



**Department of
Taxation and Finance**

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Summary of Tax Provisions in SFY 2016-17 Budget

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Summary of SFY 2016-17 Tax Provisions

Personal Income Tax

Rate Reduction for Middle Income Taxpayers

Part TT of Chapter 60 of the Laws of 2016 provides a marginal income tax rate reduction for certain middle-income taxpayers with taxable incomes not over \$300,000 (\$250,000 for heads of household and \$200,000 for single filers). The reduction will be phased in beginning in tax year 2018 and ending in tax year 2025, after which point the new rates will be made permanent. The corresponding brackets adhere to the current tables authorized under Chapter 56 of the Laws of the 2011 indexed by the cost of living percentage adjustments as computed for tax year 2017. The table below summarizes the phase-in schedule for married taxpayers filing jointly:

Taxable Income	2018	2019	2020	2021	2022	2023	2024	2025 & After
\$26,000 - \$40,000	5.90%	5.90%	5.90%	5.90%	5.85%	5.73%	5.61%	5.50%
\$40,000 - \$150,000	6.33%	6.21%	6.09%	5.97%	5.85%	5.73%	5.61%	5.50%
\$150,000 - \$300,000	6.57%	6.49%	6.41%	6.33%	6.25%	6.17%	6.09%	6.00%

When fully phased in:

- taxpayers with taxable incomes between \$26,000 and \$150,000 (\$13,000 and \$75,000 for single filers) will see their marginal rates reduced to 5.50%, and
- taxpayers with taxable incomes between \$150,000 and \$300,000 (\$75,000 and \$200,000 for singles) will see their rates reduced to 6.00%.

In addition, the tax benefit recapture provisions as enacted under Chapter 56 of the Laws of 2011 will become permanent effective tax year 2018 and will be adjusted annually to reflect the reduced rates.

(Sections 601(a)(1)(B), 601(b)(1)(B), 601(c)(1)(B), 601(d-1)(2), and 601(d-1)(3) of Tax Law)

Convert STAR
Exemption Benefit into
an Income Tax Credit
for New Homeowners

Part A of Chapter 60 of the Laws of 2016 gradually converts the school tax relief (STAR) program from a real property tax exemption benefit into a personal income tax credit. Beginning with the assessment rolls used to levy school taxes for the 2016-2017 school year, the current STAR exemption program will be closed to new applicants. Current recipients of STAR exemptions may 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 will be under no obligation to do so.

The eligibility requirements for the new STAR income tax credit will be identical to those of the existing STAR exemption. Most notably:

- i) The applicants must own the property and the property must be their primary residence,
- ii) The applicants' income must be less than the applicable limit (\$500,000 for Basic STAR, and currently \$84,550 for Enhanced STAR, which is annually adjusted for inflation), and
- iii) For Enhanced STAR, all owners must be at least 65 years of age, unless the owners are spouses or siblings, in which case at least one owner must be 65.

Likewise, the value of the STAR credit within each school district will be the same as the value of the tax savings under the STAR exemption. The special eligibility features that were part of the current STAR program (e.g., allowing co-op tenant-shareholders and trust beneficiaries to receive benefits even though they technically do not own property) will be carried over to the new income tax credit program.

By September 15th of each year, the Tax Commissioner will determine eligibility for the STAR credit and will mail an advance payment of the credit by September 30 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 that reads substantially as follows: "A STAR reimbursement check of \$_ will be mailed to you upon issuance by the NYS Tax Department."

New owners must apply to the Tax Department by July 1 in order to receive advance payment the following Fall. Taxpayers who qualify for the credit, but do not apply for an advance payment by July 1 may apply at a later time.

For taxpayers who itemize deductions on their New York State returns and claim the deduction for real property taxes paid, the amount of the deduction is to be reduced by the amount of the STAR income tax credit.

These provisions become effective immediately and apply to tax years beginning on or after January 1, 2016.

(Sections 425.6(a), 425.16, 496.2, 520.3, and 1306-a.6 of the Real Property Tax Law; Sections 606 and 606(n-1)(2)(a) of the Tax Law)

Convert the New York City STAR Credit into a New York State Income Tax Credit

Part E of Chapter 60 of the Laws of 2016 converts the existing New York City school tax relief (STAR) personal income tax credit into a New York State personal income tax credit for residents of New York City. As with the New York City credit in effect prior to 2016, New York City residents whose incomes are \$250,000 or less will receive a school tax relief credit against their state income tax of \$125 for married taxpayers filing jointly and \$62.50 for all others. The proposal takes effect immediately and applies to taxable years beginning on or after January 1, 2016.

(Sections 606(eee), 1310(e)(1), and 1310(e)(2) of the Tax Law; Sections 11-1706(c)(1) and 11-1706(c)(2) of the Administrative Code of the City of New York)

Extension of E-file Mandates

Part G of Chapter 60 of the Laws of 2016 extends certain tax modernization provisions related to improved electronic filing and payment mandates and sales tax segregated accounts.

Legislation in 2011 reduced the threshold trigger for the preparer e-file requirement from preparation of more than 100 tax documents to preparation of more than five tax documents. In 2012, these requirements were changed for those who first became subject to the e-filing requirements

after January 1, 2012 to a tax preparer that prepares authorized tax documents for more than 10 different taxpayers. These provisions were extended for a three-year period through December 31, 2019.

The 2011 legislation allowed the Commissioner to require sales tax vendors that failed to collect, truthfully account for, or pay over sales tax monies, or to file returns as required by law, to deposit their sales tax receipts into a separate bank account. These vendors must make electronic payments from this account at least every week to the Tax Department. These provisions were set to expire December 31, 2016 and this legislation extends them to December 31, 2019.

(Section 23 of Part U of Chapter 61 of the Laws of 2011)

Extension of Tax Shelter Reporting Provisions

Part M of Chapter 60 of the Laws of 2016 extends the expiration date for the current tax shelter disclosure and penalty provisions in the Tax Law to July 1, 2019. These provisions had been scheduled to expire on July 1, 2015.

Legislation in 2005 created reporting requirements and related administrative provisions concerning disclosing certain federal and NYS reportable transactions and related information relating to transactions that present the potential for tax avoidance (tax shelters). This amendment extends the expiration date of those reporting requirements. Separate reporting requirements are imposed on those who utilize tax shelters and those who promote the use of tax shelters. The legislation also imposed penalties for nondisclosure and the underpayment of taxes due to participation in these transactions, extended the statute of limitations for assessments relating to these transactions, and created a voluntary compliance initiative to allow taxpayers to report and pay underreported tax liabilities and interest attributable to these transactions with a waiver of penalties.

(Section 12 of Part N of Chapter 61 of the Laws of 2005)

Permanently Extend
the Noncustodial
Parent Earned
Income Tax Credit

Part L of Chapter 60 of the Laws of 2016 makes the enhanced earned income tax credit (EITC) for certain noncustodial parents permanent. The current credit was scheduled to expire on December 31, 2016. The new law makes the credit permanent.

To qualify for the enhanced EITC, claimants must:

- be a resident taxpayer,
- be age 18 and over, and
- have a minor child with whom they do not reside.

The credit is equal to the greater of :

- 20% 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 their required support payments.

(Section 2 of Part I of Chapter 58 of the Laws of 2006)

Real Property Taxes

Convert STAR
Exemption Benefit into
an Income Tax Credit
for New Homeowners

See Personal Income Tax, Page 2.

Convert the New
York City STAR
Credit into a New
York State Income
Tax Credit

See Personal Income Tax, Page 3.

Extender of SCRIE/
DRIE Exemption
Income Limits

Part EE of Chapter 54 of the Laws of 2016 extends temporary increases in the qualifying income limits, pursuant to RPTL Section 467-b for property tax abatements under the senior citizen rent increase exemption (SCRIE) and the disabled rent increase exemption (DRIE) programs. The 2014-15 budget included a temporary increase in the allowable income limit to \$50,000, and provided state reimbursement of related increased program costs to New York City. This provision extends the increase in the qualifying income limit that was set to expire July 1, 2016 for an additional four years through June 30, 2020, and also limits the amount of state reimbursement of program costs associated with that income limit increase in New York City to no more than \$1.2 million.

This provision takes effect immediately.

(Secs. 3 & 4 of Part U of Chapter 55 of the Laws of 2014, and Sec. 4 of Chapter 129 of the Laws of 2014)

Federal
Conformity

Tax Return Due
Date Changes

Part Q of Chapter 60 of the Laws of 2016 amends certain New York State tax filing deadlines to conform to changes made to federal filing deadlines enacted in Section 2006 of H.R. 3236, Public Law 114-41, the *Surface Transportation and Veterans Health Care Choice Improvement Act of 2015*.

- Partnerships generally must file tax returns (Form IT-204 and attachments) on or before the 15th day of the third month following the close of each taxable year, which is March 15 for calendar-year filers. This change applies to partnership returns for tax years beginning on or after January 1, 2016.
- Partnerships, limited liability companies, and limited liability partnerships must remit the annual filing fee (on Form IT-204-LL) on or before the 15th day of the third month following the close of their taxable year. This change is effective immediately.

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- New York C Corporations generally must file returns on or before the 15th day of the fourth month following the close of each taxable year, which is April 15 for calendar-year filers.

This change applies to returns for tax years beginning on or after January 1, 2016 for the following:

- Article 9, Section 184, *Additional Franchise Tax on Transportation and Transmission Corporations and Associations*;
- Article 9, Section 184-a, *Additional Metropolitan Transportation Business Tax Surcharge on Transportation and Transmission Corporations and Associations Services*;
- Article 9, Section 186-A, *Tax on Furnishing Utility Services*;
- Article 9, Section 186-e, *Excise Tax on Telecommunications Services*;
- Article 9, Section 186-c, *Metropolitan Transportation Business Tax Surcharge on Utility Services and Excise Tax on Sale of Telecommunications Services*;
- Article 9-A, *Franchise Tax on Business Corporations and Metropolitan Transportation Business Tax Surcharge on General Business Corporations*; and
- Article 33, *Franchise Tax on Insurance Corporations and Metropolitan Transportation Business Tax Surcharge on Insurance Corporations*.

For the Article 9 taxes that are prepaid, this change applies to returns for tax years beginning on or after January 1, 2017 for the following:

- Section 183, *Franchise Tax on Transportation and Transmission Corporations and Associations*;
- Section 183-a, *Metropolitan Transportation Business Tax Surcharge on Transportation and Transmission Corporations and Associations*; and Section 185, *Franchise Tax on Farmers', Fruit Growers', and Other Like Agricultural Corporations Organized and Operated on a Co-operative Basis*.

Although the return deadline has been moved back to April 15 for C corporations, these entities are still required to remit the mandatory first installment (MFI) of estimated tax on or before the 15th day of the third month following the close of each taxable year, which is March 15 for calendar year filers. However, the amount of the MFI will now be a percentage of the

Late Filing of
Enhanced STAR
and Senior Citizen
Renewal
Applications –
Hardship Exception

Part D of Chapter 60 of the Laws of 2016 allows a taxpayer who receives the enhanced STAR exemption, and who fails to timely file the renewal application for the exemption, to file a request for an extension and an application for renewal of such exemption with the Commissioner up until the last day for paying school taxes without incurring interest or penalty, where such late filing was due to hardship or for good cause.

Part D also allows municipalities to exercise similar authority where a taxpayer who receives the locally funded senior citizens exemption and fails to timely file a renewal application for the exemption. If this option is adopted, a taxpayer could submit a renewal application for such exemption to the local assessor up until the last day for paying school taxes without incurring interest or penalty, where such late filing was due to hardship or for good cause.

These provisions take effect sixty days after enactment.

(Sections 425(6) and 467(8-a) of the Real Property Tax Law)

Direct DTF Payment
of STAR Tax
Savings to Property
Owners in Certain
Cases

Part F of Chapter 60 of the Laws of 2016 allows the Commissioner to directly reimburse a STAR-eligible property owner when the property owner did not receive the STAR tax savings to which he or she was entitled due to an administrative error.

This provision takes effect immediately.

(Section 425(16) of the Real Property Tax Law)

STAR Recoupment
Timing Clarification

Part JJ of Chapter 60 of the Laws of 2016 relates to the recoupment of erroneously granted STAR exemptions that was added in last year's budget. It clarifies that the look-back period authorized relates to school years rather than to the concept of assessment roll years that was used. While the timing of assessment roll dates varies throughout the state, the timing of school years is uniform and therefore the notification requirements will likewise be uniform under this amendment. Specifically, this provision requires recoupment notification be mailed to affected taxpayers no later than three years after conclusion of the school year in question. However, with respect to the 2012-13 school year, this provision allows until no later than September 30, 2016 for the mailing of such notification.

This provision takes effect immediately.

(Section 425(15) of the Real Property Tax Law)

Anaerobic Digestion
Facilities Property
Tax Exemption

Part P of Chapter 57 of the Laws of 2016 relates to certain types of anaerobic digestion facilities. These facilities, which generate energy primarily from farm waste, were previously potentially eligible for exemption within two different Real Property Tax Law (RPTL) statutes (RPTL Secs. 483-a and 487). The pertinent language that was in RPTL Sec. 483-a is now removed and relocated in a new RPTL Sec. 483-e, which no longer requires qualifying anaerobic digestion facilities to be located on agricultural land. In addition, language has been added to RPTL Sec. 487 to make it clear that it is not applicable to property that satisfies the requirements for exemption under RPTL Sec. 483-e.

These provisions take effect immediately and apply to assessment rolls based on taxable status dates occurring on and after March 1, 2016; provided that an application for the exemption on the 2016 roll is considered timely if filed on or before June 1, 2016. However, the amendments to Section 487 of the RPTL shall not apply to any exemptions for farm waste energy facilities that were granted prior to the effective date.

(Sections 483-a(1), 483-e, and 487(2) of the Real Property Tax Law)

tax from two tax years prior, instead of the preceding year's tax. The changes to the MFI computation apply to payments due on or after March 15, 2017 for Article 9, Article 9-A, and Article 33.

- New York S corporations will continue to file returns on or before the 15th day of the third month following the close of the taxable year.

Similar conforming changes were made to the filing deadlines for New York City for C Corporations and unincorporated businesses, including sole proprietorships reporting on a federal Schedule C that are subject to New York City's Unincorporated Business Tax.

As the return deadline did not change for New York S corporations, there are no changes to the MFI computation for these entities. S corporations will continue to remit the MFI payment with the filing of a return or extension and it will continue to be based upon the tax shown on the return or request for extension for the preceding year.

(Sections 183-a.5, 186-a.4, 186-e.6, 192.1, 192.2, 197-b.1(a), 197-b.6, 209.1(a), 211.1, 213-b(a), 213-b(d), 658(c)(1), 658(c)(3)(A), 1085(c)(1), 1087(i), 1514(a), 1514(d)-(f), 1515(a) of the Tax Law)

State Conformity
with Federal
Aviation
Administration

Part Z of Chapter 60 of the Laws of 2016 ensures compliance with federal law governing the use of monies collected from taxes on aviation fuel by amending the State Finance Law and Tax Law. These amendments segregate and dedicate the petroleum business tax revenues from the sale of aviation fuels into a new aviation purpose account to fund airport improvement projects. Also to ensure compliance, the legislation exempts fuel used in commercial and general aviation aircraft from local sales tax and the prepaid sales tax on motor fuels.

The petroleum business tax revenue changes take effect on April 1, 2017 and the sales tax exemptions take effect December 1, 2017.

(Sections 89-b(2) and 89-b(4-a) of the State Finance Law; Sections 312, 1102(a)(1), 1210(a)(1), and 1210(a)(xii-xiii) of the Tax Law)

Tax Credits

Low-Income Housing Credit

Part H of Chapter 60 of the Laws of 2016 amends the low-income housing credit, which is administered by the Division of Housing and Community Renewal (DHCR). Part H increases the statewide limitations for the aggregate dollar amount of credit the Commissioner of DHCR may allocate to eligible low-income buildings.

The limitation is immediately increased from \$64 million to \$72 million. The limitation is subsequently increased as follows:

- \$80 million for credit allocations effective April 1, 2017
- \$88 million for credit allocations effective April 1, 2018
- \$96 million for credit allocations effective April 1, 2019
- \$104 million for credit allocations effective April 1, 2020

(Section 22.4 of the Public Housing Law)

Hire a Veteran Credit

Part I of Chapter 60 of the Laws of 2016 extends the expiration date of the hire a veteran credit from January 1, 2017 to January 1, 2019. The period of eligible employment for qualified veterans is also extended from January 1, 2016 to January 1, 2018.

The veteran must be employed in New York State by the taxpayer claiming the credit for one year or more and for not less than 35 hours each week. The taxpayer may claim the credit in the tax year in which the qualified veteran completes one year of employment with the taxpayer. The credit is equal to 10% of the total amount of wages paid to the qualified veteran during the veteran's first full year of employment. The amount is increased to 15% of the total wages paid if the qualified veteran is disabled. The credit is capped at \$5,000 per veteran or \$15,000 per disabled veteran. The taxpayer may carry forward any unused credit to the following three years.

(Sections 210-B.29(a), 210-B.29(b), 606(a-2)(1), 606(a-2)(2), 1511(g-1)(1), and 1511(g-1)(2) of the Tax Law)

Commercial
Production Credit

Part J of Chapter 60 of the Laws of 2016 extends the expiration date of the commercial production credit from January 1, 2017 to January 1, 2019.

Taxpayers meeting a threshold level of commercial production activity in New York may apply for credit from the Governor's Office of Motion Picture and Television Development. The maximum amount of the credit is \$7 million annually.

(Sections 28, 210-B.23(c), and 606(jj)(1) of the Tax Law)

Credit for Companies
That Provide
Transportation to
People with Disabilities

Part K of Chapter 60 of the Laws of 2016 extends the expiration date of the credit for companies who provide transportation to people with disabilities from December 31, 2016 to December 31, 2022.

Taxpayers providing taxicab or livery service may claim a credit equal to the incremental cost associated with upgrading a vehicle so that it is accessible to individuals with disabilities. In addition, these taxpayers may also claim the credit for the purchase of a new vehicle that is initially manufactured to be accessible to persons with disabilities, and for which there is no comparable make or model that does not include the equipment necessary to provide accessibility to persons with disabilities. The amount of the credit is limited to \$10,000 per vehicle.

(Section 210-B.38(c) of the Tax Law)

Clean Heating Fuel
Credit

Part N of Chapter 60 of the Laws of 2016 modifies and extends the clean heating fuel credit. The clean heating fuel credit is a refundable tax credit available for the purchase of bioheat, when used for space heating or hot water production for residential purposes within New York State. The credit is equal to one cent for each percent of biodiesel per gallon of bioheat, up to 20 cents per gallon.

The Tax Law is amended to modify the minimum biodiesel fuel thresholds for bioheat for the corporate and personal income tax credits to at least six percent biodiesel per gallon of bioheat. Any bioheat purchased on or after January 1, 2017, that is graded below B6 (meaning less than six percent biodiesel per gallon of bioheat) will no longer qualify for the credit beginning in 2017; this includes products such as B2 or

B5. The expiration date of the credit is extended three years to January 1, 2020.

(Sections 210-B.25(a) and 606(mm)(1) of the Tax Law)

Excelsior Jobs
Program Tax Credit

Part O of Chapter 60 of the Laws of 2016 amends the excelsior jobs program to address awarding:

- unused allocations,
- benefit periods, and
- overall credit allocation totals.

Empire State Development (ESD) may award 100% 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. This is to ensure that companies entering the program in 2016 and 2017 can realize the full ten-year benefit period. However, under no circumstances may the aggregate statutory cap for all years be exceeded, and no tax credits are allowed for taxable years beginning on or after January 1, 2027.

Also, 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. The following table shows the reductions in the credit caps per taxable year:

Credit components in aggregate shall not exceed		
Previous Amount	New Amount	Taxable Year
\$50 million	\$50 million	2011
\$100 million	\$100 million	2012
\$150 million	\$150 million	2013
\$200 million	\$200 million	2014
\$250 million	\$250 million	2015
\$200 million	\$183 million	2016
\$200 million	\$183 million	2017
\$200 million	\$183 million	2018
\$200 million	\$183 million	2019
\$200 million	\$183 million	2020
\$200 million	\$183 million	2021
\$150 million	\$133 million	2022
\$100 million	\$83 million	2023
\$50 million	\$36 million	2024

(Sections 354 and 359 of the Economic Development Law; Section 31 of the Tax Law)

Alcohol Beverage
Production Credit

Part V of Chapter 60 of the Laws of 2016 expands the beer production credit available under the corporate franchise tax and the personal income tax to include wine, liquor and cider. Specifically, the credit will be available to taxpayers registered as a distributor in New York State 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 amended credit is renamed the alcohol beverage production credit.

The alcohol beverage production 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 and up to 15,500,000 produced in New York State in the same tax year.

The expansion of the beer production credit to include wine, liquor and cider applies to taxable years beginning on or after January 1, 2016.

(Sections 37, 210-B.39, 606(i)(1)(B)(xxxiv), and 606(uu) of the Tax Law)

[Note: Part V contains other tax provisions; See Alcoholic Beverage Tastings].

Special Additional
Mortgage Recording
Tax Credit

Part LL of Chapter 60 of the Laws of 2016 makes the special additional mortgage recording tax credit under Article 9-A refundable for certain residential mortgages. Prior to corporate tax reform, refundability of the credit pertaining to these mortgages was limited to general business corporations in Article 9-A; the credit was not refundable for Article 32 banking corporations. When the two articles were merged in the 2014 reform legislation, refundability was eliminated.

Part LL allows Article 9-A taxpayers to claim a refund of the credit attributable to the special additional mortgage recording tax that a taxpayer pays on or after January 1,

2015 as a lender with respect to residential mortgages.
(Section 210-B.9(b) of the Tax Law)

Real Property Tax
Credit for
Manufacturers

Part MM of Chapter 60 of the Laws of 2016 provides that an Article 9-A taxpayer principally engaged in the production of goods by farming, agriculture, horticulture, floriculture, viticulture, or commercial fishing, can claim the real property tax credit for manufacturers based on eligible real property taxes paid on property leased from a related or unrelated third party, provided:

- the taxpayer as lessee paid the taxes pursuant to explicit requirements in a written lease, and
- the taxpayer as lessee paid such taxes directly to the taxing authority and received a written receipt from the taxing authority.

Prior to this change, real property tax paid on real property leased from a related third party did not qualify for this credit under Article 9-A. This change conforms Article 9-A to the treatment of leased property for agricultural businesses under the personal income tax.

This change is effective for tax years beginning on or after January 1, 2014.

(Section 210-B.43(b) of the Tax Law)

Amend Economic
Transformation and
Facility
Redevelopment
Program

Part QQ of Chapter 60 of the Laws of 2016 amends the Economic Development Law and the Tax Law to allow any psychiatric facility previously owned by New York State and operated pursuant to section 7.17 of the Mental Hygiene Law, and located within the Metropolitan Commuter Transportation District (excluding New York City) to qualify as a closed facility under the Economic Transformation and Facility Redevelopment Program.

The program is administered by the Empire State Development Corporation (ESDC), which determines eligibility and issues certificates of tax credit to approved business entities. Prospective participants must submit an application by September 1, 2016.

The Economic Transformation and Facility Redevelopment Program tax credit consists of four components:

- the jobs tax credit component,
- the investment tax credit component,
- the job training credit component, and
- the real property tax credit component.

Part QQ also amends the investment tax credit component of the economic transformation and facility redevelopment program tax credit to allow owners of such closed psychiatric facilities, when claiming credit, to include in its cost or other basis of the qualified investment at the closed facility, demolition costs incurred at the facility, limited to:

- i) asbestos removal costs,
- ii) rental of demolition equipment,
- iii) personnel costs to operate the demolition equipment,
- iv) costs to remove and dispose of demolition debris, and
- v) the costs of any permits, licenses and insurance necessary for the demolition.

Lastly, the definition of participant in the Economic Development law is amended, with regards to such psychiatric facilities, to waive the requirement that a business entity be a new business to participate in the Economic Transformation and Facility Redevelopment Program.

(Sections 400 and 402 of the Economic Development Law; Section 35 of the Tax Law)

Farm Workforce Retention Credit

Part RR of Chapter 60 of the Laws of 2016 creates the farm workforce retention credit. The refundable credit is available to farm employers equal to a fixed amount per eligible farm employee.

- A *farm employer* is a corporation, including a New York S corporation, a sole proprietorship, a limited liability company, or a partnership whose federal gross income from farming for the taxable year is at least two-thirds of excess federal gross income.
- *Excess federal gross income* means 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. 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. Finally, any employees counted in the computation of this credit cannot be used as the basis to claim any other credit.

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

(Sections 42, 210-B.51, and 606(i), and 606(eee) of the Tax Law)

Urban Youth
Jobs Tax Credit

Part VV of Chapter 60 of the Laws of 2016 expands programs four and five of the urban youth jobs tax credit program.

The amount of tax credit the Commissioner of the Department of Labor (DOL) is allowed to annually allocate is increased from \$20 million to \$50 million in both programs four and five. Distribution of the allocations is as follows:

- \$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.

A qualified employee is defined as an individual who meets the following criteria:

- is between the ages of 16 and 24;
- resides in a city with a population of 55,000 or more, or a town with a population of 480,000 or more;
- is low income or at risk, as defined by the Commissioner of DOL;
- is unemployed prior to being hired;
- will be working in a full-time or part-time position that pays wages that are equivalent to the wages paid for similar jobs, with appropriate adjustments for experience and training, and for which no other employee was terminated, or where the employer has not otherwise reduced its workforce by involuntary terminations with the intention of filling the vacancy by creating a new hire.

The expansion is effective immediately.

(Sections 25-a(a) and 25-a(b)(3) of the Labor Law)

Corporate Tax Reform

Part P of Chapter 60 of the Laws of 2016 makes technical corrections to the corporate tax reform provisions in Article 9-A of the Tax Law and the Administrative Code of the City of New York. The changes are outlined below by topic.

Qualified Financial Instruments and Other Exempt Income

Part P of Chapter 60 of the Laws of 2016 amended the definition of a qualified financial instrument (QFI) to clarify that stock that generates *other exempt income*¹, and is **not** marked to market under IRC section 475 or 1256, is not a QFI with respect to such other exempt income (even if other stocks are marked to market in the tax year)².

Generally, when a taxpayer holds one stock that is marked to market, that stock, and all other stock held by the taxpayer, are treated as QFIs. When a taxpayer elects the 8% fixed percentage method for apportionment, all income, gain or loss generated by QFIs is included in business income. This amendment excludes all stock that generates other exempt income and is not marked to market from the definition of a

¹Other exempt income includes dividends and certain controlled foreign corporation income received from unitary affiliates that are not included in a combined report with the taxpayer.

²Stock that is not marked to market may still be considered a QFI with respect to the net gains from the sale of such stock if the taxpayer holds other stock that is marked to market.

QFI, with respect to the other exempt income generated. Therefore, other exempt income generated from such stock is excluded from business income.

This amendment does not change the treatment of gains or losses from the sale of stock that generates or could generate other exempt income. Such gains and losses are always included in business income. All stock that generates or could generate other exempt income continues to be considered business capital and is subject to the capital base tax.

Part P also corrected cross-references, typographical errors and citations, and repealed obsolete references in the corporate tax reform provisions in Article 9-A of the Tax Law.

These changes apply to tax years beginning on or after January 1, 2015

(Section 210-A.5(a) of the Tax Law)

Cross-References and
Other Technical
Amendments

Part P also:

- Corrects cross-references in the Tax Law to the empire state film production credit, the minimum wage reimbursement credit, and the empire zone wage tax credit;
- Repeals obsolete references to Article 32 in the minimum wage tax credit;
- Repeals obsolete references to the empire zone wage tax credit in the Article 9-A rules for ordering tax credits;
- Corrects typographical errors in the economic nexus rules and the special additional mortgage recording tax credit; and
- Corrects citations in the commonly owned group election for combined reporting.

These changes apply to tax years beginning on or after January 1, 2015, the same effective date as all of the other corporate tax reform changes.

(Sections 24(c), 24(e)(4), 38(a), 38(e), 209.1(e), 210-B.7(c), 210-B.9(a), 210-B.45, and 210-C.3(a) of the Tax Law)

Leased Assets for
ENI Modifications
for Banks

Part NN of Chapter 60 of the Laws of 2016 provides that for purposes of the asset tests under the entire net income subtraction modifications for qualified residential loan portfolios and community banks and small thrifts, total assets include leased real property that is not properly reflected on a balance sheet. This change reflects the Tax Department's current interpretation that is expressed in the instructions for Form CT-3.2, *Subtraction Modification for Qualified Banks*. Similar changes were also made to these modifications in the New York City Business Corporation Tax. In addition, this policy is also applied to the New York City-specific subtraction modification for qualified affordable housing and low income community loans.

These changes apply to tax years beginning on or after January 1, 2015, the same effective date as all of the other corporate tax reform changes.

(Sections 208.9(r) and 208.9(s) of the Tax Law, Sections 11-652.8(q), 11-652.8(s), and 11-652.8(t) of the Administrative Code of the City of New York)

New York City
Changes

Part P, Sections 9 through 16, makes the following amendments to the Administrative Code of the City of New York:

- Clarifies that the option to use New York State entire net income for corporations that have a 100% business allocation percentage under the General Corporation Tax only applies to tax years beginning before January 1, 2015;
- Adds a reference to the New York State Tax Law in the catch-all provision of Administrative Code §11-651, so that references to the old General Corporation Tax in the Tax Law can also be considered references to the new 2015 Corporate Tax;
- Corrects terminology in the definition of investment capital;
- Adds reference to the nine percent tax rate for large financial corporations in the calculation of the unincorporated business tax paid credit under Administrative Code §11-654.18(a)(2)(ii);
- Extends the biotechnology credit in Administrative Code §11-654.21 to match the City Council extension enacted for New York City's other business taxes;

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- Corrects a cross-reference in the apportionment rule for receipts from sales of tangible personal property and electricity that are traded as commodities; and
 - Makes the conforming amendment to the definition of qualified financial instrument mentioned above for New York State.

These changes are effective for tax years beginning on or after January 1, 2015, the same effective date as all of the other corporate tax reform changes.

(Sections 11-604.1(l), 11-651.2, 11-652.4(a), 11-654.18(a)(2), 11-654.18(b)(1), 11-654.21(a)(8), 11-654.2.2(c) of the Administrative Code of the City of New York)

Other Tax Provisions

Alternative Fuel Exemption

Part U of Chapter 60 of the Laws of 2016 extends the alternative fuel tax exemptions for fuel types E-85, CNG and hydrogen, and the partial exemption for B-20. Under current law, these exemptions were scheduled to expire on September 1, 2016. Part U extends this expiration date until September 1, 2021.

These changes take effect immediately.

(Section 19 of Part W-1 of Chapter 109 of the Laws of 2006)

Alcoholic Beverage Tastings

Part V of Chapter 60 of the Laws of 2016 exempts alcoholic beverages used at tastings held in accordance with the Alcoholic Beverage Control Law from the alcoholic beverage tax. In addition, Part V also makes clarifying changes to the existing compensating use tax exemption for alcoholic beverages provided at no charge at tastings held in accordance with the Alcoholic Beverage Control Law by alcoholic beverage producers.

The alcoholic beverage tax exemption takes effect on April 1, 2016 and the clarification to the compensating use tax takes effect June 1, 2016.

(Sections 424.6 and 1118(13) of the Tax Law)

[Note: Part V contains other tax provisions; See Alcohol Beverage Production Credit].

Room Remarketers **Part X of Chapter 60 of the Laws of 2016** creates a sales tax exemption for rent paid by a room remarketer to a hotel operator for occupancies that the remarketer intends to resell. A credit or refund for sales tax paid by a remarketer to a hotel operator for rooms the remarketer later resells will still be available.

The exemption applies to the state and local sales tax and the hotel unit fee imposed by the state on certain occupancies in New York City. New York City's locally-imposed and administered hotel room occupancy tax is also conformed to these changes. Part X does not amend any other locally-imposed hotel tax in the state.

This change applies to any occupancies for which the rent is paid on or after June 1, 2016.

(Sections 1105(e) and 1115(kk) of the Tax Law; Section 11-2502 of the Administrative Code of the City of New York)

Eliminate Charitable Giving as a Factor in Determining Domicile for Estate Tax **Part Y of Chapter 60 of the Laws of 2016** prohibits the Tax Department from considering charitable contributions and charitable activities in determining domicile for estate tax purposes. This conforms the estate tax to the current personal income tax provisions.

This change takes effect immediately.

(Section 951-a(f) of the Tax Law)

Medical Marijuana Disclosure **Part II of Chapter 60 of the Laws of 2016** authorizes the Tax Department to disclose to the Division of the Budget or the Office of the State Comptroller, for tax administration purposes, information aggregated from tax returns filed by registered organizations under the medical marijuana program. Specifically, Part II makes clear that the Tax Department can disclose such aggregated return information for a specified county whether the number of such registered organizations is one or more. In addition, Part II authorizes the Tax Commissioner to permit the Proper Officer of a county to inspect or receive an abstract of summary information from a return filed under the medical marijuana tax.

These changes take effect immediately.

(Section 491.1 of the Tax Law)

Highway Use Tax
Certificate of
Registration and
Decal Fees

Part KK of Chapter 60 of the Laws of 2016 establishes a new reduced highway use tax (HUT) certificate of registration and decal fee of \$1.50 per vehicle. The legislation also creates a new HUT administration account into which HUT registration and decal fees will be deposited.

The new reduced \$1.50 per vehicle fee applies for HUT and automotive fuel carrier (AFC) certificates of registration (C of R) and decals for both in-state and out-of-state based carriers.

The new fees are as follows:

HUT and AFC registration or renewal fee	\$1.50 per vehicle (includes C of R and decal)
Replacement fee for a duplicate certificate of registration when the original is lost, mutilated, or destroyed	\$1.50 per vehicle
Replacement fee for a decal that is lost, mutilated, or destroyed	\$1.50 per vehicle (includes C of R and decal)
New certificate of registration and decal because the vehicle's license plate information changes or the gross or unloaded weight of the motor vehicle increases	No cost

These provisions are effective immediately.

(Section 99-y of the State Finance Law; Sections 502.1.a, 502.1.b, 502.6.a, 502.6.b, 502-a, 509.8, and 515 of the Tax Law)

Motor Fuel
Wholesaler
Registration

Part UU of Chapter 60 of the Laws of 2016 requires wholesalers of motor fuel, making sales or purchases of motor fuel in the Metropolitan Commuter Transportation District, to register with the Tax Department and file monthly information returns. In addition, it requires wholesalers to pay or receive credit for the prepayment of sales tax on motor fuel, when moving motor fuel between the three New York regions established for purposes of the prepaid tax.

These new requirements take effect on December 1, 2016.

(Sections 282.27, 283-d, 287.3, 1102(f), 1111(e), and 1812-g of the Tax Law)

Commercial Fuel Cell
Systems

Part WW of Chapter 60 of the Laws of 2016 exempts commercial fuel cell electricity generating systems equipment and the service of installing and maintaining such systems from the state sales and compensating use tax. In addition, it exempts fuel cell generated electricity sold under a written agreement.

Part WW also provides a local option to exempt commercial fuel cell electricity generating systems equipment, and electricity generated by such equipment from county and city sales taxes.

These changes take effect on June 1, 2016.

(Sections 1115(kk), 1210(a)(1), 1210(a)(4), 1210(b)(1), 1210(d), 1212(a) and 1224(c-2) of the Tax Law)

Waste Tire
Management Fee
Extension

Part T of Chapter 58 of the Laws of 2016 extends the State waste tire management and recycling fee for three years to December 31, 2019. This fee, imposed on all new tires sold at retail in the State, was scheduled to expire on December 31, 2016.

These changes take effect immediately.

(Sections 27-1905.1-2, 27-1913.1-3, 27-1913.6(a), and 27-1915.6 of the Environmental Conservation Law)

Appendix: Index of SFY 2016-17 Tax Provisions

Summary of Tax Provisions in SFY 2016-17 Budget

Chapter 60 of the Laws of 2016 (S.6409-C/A.9009-C) REVENUE BILL

Section(s)	Page(s)	Subject	Description	Effective Date	Citation
Part A	4-11	Convert STAR Exemption Benefit into an Income Tax Credit for New Homeowners	Gradually converts the School Tax Relief (STAR) program from a real property tax exemption benefit into a personal income tax credit for new homeowners. Credit recipients have the option of receiving an advance payment from DTF.	Immediately, the credit applies for TYBOA 1/1/16	RPTL - Sections 425, 496, 520, and 1306-a; TL- Section 606
Part D	12-13	Late Filing of Enhanced STAR and Senior Citizen Renewal Applications – Hardship Exception	Makes it possible for taxpayers who have been receiving Enhanced STAR and/or Senior Citizens exemptions to file renewals up until the end of the interest free payment period for school taxes, where such late filing is due to hardship or other good cause shown.	60 days after enactment	RPTL - Sections 425 and 467
Part E	14-16	Convert the New York City STAR Credit into a New York State Income Tax Credit	Converts the existing New York City School Tax Relief (STAR) personal income tax credit into a New York State personal income tax credit for residents of New York City.	Immediately	TL - Sections 606 and 1310; Admin Code - Section 11-1706
Part F	15-16	Direct DTF Payment of STAR Tax Savings to Property Owners in Appropriate Cases	Authorizes DTF to make direct STAR benefit payments to eligible taxpayers in cases involving certain administrative errors, where no other remedy is readily available to correct the error.	Immediately	RPTL - Section 425
Part G	16-17	Extension of E-file Mandates	Extends, from tax year 2016 through 2019, certain tax modernization provisions related to improved electronic filing and payment mandates and the sales tax segregated accounts.	Immediately	Laws of 2011 –Chapter 61 (TL – Section 29)
Part H	17-18	Low-Income Housing Credit	Statewide limitations for the aggregate dollar amount available for allocation increased to \$72 million effective immediately; \$80 million effective April 1, 2017; \$88 million effective \$April 1, 2018; \$96 million effective April 1, 2019; \$104 million effective April 1, 2020.	Immediately; with annual increase effective dates noted	PHL – Section 22.4
Part I	18-19	Hire A Veteran Credit	Extends the hire-a-veteran credit for two years to January 1, 2019. The period of eligible employment for qualified veterans also extended two years to January 1, 2018.	Immediately	TL – Sections 210-B, 606, and 1511
Part J	19-20	Commercial Production Credit	Extends the commercial production credit for two years to January 1, 2019.	Immediately	TL – Sections 28, 210-B, and 606

Chapter 60 of the Laws of 2016 (S.6409-C/A.9009-C) REVENUE BILL

Section(s)	Page(s)	Subject	Description	Effective Date	Citation
Part K	20	Credit for Companies That Provide Transportation to People with Disabilities	Extends the credit for 6 years to December 31, 2022.	Immediately	TL – Section 210-B
Part L	20	Permanently Extend the Noncustodial Parent Earned Income Tax Credit	Makes permanent the enhanced earned income tax credit (EITC) for certain noncustodial parents.	Immediately	Laws of 2006 – Chapter 58 (TL – Section 606)
Part M	21	Extension of Tax Shelter Reporting Provisions	Extends the sunset date for current tax shelter disclosure and penalty provisions to July 1, 2019.	Immediately	Laws of 2005 – Chapter 61 (TL – Section 25)
Part N	21-22	Clean Heating Fuel Credit	Extends the clean heating fuel credit for three years to January 1, 2020. In addition, bioheat graded below B6 will no longer qualify for the credit beginning January 1, 2017.	Immediately for TYBOA 1/1/17	TL - Sections 210-B and 606
Part O	22-24	Excelsior Jobs Program Tax Credit	Extends the Excelsior Jobs Program by two years and reduces the aggregate amount of credit available for taxable years 2016 - 2024. Amends the EDL and the TL to authorize any unawarded tax credits remaining at the end of 2024 to be allocated in taxable years 2025 – 2027. No tax credits may be allowed for taxable years beginning on or after January 1, 2027.	Immediately	EDL - Sections 354 and 359; TL - Section 31
Part P	24-30	Qualified Financial Instruments and Other Exempt Income Cross-References and Other Technical Amendments New York City Changes	Makes technical corrections to the corporate tax reform provisions in Article 9-A of the Tax Law and the Administrative Code of the City of New York.	TYBOA 1/1/15	Various
Part Q	30-43	Tax Return Due Date Changes	Brings certain NYS filing deadlines into conformity with those at the federal level. Also, provides that the mandatory first installment of estimated tax is based on the tax from two years prior.	Various	Various
Part U	43	Alternative Fuel Exemption	Extends expiring fuel tax exemptions for five years until September 1, 2021	Immediately	Laws of 2006 – Chapter 109
Part V	43-45	Alcohol Beverage Production Credit Alcoholic Beverage Tastings	Expands the beer production credit to include wine, liquor and cider. Exempts alcoholic beverages used at tastings held in accordance with the Alcoholic Beverage Control Law from the alcoholic beverage tax.	Immediately for TYBOA 1/1/16 for production credit April 1, 2016 for exemption	TL- Sections 37, 210 -B, and 606 TL-Sections 424 and 1118

Chapter 60 of the Laws of 2016 (S.6409-C/A.9009-C) REVENUE BILL					
Section(s)	Page(s)	Subject	Description	Effective Date	Citation
Part X	45-46	Room Remarketers	Allows hotel room remarketers to purchase the hotel rooms that they resell exempt from State and local sales tax and conforms the New York City hotel occupancy tax to this change.	June 1, 2016	TL – Sections 1105 and 1115; Admin Code – Section 11-2502
Part Y	48	Eliminate Charitable Giving as a Factor in Determining Domicile for Estate Tax	Prohibits charitable contributions and charitable activities from being considered in determining domicile for estate tax purposes.	Immediately	TL- Section 951-a
Part Z	47-50	State Conformity with Federal Aviation Administration	Ensures compliance with federal law governing the use of monies collected from taxes on aviation fuel by amending the Tax Law and State Finance Law to dedicate petroleum business tax (PBT) revenues from aviation fuels sales to an aviation purposes account and exempts fuel used in commercial and general aviation aircraft from local sales tax	April 1, 2017 for dedication of PBT revenues December 1, 2017 for aviation fuel exemption from local sales tax	SFL – Section 89-b; TL – Sections 312, 1102, and 1210
Part II	63-64	Medical Marijuana Disclosure	Authorizes the Department to disclose to the Division of the Budget or the Office of the State Comptroller information aggregated from tax returns filed by registered organizations under the medical marijuana program whether the number of such registered organizations is one or more.	Immediately	TL – Section 491
Part JJ	64-65	STAR Recoupment Timing Clarification	Clarifies that the look back period for recoupment of erroneously granted STAR exemptions involves up to three prior school years, rather than three prior assessment roll years.	Immediately	RPTL - Section 425
Part KK	65-69	Highway Use Tax Certificate of Registration and Decal Fees	Establishes a new reduced highway use tax (HUT) certificate of registration and decal fee of \$1.50 per vehicle.	Immediately	SFL – Section 99-y; TL – Sections 502, 509, and 515
Part LL	69	Special Additional Mortgage Recording Tax Credit	Makes the Special Additional Mortgage Recording Tax Credit under Article 9-A refundable for residential mortgages.	TYBOA 1/1/15	TL – Section 210-B
Part MM	69-70	Real Property Tax Credit for Manufacturers	Allows real property taxes paid on certain leased property to qualify for the credit under Article 9-A.	TYBOA 1/1/15	TL – Section 210-B
Part NN	70-71	Leased Assets for ENI Modifications for Banks	Provides that total assets includes leased real property that is not properly reflected on a balance sheet for purposes of the entire net income modifications for certain community banks and thrifts.	TYBOA 1/1/15	TL – Section 208; Admin Code – Section 11-652

Chapter 60 of the Laws of 2016 (S.6409-C/A.9009-C) REVENUE BILL

Section(s)	Page(s)	Subject	Description	Effective Date	Citation
Part QQ	74-75	Amend Economic Transformation and Facility Redevelopment Program	Allows certain psychiatric facilities previously owned by the state into the Economic Transformation and Facility Redevelopment Program and amends costs allowable for credit for such facilities.	Immediately	EDL – Sections 400 and 402; TL- Section 35
Part RR	76-77	Farm Workforce Retention Credit	Creates a tax credit for eligible farmers for employees who work five hundred hours or more per taxable years. Credit valued at \$250 per eligible employee for TY17; \$300 for TY18; \$500 for TY19; \$400 for TY20; and \$600 for TY21.	TYBOA 1/1/17 and before 1/1/22	TL – Sections 42, 210 -B, and 606
Part TT	83-88	Rate Reduction for Middle Income Taxpayers	Provides an income tax rate reduction for taxpayers earning between \$26,000 and \$300,000. Reduced rates will be phased-in over an 8-year period with the first cuts occurring in tax year 2018.	Immediately, with the new rates taking effect January 1, 2018.	TL – Section 601
Part UU	88-92	Motor Fuel Wholesaler Registration	Requires certain wholesalers of motor fuel to register with the Department of Taxation and Finance, and to file monthly informational returns.	December 1,2016	TL – Sections 282, 283-d, 287, 1102, 1111, and 1812-g
Part VV	92	Urban Youth Jobs Tax Credit	Total allocation for programs four and five increased from \$20 million to \$50 million, with \$30 million for qualified employees and \$20 million for individuals who meet all requirements for a qualified employee except for residency requirement.	Immediately	LL – Section 25-a
Part WW	92-97	Commercial Fuel Cell Systems	Provides a State sales tax exemption for leasing commercial fuel cell systems and related services. Local governments have the option to also provide the exemption.	June 1, 2016	TL – Sections 1115, 1210, 1212, and 1224

Chapter 57 of the Laws of 2016 (S.6405-C/A.9005-C) PPGG BILL					
Section(s)	Page(s)	Subject	Description	Effective Date	Citation
Part P	9-10	Anaerobic Digestion Facilities Property Tax Exemption	Moves language relating to the exemption of certain anaerobic digestion facilities from an agricultural structure related statute into a new section of the RPTL, enabling such facilities to qualify without being located on agricultural land. Also makes clear that such facilities can't also receive exemption under RPTL sec. 487.	Immediately	RPTL - Sections 483-a, 483-e, and 487
Chapter 54 of the Laws of 2016 (S.6406-C/A.9006-C) ELFA BILL					
Section(s)	Page(s)	Subject	Description	Effective Date	Citation
Part EE	71-72	Extender of SCRIE/ DRIE Exemption Income Limits	Extends the authorization for the increase in the qualifying income limit to \$50,000 for an additional four years, through June 30, 2020, and limits the amount of reimbursement to the City of New York to a maximum of \$1.2 million.	Immediately	Laws of 2014 – Chapters 55 and 129 (RPTL - Section 467-b)
Chapter 58 of the Laws of 2016 (S.6408-C/A.9008-C) TED BILL					
Section(s)	Page(s)	Subject	Description	Effective Date	Citation
Part T	28-30	Waste Tire Management Fee Extension	Extends expiring State waste tire management and recycling fee for three years until December 31, 2019.	Immediately	ECL – Sections 27-1905, 27-1913, and 27-1915

Admin Code – Administrative Code of the City of New York

ECL = Environmental Conservation Law

EDL = Economic Development Law

LL = Labor Law

PHL = Public Housing Law

RPTL = Real Property Tax Law

SFL = State Finance Law

TL = Tax Law

TYBOA – Taxable years beginning on or after

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