \$300,000 for the 20 percent credit. The amount of credit deducted may not exceed 50 percent of the tax due before any credits.

## CROSS-ARTICLE TAX CREDITS

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- b. **QETC Employment Credit**  
**Citation:** Section 210-b(7), Section 606(q)  
**Pre-Reform Citation:** Section 210(12-E)  
**Credit Type:** Refundable  
**Effective Date of Credit:** Effective for tax years beginning on or after January 1, 1999  
**Description:** A QETC may claim a credit equaling \$1,000 for each individual employed over a base year level. Credit is allowed for three years.
8. **Low-Income Housing Credit**  
**Citation:** Section 18, Section 210-b(15), Section 606(x), Section 1511(n)  
**Pre-Reform Citation:** Section 210(30), Section 1456(l)  
**Credit Type:** Non-refundable/Carryforward  
**Effective Date of Credit:** Effective for tax years beginning on or after January 1, 2000, with respect to commitments for construction of low-income housing agreed upon on or after May 15, 2000  
**Description:** The “New York State Low-Income Housing Tax Credit Program,” based on the existing Federal program, requires an agreement between the taxpayer and the commissioner of the New York State Division of Housing and Community Renewal (DHCR) for a long-term commitment to low-income housing. The amount of the credit is determined by DHCR and depends on the applicable percentage of the qualified basis of each low-income building. The credit amount allocated is allowed as a credit against tax for 10 tax years. Beginning in 2019, for buildings that receive an allocation of low-income housing credit on or after January 1, 2019, the Public Housing Law allows a one-time transfer of the credit to a person or entity without regard to the allocation of the federal low-income housing credit and notwithstanding that the recipient may have no ownership interest in the building.
9. **Credit for Purchase of an Automated External Defibrillator**  
**Citation:** Section 210-b(13), Section 606(s), Section 1511(l)  
**Pre-Reform Citation:** Section 210(25), Section 1456(j)  
**Credit Type:** Non-refundable/Non-carryforward  
**Effective Date of Credit:** Effective for tax years beginning on or after January 1, 2001  
**Description:** Taxpayers may claim a credit for the purchase of an automated external defibrillator, as defined in section 3000-b of the Public Health Law. The amount of credit equals the cost of each unit, up to a maximum of \$500 per defibrillator.
10. **Green Buildings Credit**  
**Citation:** Section 19, Section 187-d, Section 210-b(16), Section 606(y), Section 1511(o)  
**Pre-Reform Citation:** Section 210(31), Section 1456(m)  
**Credit Type:** Non-refundable/Carryforward  
**Effective Date of Credit:** Effective for taxable years beginning on or after January 1, 2001



**Description:** The green building credit consists of several incentives for the purchase of recyclable building materials and other environmentally preferable tangible personal property. It also contains components for the purchase of fuel cells, photovoltaic modules, and environmentally sensitive non-ozone depleting refrigerants. Phase I authorized \$25 million in credit for costs incurred on or after June 1, 1999, for property placed in service or that received a final certificate of occupancy in tax years from January 1, 2001 to 2004. Phase II of the program began in the 2005 tax year. An additional \$25 million in total credit could be issued, but the amount on any one credit certificate was limited to \$2 million.

### 11. Long-Term Care Insurance Credit

**Citation:** Section 190, Section 210-b(14), Section 606(aa), Section 1511(m)

**Pre-Reform Citation:** Section 210(25-a), Section 1456(k)

**Credit Type:** Non-refundable/Carryforward

**Effective Date of Credit:** Effective for tax years beginning on or after January 1, 2002

**Description:** Taxpayers may take a credit equal to a percentage of the premiums paid for the purchase of, or continuing coverage under, a long-term care insurance policy approved by the New York State Department of Financial Services. When enacted, the credit rate was 10 percent. Subsequent legislation increased the credit to 20 percent for tax years beginning after 2003.

### 12. Empire State Film and Commercial Credits

#### a. Empire State Film Production Credit

**Citation:** Section 24, Section 210-b(20), Section 606(gg),

**Pre-Reform Citation:** Section 210(36)

**Credit Type:** Refundable

**Effective Date of Credit:** Effective for tax years beginning on or after January 1, 2004 and before January 1, 2025

**Description:** Taxpayers satisfying a threshold level of film production activity in New York State may claim the Empire State film production credit. The credit equals 30 percent of qualified production costs incurred in the production of films and certain television shows. For tax years 2015 through 2022, Empire State film production and post-production projects are eligible for an additional credit equal to 10 percent of the wages or salaries of individuals employed by a qualified film or independent film production company for services performed in specific Upstate New York counties. Credit is awarded on a first come, first served basis with applications made to the New York State Governor's Office for Motion Picture and Television Development (MP/TV).

The annual amount of credit that can be allocated by MP/TV is \$420 million in 2010 through 2024. Initially, up to \$7 million of the annual allocation was available for the Empire State film post production credit.

## CROSS-ARTICLE TAX CREDITS

Starting in 2015, the amount of the allocation dedicated to the post production credit increased to \$25 million annually. MP/TV has the authority to redirect Empire State film post production credit funds to the film credit if there are insufficient claims for the post production credit and applications for the film production credit exceed the allotted total. For tax years prior to January 1, 2008, the film credit was refundable across two years. For tax years starting in 2008, the credit was fully refundable. For tax years beginning on or after January 1, 2009, the utilization of the credit is spread across several years, depending on the size of the credit:

If the amount of the credit is:	Then the film credit is claimed:
under \$1 million	in the taxable year in which the film is completed
at least \$1 million but less than \$5 million	over a two year period, with half claimed each year
at least \$5 million	over a three year period, with one-third claimed each year

Taxpayers awarded credit from the 2010-2022 allocations claim credit in the later of the tax year the production of the qualified film is completed or the tax year immediately following the allocation year from which the taxpayer was awarded credit.

**b. Empire State Film Post Production Credit**

**Citation:** Section 31, Section 210-b(32), Section 606(qq)

**Pre-Reform Citation:** Section 210(41)

**Credit Type:** Refundable – Over 2 Years

**Effective Date of Credit:** Effective for tax years beginning on or after August 11, 2010 and before January 1, 2025

**Description:** Companies that are ineligible for the film production credit may qualify for the film post production credit. To be eligible for the post production credit, the costs incurred at a qualified post production facility, generally a facility in New York State, must equal or exceed 75 percent of the total post production costs at any post production facility. The credit is allowed for the taxable year in which the production of the qualified film is completed. However, as of March 28, 2013, the utilization of the credit is subject to the same rules as the film credit.

The credit is administered by the Governor's Office for Motion Picture and Television Development (MP/TV) and was initially capped at \$7 million per year (total allocation of \$35 million) through tax year 2014. Starting in 2015, the amount of the allocation dedicated to the Empire State film post production credit increased to \$25 million annually. As enacted, the credit equaled 10 percent of qualified post production costs paid in the production of a qualified film at a qualified post production facility. Subsequent legislation increased the credit rate to 30 percent for costs incurred in the Metropolitan Commuter Transportation District (MCTD) and 35 percent for cost incurred outside the MCTD.

c. **Empire State Commercial Production Credit**

**Citation:** Section 28, Section 210-b(23), Section 606(jj)

**Pre-Reform Citation:** Section 210(38)

**Credit Type:** Refundable – Over 2 Years

**Effective Date of Credit:** Effective for tax years beginning on or after January 1, 2007 and before January 1, 2024

**Description:** A taxpayer satisfying a threshold level of commercial production activity may claim a tax credit for qualified commercial production in New York State. The credit is capped at \$7 million per year and is administered by the Governor's Office for Motion Picture and Television Development (MP/TV). Beginning on or after January 1, 2019, the credit consists of two components:

- **MCTD component (\$4 million):** 20 percent (previously 5 percent) of qualified production costs in excess of \$500,000 during the calendar year for work within the MCTD. This component is also awarded on a *pro rata* basis, but with no per company limitation.
- **Outside MCTD component (\$3 million):** 30 percent (previously 5 percent) of qualified production costs during the calendar year for work done outside the MCTD. However, to be eligible for the credit, the amount of total qualified production costs done outside the MCTD must be greater than \$100,000. This component is distributed in the same manner as the MCTD component.

13. **Security Training Tax Credit**

**Citation:** Section 26, Section 187-n, Section 210-b(21), Section 606(ii), Section 1511(x)

**Pre-Reform Citation:** Section 210(37), Section 1456(t)

**Credit Type:** Refundable

**Effective Date of Credit:** Effective for tax years beginning on or after January 1, 2005

**Description:** Owners of commercial buildings over 500,000 square feet can claim \$3,000 for each security guard employed who has undergone training certified by the New York State Office of Homeland Security (OHS) and is paid a certain minimum wage. The credit is administered by OHS.

14. **Brownfields Tax Credits**

a. **Brownfield Redevelopment Tax Credit**

**Citation:** Section 21, Section 187-g, Section 210-b(17), Section 606(dd), Section 1511(u)

**Pre-Reform Citation:** Section 210(33), Section 1456(q)

**Credit Type:** Refundable

**Effective Date of Credit:** Effective for tax years beginning on or after April 1, 2005; Eligibility contingent on site being accepted into the Brownfield Cleanup Program before January 1, 2023.

**Description:** The brownfield redevelopment tax credit consists of three components relating to costs associated with: site preparation; tangible property; and on-site groundwater remediation.

## CROSS-ARTICLE TAX CREDITS

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The rates and rules for the credit vary depending on when a site is accepted into the Brownfield Cleanup Program (BCP).

- b. **Remediated Brownfield Credit for Real Property Taxes**  
**Citation:** Section 22, Section 187-h, Section 210-b(18), Section 606(ee), Section 1511(v)  
**Pre-Reform Citation:** Section 210(34), Section 1456(r)  
**Credit Type:** Refundable  
**Effective Date of Credit:** Effective for tax years beginning on or after April 1, 2005; Not available to sites accepted into the BCP on or after July 1, 2015.  
**Description:** The remediated brownfield credit for real property taxes equals 25 percent of the product of the taxpayer's employment factor (a percentage based on the number of persons employed by the taxpayer on a qualified site) and the taxpayer's eligible real property taxes. If the site is located in an En-Zone the credit increases to 100 percent. The credit is limited to the number of full time employees at the qualified site multiplied by \$10,000.
- c. **Environmental Remediation Insurance Credit**  
**Citation:** Section 23, Section 187-i, Section 210-b(19), Section 606(ff), Section 1511(w)  
**Pre-Reform Citation:** Section 210(35), Section 1456(s)  
**Credit Type:** Refundable  
**Effective Date of Credit:** Effective for tax years beginning on or after April 1, 2005; Not available to sites accepted into the BCP on or after July 1, 2015  
**Description:** The environmental remediation insurance credit is allowed one time for premiums paid for environmental remediation insurance up to the lesser of \$30,000 or 50 percent of the cost of the premiums.
15. **Biofuel Production Credit**  
**Citation:** Section 28, Section 187-c, Section 210-b(24), Section 606(jj)  
**Pre-Reform Citation:** Section 210(38)  
**Credit Type:** Refundable  
**Effective Date of Credit:** Effective for tax years beginning on or after 2006 and before January 1, 2020  
**Description:** Taxpayers may claim a tax credit for the production of biofuel. Biofuel is defined as fuel which includes biodiesel and ethanol. Biodiesel is fuel comprised exclusively of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100, which meets the specifications of American Society of Testing and Materials designated D 6751. The credit equals 15 cents per gallon after the production of the first 40,000 gallons per year presented to market. The credit is capped at \$2.5 million per taxpayer per year for up to four consecutive years per biofuel plant. The cap is applied at the entity level in the case of partnerships, limited liability companies, and S corporations. For taxpayers subject to tax under both Section 183 and 184, the credit must first be

deducted from the taxes imposed under Section 183. Any credit remaining must then be deducted from the taxes imposed under Section 184.

16. **Land Conservation Easement Credit**

**Citation:** Section 210-b(22), Section 606(kk)

**Pre-Reform Citation:** Section 210(38)

**Credit Type:** Refundable

**Effective Date of Credit:** Effective for tax years beginning on or after January 1, 2006

**Description:** Taxpayers may claim a tax credit equal to 25 percent of the school district, county, and city/town real property taxes paid on land that is under a conservation easement held by a public or private conservation agency. The maximum allowable tax credit is \$5,000. The credit, in combination with any other credit for property taxes, may not exceed such taxes. The term *conservation easement* means a perpetual and permanent conservation easement as defined in Article 49 of the Environmental Conservation Law (ECL) that serves to protect open space, scenic, natural resources, biodiversity, agricultural, watershed, and/or historic preservation resources. Any conservation easement for which a tax credit is claimed must be filed with the Department of Environmental Conservation and comply with the provisions of Article 49 Title 3 of the ECL and the provisions of subdivision (h) of section 170 of the Internal Revenue Code.

17. **Clean Heating Fuel Credit**

**Citation:** Section 210-b(25), Section 606(mm)

**Pre-Reform Citation:** Section 210(39)

**Credit Type:** Refundable

**Effective Date of Credit:** Effective for purchases made on July 1, 2006 through June 30, 2007 and on or after January 1, 2008 and before January 1, 2023

**Description:** Taxpayers may claim a tax credit for bioheat used for space heating or hot water production for residential purposes within the state. The credit equals 1 cent per percent of biodiesel per gallon of bioheat purchased by the taxpayer and is capped at 20 cents per gallon. Biodiesel is defined as fuel comprised exclusively of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100, which meets the specifications of American Society of Testing and Materials designated D6751. In addition, bioheat means a fuel comprised of biodiesel blended with conventional home heating oil, which meets the specifications of the American Society of Testing and Materials designation D396 or D975. Beginning in 2017, the minimum biodiesel fuel threshold for bioheat is increased to at least six percent biodiesel per gallon of bioheat. Any bioheat purchased on or after January 1, 2017, that is graded below B6, will no longer qualify for the credit.

## CROSS-ARTICLE TAX CREDITS

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### 18. Rehabilitation of Historic Properties Credit

**Citation:** Section 210-b(26), Section 606(oo), Section 1511(y)

**Pre-Reform Citation:** Section 210(40), Section 1456(u)

**Credit Type:** Non-refundable/Carryforward/Refundable for qualified rehabilitations placed in service on/after 1/1/15

**Effective Date of Credit:** PIT/CFT - Effective for tax years beginning on or after January 1, 2007. Bank/Insurance - Effective for tax years beginning on or after January 1, 2010. Amended credit effective for tax years beginning on or after January 1, 2010 and before January 1, 2025

**Description:** Taxpayers may claim a tax credit for the rehabilitation of historic properties located in New York State. The amount of the State credit is based on the credit amount allowed for the same taxable year under subsection (a)(2) of section 47 of the Federal Internal Revenue Code (IRC). Effective for taxable years beginning on or after January 1, 2018 taxpayers are allowed to claim the entire amount of the state credit in one year instead of ratably over five years as required as a result of the Federal Tax Cuts and Jobs Act of 2017. IRC §47(c)(3) defines a certified historic structure as a building and its structural components that are listed in the National Register of Historic Places or located in a registered historic district and certified to be of historic significance to the district. Any State credit taken must be recaptured if the Federal credit upon which it is based is recaptured by the taxpayer.

For tax years beginning on or after January 1, 2010, the credit is 100 percent of the amount of the federal historic properties credit claimed by the taxpayer, capped at \$5 million. The cap is imposed at the entity level for partnerships, LLCs, or S corporations. Also, the credit is limited to projects located in distressed areas as defined in IRC§143(j) or located within a census tract that is at or below 100 percent of the State median family income in the most recent American Community Survey. For tax years beginning on or after January 1, 2020, the credit is 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. After December 31, 2024, the credit reverts to a 30 percent rate and \$100,000 cap. For qualified rehabilitation projects placed in service on or after January 1, 2015 the credit is refundable.

### 19. Excelsior Jobs Program Tax Credits

**Citation:** Section 31, Section 210-b(31), Section 606(qq), Section 1511(y)

**Pre-Reform Citation:** Section 210(41), Section 1456(u)

**Credit Type:** Refundable

**Effective Date of Credit:** Program effective in 2010; credit effective for tax years beginning on or after January 1, 2011

**Description:** The Excelsior Jobs Program (EJP) Act was created by Chapter 59 of the Laws of 2010 and subsequently amended by Chapter 61 of the Laws of 2011. The program is administered by Empire State Development (ESD) and offers four tax credits focused on certain strategic



industries. To claim credits, taxpayers must first apply to and be approved by ESD. The annual credit allocations are reduced beginning in 2016. As initially enacted, ESD could issue up to \$50 million in new credit annually, with a fully effective annual total program cost of \$250 million in 2015. For taxable years 2016 through 2021, the cap amount is lowered from \$200 million per year to \$183 million. In 2024, the amount is reduced from \$50 million to \$36 million. ESD will calculate the amount of each credit annually and issue a certificate of tax credit to participants entitling them to the credits. As initially enacted, taxpayers were allowed to claim credits for five consecutive years. Pursuant to Chapter 61, participants accepted into the program after April 1, 2011 have a 10-year benefit period. ESD may award 100 percent of any unallocated tax credits remaining at the end of 2024, which was formerly the end date of the program, in taxable years 2025 and 2026. The aggregate statutory cap for all years may not be exceeded and no credits are allowed for taxable years beginning on or after January 1, 2030.

**a. Excelsior Jobs Tax Credit**

EJP participants may claim a credit for each net new job created in the State. For participants accepted into the program on or before April 1, 2011, the value of the credit cannot exceed \$5,000 per new job and is computed on marginal wages plus benefit basis as follows:

- 5 percent of wages plus benefits of \$50,000 or less;
- 4 percent of wages plus benefits between \$50,001 and \$75,000; and
- 1.33 percent of wages plus benefits over \$75,000.

For taxpayers accepted into the program after April 1, 2011, the credit is equal to the gross wages multiplied by 6.85 percent.

**b. Excelsior Investment Tax Credit (EJP-ITC)**

EJP participants may claim a credit equal to two percent of the cost of qualified investments in New York. Taxpayers cannot claim both the EJP-ITC and the brownfield tangible property credit component for the same property in a given year. In addition, taxpayers accepted into the program on or before April 1, 2011 are prohibited from claiming both the EJP-ITC and the regular ITC.

**c. Excelsior Research and Development Tax Credit (EJP-R&D)**

EJP participants may claim a credit for research and development expenditures in New York. The credit is a percentage of the portion of the taxpayer's federal research and development credit pertaining to expenditures attributable to New York. Eligible expenditures are defined in section 41 of the Internal Revenue Code. For taxpayers accepted into the program on or before April 1, 2011, the percentage is ten percent. For those accepted into the program after April 1, 2011, the percentage is fifty percent, subject to a limit of three percent of qualified research and development expenditures attributable to New York activity. For tax

## CROSS-ARTICLE TAX CREDITS

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years beginning on or after January 1, 2018, the limit is increased to six percent.

d. **Excelsior Real Property Tax Credit (EJP-RPTC)**

EJP participants located in areas formerly designated as Investment Zones under the Empire Zones Program or that qualify as regionally significant projects may claim a credit for real property taxes. The credit equals 50 percent of the property taxes assessed and paid in the year immediately prior to a taxpayer's application to the EJP and is gradually phased out. For taxpayers accepted into the program on or before April 1, 2011, the credit is phased down ten percent a year over five years. For those accepted into the program after April 1, 2011, the credit declines by 5 percent a year over ten years.

20. **Credit for Companies who Provide Transportation to Individuals with Disabilities**

**Citation:** Section 210-b(38), Section 606(tt)

**Pre-Reform Citation:** Section 210(44)

**Credit Type:** Non-refundable

**Effective Date of Credit:** Effective for tax years beginning on or after January 1, 2011 and before January 1, 2023

**Description:** Taxpayers providing taxicab or livery service may claim a tax credit equal to the incremental cost associated with upgrading a vehicle so that it is accessible by individuals with disabilities. In addition, taxpayers may also claim the credit for the purchase of new vehicles manufactured to be accessible by individuals with disabilities and for which there is no comparable make or model. The credit is limited to \$10,000 per vehicle. Vehicles accessible for individuals with disabilities must comply with the Americans with Disabilities Act and other Federal regulations. A similar credit existed for tax years beginning on or after January 1, 2006 and before January 1, 2011.

21. **Economic Transformation and Facility Redevelopment Program Tax Credit**

**Citation:** Sections 35, Section 187-r, Section 210-b(35), Section 606(ss), Section 1511(aa)

**Pre-Reform Citation:** Section 210(43), Section 1456(x)

**Credit Type:** Refundable

**Effective Date of Credit:** Effective On or After March 31, 2011 and before December 31, 2021

**Description:** Chapter 61 of the Laws of 2011 created the Economic Transformation and Facility Redevelopment Program designed to mitigate the economic consequences in communities where correctional facilities and facilities operated by the Office of Children and Family Services (OCFS) were closed through the period ending March 31, 2012. In addition, any psychiatric facility previously owned and operated by New York State located within the Metropolitan Commuter Transportation District (excluding New York City) is considered a closed facility under the program. The program is administered by Empire State Development (ESD) and offers a



## CROSS-ARTICLE TAX CREDITS

tax credit with four components to redevelop closed facilities and attract new businesses to the surrounding areas. Taxpayers may claim credit for five consecutive years.

Component-level data for the Economic Transformation and Facility Redevelopment Program Tax Credit are provided in the following table. The values are for the earned amount of each of the components. The earned amounts are provided because the used/refunded values of the components are not separately available.

<b>Economic Transformation and Facility Redevelopment Program Tax Credit Credit Components Earned (\$ millions)</b>				
<b>Credit Component</b>	<b>Article 9-A (2013)</b>	<b>Article 22 (2014)</b>	<b>Article 32 (2013)</b>	<b>Article 33 (2013)</b>
Jobs Tax Credit Component	0.0	*	0.0	0.0
Investment Tax Credit Component	0.0	*	0.0	0.0
Job Training Tax Credit Component	0.0	*	0.0	0.0
Real Property Tax Credit Component	0.0	*	0.0	0.0

**a. Economic Transformation and Facility Redevelopment Jobs Tax Credit Component**

Participants may claim a credit for each net new job created in the State. The credit is equal to the gross wages multiplied by 6.85 percent.

**b. Economic Transformation and Facility Redevelopment Investment Tax Credit Component**

Participants may claim a credit for qualified investments in the economic transformation area. For investments on the grounds of a closed facility, the credit is 10 percent of the cost of the investment, not to exceed \$8 million for the facility. For investments in areas outside of the facility but within the economic transformation area, the credit is 6 percent of the cost of the investment, not to exceed \$4 million per entity.

**c. Economic Transformation and Facility Redevelopment Job Training Tax Credit Component**

Participants may claim a credit for fifty percent of qualified training expenses paid during the year for employees displaced by a facility closure, not to exceed \$4,000 per employee per tax year.

**d. Economic Transformation and Facility Redevelopment Real Property Tax Credit Component**

Participants may claim a credit equal to 50 percent of the real property taxes assessed and paid in the first tax year of the benefit period for property located entirely within the grounds of a closed facility. The percentage decreases by 10 percent each year for the subsequent years of the benefit period. For property located outside of the facility but within the economic transformation area, the credit is equal to 25 percent of the real property taxes assessed and paid decreasing by 5 percent each year for subsequent years of the benefit period.

## CROSS-ARTICLE TAX CREDITS

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### 22. **New York Youth Jobs Program Tax Credit**

**Citation:** Section 210-b(36), Section 606(tt)

**Pre-Reform Citation:** Section 210(44)

**Credit Type:** Refundable

**Effective Date of Credit:** Effective for tax years beginning on or after January 1, 2012 and before January 1, 2023

**Description:** Chapter 56 of the Laws of 2011 created the New York Youth Works Tax Credit Program designed to provide tax incentives to employers for employing at-risk youth in full-time and part-time positions in tax years 2012 through 2022. Chapter 56 of the Laws of 2015 renamed the program the Urban Youth Jobs Program Tax Credit. Chapter 59 of the Laws of 2017 further renamed the program the New York Youth Jobs Program tax credit to reflect that the program is now offered statewide. The program is administered by the New York State Department of Labor (NYDOL). Prior to 2018, the credit equals \$500 per month for up to six months for each qualified full-time employee or \$250 per month for each qualified part-time position of at least 20 hours per week, or 10 hours if a full-time high school student. An additional \$1,000 per full time employee or \$500 per part time employee is available if the qualified employee remains employed for at least an additional six months. Finally, an additional \$1,000 tax credit for each youth retained in full-time status and an additional \$500 for each youth retained in part-time status is available if the qualified employee remains employed for one additional year. Beginning in 2018, these credit amounts are increased by fifty percent (for example, \$250 increases to \$375, \$500 increased to \$750 and \$1,000 increases to \$1,500).

Four additional independent annual credit programs were added, one each year beginning in 2014 and ending in 2017. The allocation for the program beginning in 2014 is capped at \$10 million. The allocation for program three (for tax year 2015) is capped at \$20 million and at \$50 million each for programs four and five (for tax years 2016-2017). The \$50 million is distributed \$30 million for qualified employees and \$20 million for individuals who meet all of the requirements for a qualified employee except for the residency requirement, so long as they reside in New York State. In 2017 an additional allocation of \$40 million per year was added for tax years 2018-2022 for employers participating in the program. The additional five years are labeled programs 6 through 10. The \$40 million is distributed \$20 million for qualified employees and \$20 million for individuals who meet all of the requirements for a qualified employee except for the residency requirement, so long as they reside in New York State. To claim the credit, employers must first apply to and be approved by NYDOL. NYDOL will calculate the maximum amount of credit the employer will be allowed to claim and issue a certificate of eligibility to participants entitling them to the credit.

### 23. **Empire State Jobs Retention Program Credit**

**Citation:** Section 36, Section 210-b(37), Section 606(tt), Section 1511(bb)

**Pre-Reform Citation:** Section 210(44), Section 1456(y)

**Credit Type:** Refundable

**Effective Date of Credit:** Effective for tax years beginning on or after January 1, 2012 pertaining to emergencies declared on or after January 1, 2011

**Description:** Chapter 56 of the Laws of 2011 created the Empire State Jobs Retention Program designed to support the retention of strategic businesses and jobs directly impacted by an event that leads to an emergency declaration by the Governor. The Program offers a jobs tax credit equal to the product of 6.85 percent and the gross wages paid for each impacted job, defined as a job existing at the relevant location on the day before an event occurs that leads to an emergency declaration. A participant may also be eligible for a 2 percent ITC, but only for costs in excess of costs recovered by insurance. Taxpayers may claim the credit for ten consecutive years.

For a business to be eligible for the credit it must: (a) be located in the county where an emergency is declared; (b) must demonstrate substantial physical damage and economic harm; and (c) must retain or exceed 100 full-time equivalent jobs in the county where the emergency is declared. To claim credit, taxpayers must apply to and be approved by Empire State Development (ESD). ESD will calculate the amount of credit annually and issue a certificate of tax credit to participants entitling them to the credit. The total amount of tax credit issued by ESD shall be allocated from the funds available for tax credits under the Excelsior Jobs Program Act.

24. **Alcoholic Beverage Production Credit (formerly Beer Production Credit)**

**Citation:** Section 37, Section 210-b(39), Section 606(uu)

**Pre-Reform Citation:** Section 210(45)

**Credit Type:** Refundable

**Effective Date of Credit:** Effective for tax years beginning on or after January 1, 2012

**Description:** For taxable years beginning on or after January 1, 2016, the beer production credit is expanded to include wine, liquor, and cider. The credit, renamed the alcoholic beverage production credit, is available to taxpayers registered as a distributor, under Article 18 of the Tax Law, that produce 60 million gallons or less of beer or cider, 20 million gallons or less of wine, or 800,000 gallons or less of liquor in New York State. The credit is equal to 14 cents per gallon for the first 500,000 gallons of alcohol produced in New York State during the tax year, plus 4.5 cents per gallon for each additional gallon over 500,000 (up to 15 million additional gallons) produced in New York State in the same tax year. The credit cap is applied at the entity level for partnerships, LLCs, and S corporations.

25. **Alternative Fuels and Electric Vehicle Recharging Property Credit**

**Citation:** Section 187-b, Section 210-b(30), Section 606(p)

**Pre-Reform Citation:** Section 210(24)

**Credit Type:** Nonrefundable

**Effective Date of Credit:** Effective for taxable years beginning on or after January 1, 2013 and before January 1, 2023

## CROSS-ARTICLE TAX CREDITS

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**Description:** Taxpayers may claim a nonrefundable credit equal to the lesser of \$5,000 or 50 percent of the cost of alternative fuel vehicle refueling property or electric vehicle recharging property located in New York State less any costs paid from the proceeds of grants. This credit replaces a prior alternative fuels credit that expired in 2010.

26. **START-UP NY Tax Elimination Credit**

**Citation:** Section 39, Section 40, Section 210-b(41), Section 606(ww)

**Pre-Reform Citation:** Section 210(47)

**Credit Type:** Refundable

**Effective Date of Credit:** Effective for taxable years beginning on or after January 1, 2014

**Description:** The tax-free NY area tax elimination credit is available to general business corporations, sole proprietorships, partnerships (including limited liability companies taxed as partnerships), and New York S corporations participating in the SUNY Tax-Free Areas to Revitalize and Transform Upstate New York Program (START-UP NY). The credit is equal to the product of:

- the tax-free NY area allocation factor and
- the tax factor.

The tax-free NY area allocation factor is the percentage of the business's economic presence in the tax-free NY area where the business was approved to locate under Article 21 of the Economic Development Law.

For Article 9-A taxpayers, the tax factor is the largest of the taxes on the business income base, capital base, or fixed dollar minimum tax after the deduction of any other credits. For Article 22 taxpayers, the tax factor is determined by reducing the individual's tax computed under section 601(a)-(d) of the Tax Law for the tax year by any other allowable credits and adjusting that reduced amount by the ratio of the income from business in the tax-free New York area to the taxpayer's New York adjusted gross income. In both cases, the ratios may not exceed 1.0.

For corporate franchise taxpayers, the credit cannot reduce the tax due below the fixed dollar minimum unless the taxpayer has a tax-free NY area allocation factor of 100%. In that instance, the tax can be reduced to zero. Any excess credit may be refunded. For personal income taxpayers, the credit may reduce the tax to zero and any excess may be refunded.

27. **Credit for the Excise Tax on Telecommunication Services Paid by START-UP New York Businesses**

**Citation:** Section 210-b(44), Section 606(yy)

**Credit Type:** Refundable

**Effective Date of Credit:** Effective for tax years beginning on or after January 1, 2014

**Description:** The credit is available to a business or owner of a business that is approved to participate in the START-UP NY program and located in

- a tax-free NY area. The credit is equal to the 2.5 percent 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.
28. **Real Property Tax Relief Credit for Manufacturing**  
**Citation:** Section 210-b(43), Section 606(i), Section 606(xx)  
**Credit Type:** CFT – Non-refundable/PIT - Refundable  
**Effective Date of Credit:** Effective for tax years beginning on or after January 1, 2014  
**Description:** A qualified New York manufacturer is allowed a credit equal to 20 percent 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. A manufacturer must have at least 50 percent of its receipts from the forgoing activities and either all or at least \$1 million of manufacturing property located in New York. A manufacturer that fails the receipts test may still qualify if it employs at least 2,500 people in manufacturing in New York and has \$100 million in manufacturing property in the state.
29. **Hire A Vet Credit**  
**Citation:** Section 210-b(29), Section 606(a-2), Section 1511 (g-1)  
**Pre-Reform Citation:** Section 210(23-a), Section 1456(e-1)  
**Credit Type:** Nonrefundable/Carryforward for 3 years  
**Effective Date of Credit:** Credit effective for taxable years beginning on or after January 1, 2015 and before January 1, 2021, but hiring may commence on January 1, 2014.  
**Description:** Employers hiring a qualified veteran to begin employment on or after January 1, 2014 but before January 1, 2020, and who is employed in New York State for at least one year and 35 hours each week may claim the credit in the tax year in which the qualified veteran completes one year of employment with the taxpayer. The credit equals 10 percent of the total amount of wages paid during the veteran's first full year of employment, or 15 percent for a disabled veteran. The credit is capped at \$5,000 per veteran or \$15,000 per disabled veteran.
30. **Musical and Theatrical Production Credit**  
**Citation:** Section 24-A, Section 210-b(47), Section 606(u)  
**Credit Type:** Refundable  
**Effective Date of Credit:** Effective for tax years beginning on or after January 1, 2015 and before January 1, 2023



## CROSS-ARTICLE TAX CREDITS

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**Description:** Eligible production companies taxable under Articles 9-A and 22 can claim a refundable credit equal to 25 percent of certain costs. The total amount of credit is capped at \$4 million per year and the credit is administered by Empire State Development (ESD). To be eligible, a company must produce a live, dramatic stage presentation in a qualified production facility on a tour that consists of eight or more shows in three or more localities. A qualified production facility is a 1,000 or more seat theater located outside of New York City for which ticket receipts constitute 75 percent or more of the total receipts. The credit is based on costs for tangible property used and services performed in the course of production, with personal compensation expenses capped at \$200,000 per week. The credit is also allowed for transportation expenditures, which includes costs for packaging, crating, and transporting production equipment, sets, costumes, and cast and crew.

### 31. **Workers with Disabilities Tax Credit**

**Citation:** Section 210-b(48), Section 606(zz)

**Credit Type:** Non-refundable/Carryforward for three years

**Effective Date of Credit:** Effective for tax years beginning on or after January 1, 2015 and before January 1, 2023

**Description:** The Workers with Disabilities Tax Credit Program, administered by the New York State Department of Labor (DOL), annually provides \$6 million in tax credits for employing individuals with developmental disabilities. To participate in the program, a taxpayer must apply to DOL by November 30th of the prior year. At the end of the tax year, the employer must obtain a final certificate of eligibility from DOL that states the maximum amount of credit allowed and provides verification for the credit claims.

The credit is equal to 15 percent of the qualified wages for qualified full-time employees and 10 percent of the qualified wages for qualified part-time employees. Full-time employment is defined as working at least 30 hours per week, and part-time employment at least 8 hours per week, each for at least 6 months. The credit is available for qualified wages paid after January 1, 2015. An employer is not allowed to concurrently claim this credit and any other credit for the employment of persons with disabilities for the same employee. Any unused credit may be carried forward for 3 years.

### 32. **Employee Training Incentive Program (ETIP)**

**Citation:** Section 210-b(50), Section 606(ddd)

**Credit Type:** Refundable

**Effective Date of Credit:** Effective for tax years beginning on or after January 1, 2015

**Description:** The Employee Training Incentive Program (ETIP), administered by Empire State Development (ESD), provides a refundable tax credit under Articles 9-A and 22 for certain employers that procure skills training for their employees or provide internship programs in advanced technology. Effective April 12, 2019, businesses may receive the credit if

they conduct their own training and are otherwise eligible. Previously, training had to be provided by an approved provider. The total amount of tax credits for any taxable year may not exceed \$5 million dollars and will be allotted from the funds available for tax credits under the Excelsior Jobs Program Act. The portion of the tax credit cap allocated to internship programs in advanced technology shall be not less than \$250,000 or more than \$1 million.

The credit equals 50 percent of eligible training costs, up to \$10,000 per employee receiving eligible training and 50 percent of the stipend paid to an intern, up to a credit of \$3,000 per intern. The credit is limited to the amount listed on the certificate of tax credit issued by ESD. The credit is allowed in the taxable year in which the eligible training is completed. For Article 9-A taxpayers, the credit allowed may not reduce the tax due below the fixed dollar minimum base and amounts of unused credit will be refundable. The credit is fully refundable for PIT filers.

### 33. **Farm Workforce Retention Credit**

**Citation:** Section 42, Section 210-b(51), Section 606(fff)

**Credit Type:** Refundable

**Effective Date of Credit:** Effective for taxable years beginning on or after January 1, 2017

**Description:** A farm employer whose federal gross income from farming for the taxable year is at least two-thirds of excess federal gross income is allowed a credit equal to a fixed amount per eligible farm employee. Excess federal gross income is defined to mean the amount of federal gross income from all sources for the taxable year in excess of \$30,000. For the purposes of this credit, payments from the state's farmland protection program, administered by the Department of Agriculture and Markets, are included as federal gross income from farming for otherwise eligible farmers.

An eligible farm employee is an individual who is employed for 500 hours or more per taxable year by a farm employer in New York State. However, general executive officers of a farm employer are excluded from the credit. For tax years beginning on or after January 1, 2019, if more than fifty percent 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. Also, where an individual employed by a farm employer in New York State becomes unable to work due to a documented illness or disability, the hours such individual is employed may be combined with the hours worked by a hired replacement individual when determining the 500-hour threshold.

## CROSS-ARTICLE TAX CREDITS

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The credit is phased in gradually by taxable year:

Tax years beginning on or after	and before	Credit per eligible farm employee
January 1, 2017	January 1, 2018	\$250
January 1, 2018	January 1, 2019	\$300
January 1, 2019	January 1, 2020	\$500
January 1, 2020	January 1, 2021	\$400
January 1, 2021	January 1, 2022	\$600

### 34. **Empire State Apprenticeship Tax Credit**

**Citation:** Section 210-b(49), Section 606(vvv)

**Credit Type:** Refundable

**Effective Date of Credit:** Effective for tax years beginning on or after January 1, 2018 and before January 1, 2023

**Description:** The refundable credit, administered and allocated by the Department of Labor (DOL), is capped at \$10 million annually for five years beginning in 2018 through 2022. Any unused annual allocation of the credit shall be made available in a subsequent year before 2023.

The base credit for a qualified apprentice is equal to:

- \$2,000 for year one of apprenticeship
- \$3,000 for year two of apprenticeship
- \$4,000 for year three of apprenticeship
- \$5,000 for year four of apprenticeship
- \$6,000 for year five of apprenticeship

A *qualified apprentice* means an individual employed by a participating employer in a full-time position for at least six months of a calendar year pursuant to a qualified apprenticeship agreement with a qualified employer. The individual must also complete the apprenticeship training program within one year.

A participating employer is entitled to an enhanced tax credit of an additional \$500 on top of the base amount if the employer can show that the apprentice is being trained in his/her trade by a mentor. An additional \$3,000 is available in years one, two, and three if the apprentice is a disadvantaged youth. A *disadvantaged youth* means an individual:(i) who is between the ages of sixteen and twenty-four when the youth begins the apprenticeship; and (ii) who is low-income or at-risk, as those terms are defined by the Commissioner of the Department of Labor. An additional \$2,000 is available in year four and \$1,000 in year five. The credit is not allowed for construction work.

### 35. **Life Sciences Research and Development Tax Credit**

**Citation:** Section 43, Section 210-b(52), Section 606(hhh)

**Credit Type:** Refundable

**Effective Date of Credit:** Effective for tax years beginning on or after January 1, 2018 and before January 1, 2028

**Description:** The refundable life sciences research and development tax credit is awarded by Empire State Development (ESD) and is funded from the Excelsior Program. ESD can award \$10 million annually for ten years.



New life sciences companies can claim a 15 percent credit on their research and development expenditures, with the rate increasing to 20 percent for businesses with less than 10 employees. A company can claim credit for up to three years with an annual maximum of \$500,000.

*Life sciences* means agricultural biotechnology, biogenerics, bioinformatics, biomedical engineering, biopharmaceuticals, academic medical centers, biotechnology, chemical synthesis, chemistry technology, medical diagnostics, genomics, medical image analysis, marine biology, medical devices, medical nanotechnology, natural product pharmaceuticals, proteomics, regenerative medicine, RNA interference, stem cell research, medical and neurological clinical trials, health robotics and veterinary science.

A *life sciences company* is a business entity or an organization or institution that devotes the majority of its efforts in the various stages of research, development, technology transfer and commercialization related to any life sciences field.

### 36. **Farm Donations to Food Pantries Credit**

**Citation:** Section 210-b(52), Section 606(n-2)

**Credit Type:** Refundable

**Effective Date of Credit:** Effective for tax years beginning on or after January 1, 2018

**Description:** The refundable credit is equal to twenty-five percent of the fair market value of the taxpayer's qualified food donations, not to exceed \$5,000 per year. If the taxpayer is a partner in a partnership or shareholder of a New York S corporation, then the \$5,000 cap shall be applied at the entity level.

To qualify, the taxpayer must have federal gross income from farming that is at least two-thirds of gross income from all sources for the taxable year in excess of thirty thousand dollars. For purposes of the credit, a qualified donation shall mean a donation of apparently wholesome food as defined in section 170 (e)(3)(C)(vi) of the Internal Revenue Code that is grown or produced within the State. In order to claim the credit, the taxpayer must receive a receipt or written acknowledgment from the qualified food pantry detailing the name of the food pantry, the date and location of the qualified donation, and a reasonably detailed description of the qualified donation.

### 37. **Employer Provided Child Care Credit**

**Citation:** Section 44, Section 210-b(53), Section 606(jjj)

**Credit Type:** Refundable

**Effective Date of Credit:** Effective for tax years beginning on or after January 1, 2020

**Description:** A refundable credit is available to taxpayers who are allowed the federal employer-provided child care credit under Internal Revenue Code §45F for qualifying expenditures paid or incurred in providing child care alternatives for their employees. The credit is equal to 25 percent of

## CROSS-ARTICLE TAX CREDITS

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qualified child care expenditures related to a child care facility located in New York, plus 10 percent of qualified child care resources and referral expenditures, attributable to employees working in New York. The credit is capped at \$150,000 per taxable year. Qualified child care expenditures include operating costs of a qualified child care facility of the taxpayer or under contract with another taxpayer, as well as amounts paid or incurred to acquire, construct, rehabilitate, or expand property used as part of a care facility of the taxpayer. Qualified child care resource and referral expenditures are amounts paid or incurred under a contract to provide child care resource and referral services to an employee of the taxpayer.

38. **Employer Recovery Hiring Tax Credit**

**Citation:** Section 210-b(53), Section 606(jjj)

**Credit Type:** Refundable

**Effective Date of Credit:** Effective for tax years beginning on or after January 1, 2020

**Description:** The refundable credit is administered by the Office of Alcoholism and Substance Abuse Services (OASAS) and provides tax incentives to certified employers for employing eligible individuals in recovery from a substance use disorder in part-time and full-time positions in New York State. OASAS is authorized to issue \$2 million in refundable tax credits annually. If the total amount applied for exceeds \$2 million, credit will be awarded proportionally to all applicants. The credit equals \$1 per hour worked by each eligible employee, with a minimum requirement of 500 hours worked for each eligible employee. The credit cannot exceed \$2,000 per eligible individual employed by the certified employer in the state. The credit may be claimed only one time for each eligible employee. Qualifying employers must have a formal working relationship with a local recovery community organization and eligible employees must demonstrate they have completed a course of treatment for a substance use disorder and are in a state of wellness. Employers must apply to OASAS by January 15<sup>th</sup> for credit based on employment in the preceding year.

# 2020-21 EXECUTIVE BUDGET TAX EXPENDITURE PROPOSALS

This section describes the proposals contained in the 2020-21 Executive Budget that modify, add, or repeal specific tax expenditures. Each description begins with background information regarding the proposal, a summary of the proposal, reasons for recommending the change, and an estimate of the revenue implications. Table 9 provides a listing of these provisions.

Table 9 2020-21 Executive Budget Proposals Affecting Tax Expenditures (Millions of Dollars)		2020-21 Fiscal Year Estimate
<b>Personal Income Tax</b>		
1.	Enhance the Empire State Child Credit	-0-
<b>Cross Article Credits</b>		
2.	Extend the Hire-A-Vet credit for two years	-0-
3.	Reduce the burden on small businesses	-0-
4.	Cap the maximum amount and income for the Long-Term Care Insurance Credit	-0-
5.	Extend Excelsior tax credit program and enhance tax credits for Green Projects	-0-
6.	Reform the Film Production tax credit	-0-
<b>Sales Tax</b>		
7.	Enact the Cannabis Regulation and Taxation Act	-0-

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### 1. Enhance the Empire State Child Credit

**Background:** Resident taxpayers with children ages 4-16 may claim a credit equal to the greater of \$100 times the number of children who qualify for the federal child tax credit, or 33 percent of the taxpayer's allowed federal credit as it existed for tax year 2017. The federal credit phases out beginning at \$110,000 of modified federal adjusted gross income for married taxpayers filing jointly and \$75,000 for all other taxpayers. Taxpayers with income above these thresholds may only claim a credit equal to 33 percent of their allowed federal credit.

**Proposal:** This bill would expand the eligibility for the state credit to cover children under 4 in families with an adjusted gross income of \$50,000 or less. The expansion would be effective for taxable years beginning on or after January 1, 2021.

**Discussion:** Too often, parents incur significant childcare costs in order to work or forego employment entirely due to unaffordable expenses. New York is one of only six states providing a state-specific child credit. This proposal expands the credit to include children in families who need it most.

**Revenue:** This proposal would have no effect on state revenues in SFY 2020-21.

### 2. Extend the Hire-A-Vet Tax Credit for Two Years

**Background:** Employers hiring a qualified veteran who is employed in New York State for at least one year and 35 hours each week may claim a credit in the tax year in which the qualified veteran completes one year of employment with the taxpayer. The credit equals 10 percent of the total amount of wages paid during the veteran's first full year of employment, or 15 percent for a disabled veteran. The credit is capped at \$5,000 per veteran or \$15,000 per disabled veteran.

**Proposal:** This bill would extend the hire-a-vet tax credit for an additional two years, through tax years beginning before 2023. The bill would take effect immediately.

**Discussion:** This bill would amend the Tax Law to extend for two years the tax credits provided for hiring veterans. Currently, the hire-a-vet credit is available for taxable years beginning on or after January 1, 2015 and before January 1, 2021. The credit is available to qualified taxpayers for the hiring of qualified veterans who commenced employment on or after January 1, 2014 and before January 1, 2020. This bill would extend this credit an additional two years to taxable years beginning before January 1, 2023, for employment commenced before January 1, 2022.

**Revenue:** This proposal would have no effect on state revenues in SFY 2020-21.

### 3. Reduce the Tax Burden on Small Businesses

**Background:** Article 9-A defines a small business as a corporation with (1) entire net income not more than \$390,000, (2) the total amount of money and other property it received for stock, as a contribution to capital and as paid-in surplus, is not more than \$1 million as of the last day of its tax year, (3) the average number of individuals (excluding general executive officers) employed full time in New York State during the tax year is 100 or fewer, and (4) the corporation is not part of an affiliated group, as defined in Internal Revenue Code section 1504, unless the group itself would have met the criteria is (1) through (3) if it had filed a combined return. These entities had historically received a lower tax rate until 2016 when the corporate tax rate was lowered to 6.5% (the previous small business rate) for all taxpayers.

New businesses claiming the investment tax credit (ITC) under Article 9-A and Article 22 for the tax year during which qualified property is placed in service may elect to receive a refund of the ITC rather than carrying it forward for use in future years. All other taxpayers may only carry unused credit forward for use in subsequent years.

Although the maximum tax owed by New York S corporations is only \$4,500, they are required to make estimated payments if tax exceeds \$1,000. Failure to remit the required payment could result the imposition of penalty.

Small businesses or farmers subject to tax under Article 22 can subtract 5 percent of the net items of income, gain, loss and deduction attributed to a small business or farm when determining their New York Adjusted Gross Income (NYAGI). To qualify, the taxpayer must be a sole proprietor or farmer with less than \$250,000 in net business or net farm income and at least one employee. The subtraction was first introduced in tax year 2014 and phased-in over three years.

**Proposal:** This proposal reduces the burden on qualified small businesses by lowering the corporate tax rate, making the investment tax credit (ITC) refundable for certain entities, increasing the personal income tax deduction for eligible businesses, and eliminating the estimated tax penalty for New York S corporations.

**Discussion:** This proposal would:

- reduce the corporate business income base rate for qualifying small businesses from 6.5% to a flat 4%;
- allow the ITC to be refundable for eligible farmers, in addition to new businesses;
- increase the personal income tax deduction provided to small businesses and farms for net items of income, gain, loss and deduction entering into federal adjusted gross income from 5% to 15%; and
- eliminate the underpayment of estimated tax penalty for New York S corporations.

The corporate tax rate reduction and the personal income tax deduction increase apply to tax year 2021 and forward. The changes to the investment tax credit apply to property acquired by purchase on or after January 1, 2021. Lastly, the elimination of the underpayment of estimated tax penalty applies to tax years beginning on or after January 1, 2020.

**Revenue:** This proposal would have no effect on revenues in SFY 2020-21.

#### 4. **Cap the Maximum Amount and Income Threshold for the Long-Term Care Insurance Credit**

**Background:** Taxpayers may take a credit equal to a percentage of the premiums paid for the purchase of, or continuing care under, a long-term care insurance policy. The credit helps offset the cost of insuring for long-term care costs associated with aging and disability. The credit rate was 10 percent when enacted in 2002 but was increased to 20 percent for tax years beginning after 2003.

**Proposal:** The bill would amend the long-term care insurance credit under the personal income tax to make only taxpayers with New York adjusted gross income of less than \$250,000 eligible for the credit and to cap the credit amount at \$1,500

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per return. The changes apply to taxable years beginning on or after January 1, 2020.

**Discussion:** New York State allows one of the highest credits in the nation for long-term care insurance premiums and imposes no income or credit amount limitations. These changes are necessary to better direct this important benefit to families who most need it.

**Revenue:** This proposal would have no effect on state revenues in SFY 2020-21.

### 5. Extend the Excelsior Credit Program and Enhance for Green Projects

**Background:** The Excelsior Jobs Program was created in 2010 and is administered by Empire State Development (ESD). The program offers four tax credits focused on certain strategic industries. To claim credits, taxpayers must first apply to and be approved by ESD. ESD can issue up to \$50 million in new credit annually. The fully effective annual total program cost of \$250 million was in 2015. For taxable years 2016 through 2021, the cap amount is lowered from \$200 million per year to \$183 million. In 2024, the amount is reduced from \$50 million to \$36 million. ESD may award 100 percent of any unallocated tax credits remaining at the end of 2024, which was formerly the end date of the program, in taxable years 2025 and 2026. No tax credits are allowed for taxable years beginning on or after January 1, 2030.

**Proposal:** This bill would amend the Excelsior Jobs Program to extend and enhance the program and to add tax credits for projects aimed at reducing greenhouse gas emissions and supporting the use of clean energy. The bill would take effect immediately.

**Discussion:** Chapter 106 of the Laws of 2019 enacted the New York State Climate Leadership and Community Protection Act (the “Act”) to address the adverse effects of climate change on New York. This legislation would add Green Economy Tax Credits to the Excelsior Jobs Program to further the goals of the Act. The bill would also enhance and extend the Excelsior Jobs Program. The bill would amend Economic Development Law to include a definition of the term “green project” and would also add companies that engage in green projects and operate in New York predominantly in certain strategic industries to the list of eligible participants in the Excelsior Jobs Program. The Economic Development Law would also be amended to allow Excelsior Tax Credits to be claimed no later than 2049. The amount of existing Excelsior Tax Credits would be increased where the participant in the Excelsior Jobs Program is engaged in a green project. The existing Jobs Credit would be increased to up to 7.5 percent for green projects. The Excelsior Investment Tax Credit would be increased from 2 percent of the cost of the qualified investment for traditional projects to 5 percent if the participant is engaging in a green project. The Excelsior Research and Development Tax Credit would be increased from 6 percent to 8 percent of the research and development expenditures attributable to activities conducted in New York if the project is a green project. Further amendments to the Economic Development Law would add statutory caps to the Excelsior Jobs Program for the years 2025-2039, set at \$200 million per year, and to extend the Excelsior Jobs Program through 2049 with the last ten years covered by carryforward credits. The bill would also clarify that 50 percent of unused credits carried forward would be accessible in any subsequent year. Lastly, the Tax Law would be amended to allow Excelsior Tax



Credits to be claimed no later than 2049, consistent with extension of the Excelsior Jobs Program.

**Revenue:** This proposal would have no effect on state revenues in SFY 2020-21.

**6. Reform the Empire State Film Production and Post Production Tax Credits**

**Background:** Taxpayers satisfying a threshold level of film production activity in New York State may claim the Empire State film production credit. The credit equals 30 percent of qualified production costs incurred in the production of films and certain television shows. For tax years 2015 through 2022, Empire State film production and post-production projects are eligible for an additional credit equal to 10 percent of the wages or salaries of individuals employed by a qualified film or independent film production company for services performed in specific Upstate New York counties. Credit is awarded on a first come, first served basis with applications made to the New York State Governor’s Office for Motion Picture and Television Development (MP/TV). Companies that are ineligible for the film production credit may qualify for the film post production credit. To be eligible for the post production credit, the costs incurred at a qualified post production facility, generally a facility in New York State, must equal or exceed 75 percent of the total post production costs at any post production facility. The credit is allowed for the taxable year in which the production of the qualified film is completed. However, as of March 28, 2013, the utilization of the credit is subject to the same rules as the film credit.

**Proposal:** This bill would amend the existing Empire State film production credit and Empire State film post production credit. This act shall take effect immediately and apply to applications that are filed with the Governor’s Office for Motion Picture and Television Development on or after April 1, 2020. The bill would also extend both the Empire State film and film post production credits one year.

**Discussion:** This bill would reduce the amount of the Empire State film production credit from 30 percent to 25 percent. The bill also would clarify that a tax credit that receives funds from additional pool 2 may be claimed in the taxable year that is the later of 1) the taxable year when the production of the qualified film is complete, or 2) the first taxable year beginning immediately after the allocation year for which the film has been allocated credit by the Governor’s Office for Motion Picture and Television Development. The bill would also reduce the Empire State post production credit from 35 percent to 30 percent for qualified films produced at qualified post production facilities located within the Metropolitan Commuter Transportation District and from 30 percent to 25 percent for qualified films produced at qualified post production facilities located elsewhere in the State. Further, the bill would exclude from the term “qualified film” an episode of a television series and would require that a qualified film, other than a television pilot, must have a minimum budget of \$1 million dollars if the majority of principal photography shooting days for the qualified film are shot in the counties of Westchester, Rockland, Nassau, or Suffolk or the five New York City boroughs, and have a minimum budget of \$250,000 if the majority of principal photography shooting days are shot in other counties of the State. Finally, variety entertainment, variety sketch and variety talk programs, other than relocated television productions, would be excluded from the definition of a “qualified film” and, therefore, would not qualify for the Empire State film production or post production credits. Series that have been conditionally eligible prior to April 1, 2020

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would continue to be eligible provided they remain in continuous production and continually apply for each season. Lastly, the bill would amend the Tax Law to extend the Empire State film production credit for one year, through tax year 2025.  
**Revenue:** This proposal would have no effect on state revenues in SFY 2020-21.

### 7. Exempt Adult-Use Cannabis Products from Sales Tax

**Background:** The 2020-21 Executive Budget would enact the Cannabis Regulation and Taxation Act. The Act legalizes adult-use cannabis and create a regulatory structure to oversee the licensure, cultivation, production, distribution, sale and taxation of cannabis within New York State.

**Proposal:** The proposal would exempt adult-use cannabis products, as defined by new Article 20-C of the Tax Law, from sales tax.

**Discussion:** The Cannabis Regulation and Taxation Act would impose three new taxes on the adult-use of cannabis. One tax would be imposed on the cultivation of cannabis by weight, and the other two would be based on the invoice price paid by a retail dispensary. This balanced tax structure precludes the need for cannabis products to also be subject to sales tax.

**Estimate:** This proposal would have no effect on revenue in SFY 2020-21.



# GLOSSARY

**Business Income:** Business income for Article 9-A taxpayers generally equals ENI minus other exempt income and investment income.

**Business Income Base:** The taxable income base for Article 9-A taxpayers. It is computed by subtracting the prior net operating loss conversion subtraction and net operating loss deduction from apportioned business income.

**Compensating Use Tax:** Tax levied on tangible personal property and services for its consumption, storage, or use in the State of residency upon which sales tax has not been collected.

**Corporate Exemption:** The partial or full statutory exemption of certain types of business entities from taxation.

**Credit:** Credits are amounts that are subtracted from tax liability (i.e., credits reduce the amount of tax due by the amount of the credit):

*Credit Earned:* The amount of credit generated in the current tax year.

*Credit Claimed:* The amount of credit which taxpayers have available during the taxable year. Taxpayers determine this by adding credit earned in the current year to any unused credit from prior years and subtracting any applicable credit recapture. The claimed amount also reflects the imposition of any statutory limitations.

*Credit Used:* The amount of credit which taxpayers actually apply to their tax liability.

*Credit Carried Forward:* Any unused amount of credit which is allowed to be used to offset tax liability in future years. The amount of credit carried forward is determined by subtracting the amount of credit used or refunded in the current year from the amount of credit claimed.

*Credit Refunded:* Unused credit amounts requested as a refund or applied against the next liability period. These are requested amounts from the tax return, not necessarily amounts actually paid. Refund requests are subject to audit and adjustment by the Tax Department and the Office of the State Comptroller.

**Deduction:** An amount which a taxpayer is allowed to subtract when computing the tax base.

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**Deferral:** The legal authorization to delay the obligation to pay tax to a future period (e.g., a future tax year).

**Dependent Exemptions:** A fixed amount that is subtracted from New York Adjusted Gross Income for an individual's dependents, not including the taxpayer or spouse.

**Entire Net Income (ENI):** ENI equals federal taxable income after certain additions and subtractions for items that New York treats differently. The major adjustment in the computation of ENI for most taxpayers is the exclusion of certain income received from related entities not included in the New York combined group.

**Excise Tax:** A fixed, per unit tax imposed on a commodity or commodities (e.g., 11 cents per gallon of beer).

**Exclusion/Exemption:** The statutory elimination of certain items or transactions from the tax base.

**Federal Adjusted Gross Income (FAGI):** The amount of Federal income earned or received during the income year after certain exclusions and adjustments. Major exclusions from gross income include many government transfer payments, employer-provided pension contributions and fringe benefits, most capital gains from the sale of a primary residence, and a portion of social security benefits. Major adjustments to gross income include deductions for individual retirement arrangements, alimony paid, employee moving expenses, and one-half of self-employment tax paid.

**Federal Conformity:** The extent to which State tax laws adopt or conform to various provisions of Federal Tax Law.

**Federal Taxable Income (FTI):** The amount of taxable income before certain deductions reported by a corporate taxpayer on its Federal tax return. FTI includes all income received by the taxpayer during the tax year and most deductions from income. It does not include the Federal net operating loss deduction or the special Federal deductions for dividends received.

**Flow-Through Provisions:** Provisions (e.g., definitions, deductions, exclusions) that are derived from provisions of the Federal Tax Law and are applied to or flow-through to State Tax Law.

**Franchise Tax:** A tax imposed on business corporations for the privilege of conducting business in the State.

**Gross Receipts Tax:** Tax levied on the total receipts (e.g., income from sales) of a business.

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**Itemized Deductions:** Individual deductions that are subtracted from New York Adjusted Gross Income and are applied in lieu of a standard deduction.

**New York Adjusted Gross Income (NYAGI):** The amount of Federal adjusted gross income earned or received during the income year after certain modifications and before the subtraction of either the standard deduction or itemized deductions, and dependent exemptions. For example, New York State income tax refunds, included in FAGI, are subtracted in determining NYAGI.

**Personal Income Tax:** A tax imposed on the income of persons. Examples of income that may be subject to tax include wages, non-wage income (interests, dividends, capital gains), business income, and investment income.

**Premiums Tax:** A tax imposed on insurance corporations and levied on the amount of net premiums received.

**Reimbursement:** An amount due to a taxpayer where there was a payment of tax, but no liability.

**Sales Tax:** An ad valorem tax levied on sales at retail.

**Service:** The performance of an action or activity for others.

**Standard Deduction:** A statutorily fixed amount, determined by filing status, subtracted from New York adjusted gross income.

**Tangible Personal Property:** Corporeal personal property of any nature.

**Tax Expenditure:** Features of the Tax Law that by exemption, exclusion, deduction, allowance, credit, preferential tax rate, deferral, or other statutory device, reduce the amount of taxpayers' liabilities to the State by providing either economic incentives or tax relief to particular classes of persons or entities, to achieve a public purpose.

**Taxable Income:** The amount to which the applicable tax rate is applied. Taxable income is gross income (prior to any adjustments) minus modifications, deductions, and exemptions.

**Tax Liability:** The amount of tax required to be paid by a taxpayer.

**Transfer Tax:** A tax imposed on the transfer of tangible personal property (e.g., real property) from one individual or entity to another.