



September 1997

Summary of 1997-98 Tax Provisions

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Fiscal Year 1997-98 Tax Actions

Legislation enacted with the 1997-98 State budget contains significant tax reductions for individuals and businesses which will continue to enhance economic development in New York State.

STAR

The budget creates a new program that reduces residential school property taxes. The State school tax relief (“STAR”) program takes effect for taxes levied in fiscal years beginning on July 1, 1998 for the 1998-99 school year. STAR provides, when fully effective during the 2001-2002 school year, exemptions against school property taxes, resulting in at least a \$30,000 full value exemption for homeowners under the age of 65, and at least a \$50,000 full value exemption for homeowners age 65 and over with incomes at or below \$60,000.

As part of the property tax relief program, the budget also provides residents of New York City with reductions in the resident City personal income tax. Similar to the property tax relief program, the State will reimburse New York City for its reduced personal income tax revenues.

Estate & Gift Tax

The budget phases in a reduction of the current estate tax, ultimately replacing it with a “pickup” tax equal to the maximum federal credit for State death taxes. It also reduces and then repeals the gift tax.

- The unified credit against the estate tax is increased from \$2,950 to \$10,000, thereby increasing the exemption equivalent from \$115,000 to \$300,000, beginning on or after October 1, 1998.
- The unified credit for gift taxes will be increased for gifts up to \$300,000 made on or after January 1, 1999.
- The gift tax is repealed for gifts made on or after January 1, 2000.
- The estate tax will be replaced with a “pickup” of the tax equal to the maximum federal credit for State death taxes, increasing the exemption level for estates to the current federal level beginning February 1, 2000, with a cap on the exemption equivalent of the pickup of \$1 million.

Personal Income Tax

Several provisions enacted under the personal income tax provide targeted relief to various taxpayers. These include:

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- Enhancing the Farm School Property tax credit by exempting up to the first \$30,000 of nonfarm federal gross income in the determination of eligibility for the credit. It also provides for subtracting principal payments on farm debt when calculating the income limit for the phase-out of the credit.
 - Increasing the child and dependent care credit to 100 percent of the federal child care credit for taxpayers with adjusted gross income of \$17,000 or less.
 - Extending the Employment Incentive Credit and Economic Development Zone Employment Incentive Credit to businesses whose owners are taxable under the personal income tax.
 - Establishing a new solar credit for residential investment in solar electric generating equipment.
 - Providing an exemption from State and local taxation for the pension income of retired Manhattan and Bronx Surface Transit Operating Authority employees, similar to that allowed other public employees.
 - Creating the New York State College Choice Tuition Savings Program. New York State residents and nonresidents can establish savings accounts to pay for qualified higher education expenses.

Sales Tax

The budget also includes several sales and use tax changes. These include:

- Exempting clothing, excluding footwear, costing less than \$100 from the four percent State sales tax and the 0.25 percent tax imposed in the twelve-county Metropolitan Commuter Transportation District (MCTD) for the periods September 1, 1997 through September 7, 1997 and September 1, 1998 through September 7, 1998. The exemption becomes permanent on December 1, 1999, for the four percent State tax. It also provides that localities (including New York City) have the option to enact the exemptions for the same period.
- Providing relief to various businesses and consumers selling and purchasing goods and services through coin-operated devices.
- Increasing the vendor allowance to three and one-half percent of the State sales tax collected and raising the cap from \$100 to \$150 per quarter.
- Exempting sales of and services to buses used to provide passenger transportation service, including charter and tour services.

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- Exempting members of homeowners' associations, including condominium owners and co-op shareholders from the four percent State, and 0.25 percent MCTD taxes on parking services. It also exempts local sales tax on these services outside the City of New York.

Corporate Tax Provisions

The budget contains many provisions which provide relief under taxes imposed on corporations. These include:

- Through the Power for Jobs Program, creating a new tax credit against the tax on furnishing of utility services imposed under the corporation and utility tax.
- Reducing corporation and utility tax rates for electricity, gas and telephone services.
- Extending the investment tax credit carryforward period from 10 to 15 years under the corporation franchise tax.
- Allowing credits for electric vehicles, clean fuel vehicles using natural gas, methanol and other alternative fuels, and clean fuel refueling facility property.
- Creating a new tax credit for employers who employ individuals with disabilities.
- Reducing the premiums tax rate and limitation on tax liability for life insurers subject to the corporation franchise tax on insurance companies.
- Allowing insurers subject to the corporation franchise tax on insurance companies to claim a credit for investments in certified capital companies.
- Allowing the formation of captive insurance companies and providing these insurers with preferential tax treatment under the corporation franchise tax on insurance companies.
- Providing a prospective net operating loss deduction for banking corporations for losses incurred on or after January 1, 2001.
- Conforming the treatment of New York S corporations to the treatment of federal Subchapter S corporations and allowing certain banks to elect New York S corporation status.
- Extending, for four years through 2000, certain provisions of the bank tax that apply to commercial banks.

Multi-Year Revenue Impacts of Tax Actions

- Extending, for four years through 2000, the 17 percent Metropolitan Transportation Business Tax Surcharge for taxpayers conducting business in the Metropolitan Commuter Transportation District.

Other Significant Provisions

- Creating the “Taxpayer Bill of Rights Act of 1997.”
- Eliminating the one cent non-refillable beverage container tax (Article 18-A) starting October 1, 1998.
- Extending until October 31, 2002, the alcoholic beverage tax enhanced enforcement provisions enacted as part of Chapter 508 of the Laws of 1993.
- Clarifies the operation of the Petroleum Business Tax (PBT) and grants refunds and credits under the PBT and motor fuel excise tax.
- Repealing the tax on motor vehicle damage insurance awards (Article 15).

Table 1: New York State Tax Reduction Program Enacted in FY 1994-95 (\$ in Millions)

	1997-98	1998-99	1999-2000	2000-2001
Personal Income Tax	\$296.0	\$374.0	\$390.0	\$398.0
User Taxes and Fees	163.0	167.0	172.0	175.0
Sales and Use Tax	26.0	26.0	26.0	26.0
Motor Fuel Tax	0.0	0.0	0.0	0.0
Alcoholic Beverage Tax	2.0	2.0	2.0	2.0
Hotel/Motel Taxes	102.0	106.0	111.0	114.0
Container Taxes	0.0	0.0	0.0	0.0
Highway Use Tax	33.0	33.0	33.0	33.0
Business Taxes	1,110.0	1,109.0	1,118.0	1,132.0
Corporation Franchise Tax	507.0	498.0	494.0	499.0
Corporation & Utilities Tax	241.0	238.0	244.0	250.0
Insurance Tax	94.0	97.0	100.0	103.0
Bank Tax	95.0	92.0	94.0	94.0
Petroleum Business Taxes	173.0	184.0	186.0	186.0
Other Taxes	40.0	38.0	34.0	35.0
Estate and Gift Taxes	15.0	15.0	15.0	15.0
Real Property Gains Tax	21.0	19.0	16.0	17.0
Pari-Mutuel Tax	4.0	4.0	3.0	3.0
Taxes Subtotal	\$1,609.0	\$1,688.0	\$1,714.0	\$1,740.0

Table 2: New York State Tax Reduction Program Enacted in FY 1995-96 (\$ in Millions)

	1997-98	1998-99	1999-2000	2000-2001
Personal Income Tax	\$4,120.0	\$4,058.0	\$4,205.0	\$4,422.0
User Taxes and Fees	60.0	60.0	60.0	60.0
Sales and Use Tax	3.0	3.0	3.0	3.0
Motor Fuel Tax	13.0	13.0	13.0	13.0
Alcoholic Beverage Tax	15.0	15.0	15.0	15.0
Hotel/Motel Taxes	0.0	0.0	0.0	0.0
Container Taxes	26.0	26.0	26.0	26.0
Highway Use Tax	3.0	3.0	3.0	3.0
Business Taxes	21.0	21.0	21.0	21.0
Corporation Franchise Tax	0.0	0.0	0.0	0.0
Corporation & Utilities Tax	0.0	0.0	0.0	0.0
Insurance Tax	0.0	0.0	0.0	0.0
Bank Tax	0.0	0.0	0.0	0.0
Petroleum Business Taxes	21.0	21.0	21.0	21.0
Other Taxes	77.0	72.0	72.0	74.0
Estate and Gift Taxes	65.0	66.0	68.0	70.0
Real Property Gains Tax	2.0	2.0	2.0	2.0
Pari-Mutuel Tax	10.0	4.0	2.0	2.0
Taxes Subtotal	\$4,278.0	\$4,211.0	\$4,358.0	\$4,577.0

Table 3: New York State Tax Reduction Program Enacted in FY 1996-97 (\$ in Millions)

	1997-98	1998-99	1999-2000	2000-2001
Personal Income Tax	\$42.0	\$93.0	\$107.0	\$114.0
User Taxes and Fees	28.0	28.0	28.0	29.0
Sales and Use Tax	28.0	28.0	28.0	29.0
Motor Fuel Tax	0.0	0.0	0.0	0.0
Alcoholic Beverage Tax	0.0	0.0	0.0	0.0
Hotel/Motel Taxes	0.0	0.0	0.0	0.0
Container Taxes	0.0	0.0	0.0	0.0
Highway Use Tax	0.0	0.0	0.0	0.0
Business Taxes	21.0	39.0	49.0	50.0
Corporation Franchise Tax	0.0	0.0	0.0	0.0
Corporation & Utilities Tax	6.0	15.0	12.0	12.0
Insurance Tax	0.0	0.0	0.0	0.0
Bank Tax	0.0	0.0	0.0	0.0
Petroleum Business Taxes	15.0	24.0	37.0	38.0
Other Taxes	93.0	107.0	105.0	105.0
Estate and Gift Taxes	0.0	0.0	0.0	0.0
Real Property Gains Tax	93.0	107.0	105.0	105.0
Pari-Mutuel Tax	0.0	0.0	0.0	0.0
Taxes Subtotal	\$184.0	\$267.0	\$289.0	\$298.0

Table 4: New York State Tax Reduction Program Enacted in FY 1997-98* (\$ in Millions)

	1997-98	1998-99	1999-2000	2000-2001
Personal Income Tax	\$3.0	\$9.0	\$77.0	\$83.0
User Taxes and Fees	29.0	47.0	200.0	512.0
Sales and Use Tax	29.0	38.0	174.0	486.0
Motor Fuel Tax	0.0	0.0	0.0	0.0
Alcoholic Beverage Tax	0.0	0.0	0.0	0.0
Hotel/Motel Taxes	0.0	0.0	0.0	0.0
Container Taxes	0.0	9.0	26.0	26.0
Highway Use Tax	0.0	0.0	0.0	0.0
Business Taxes	5.0	74.0	191.0	585.0
Corporation Franchise Tax	0.0	0.0	17.0	21.0
Corporation & Utilities Tax	5.0	73.0	164.0	549.0
Insurance Tax	0.0	0.0	9.0	14.0
Bank Tax	0.0	1.0	1.0	1.0
Petroleum Business Taxes	0.0	0.0	0.0	0.0
Other Taxes	0.0	0.0	148.0	355.0
Estate and Gift Taxes	0.0	0.0	148.0	355.0
Real Property Gains Tax	0.0	0.0	0.0	0.0
Pari-Mutuel Tax	0.0	0.0	0.0	0.0
Taxes Subtotal	\$37.0	\$130.0	\$616.0	\$1,535.0

* Excludes STAR property tax relief and related NYC personal income tax reductions scheduled for 1998-99 through 2001-02.

Table 5: Impact of Total Tax Reduction Program (\$ in Millions)

	1997-98	1998-99	1999-2000	2000-2001
Personal Income Tax	\$4,461.0	\$4,534.0	\$4,779.0	\$5,017.0
User Taxes and Fees	280.0	302.0	460.0	776.0
Sales and Use Tax	86.0	95.0	231.0	544.0
Motor Fuel Tax	13.0	13.0	13.0	13.0
Alcoholic Beverage Tax	17.0	17.0	17.0	17.0
Hotel/Motel Taxes	102.0	106.0	111.0	114.0
Container Taxes	26.0	35.0	52.0	52.0
Highway Use Tax	36.0	36.0	36.0	36.0
Business Taxes	1,157.0	1,243.0	1,379.0	1,788.0
Corporation Franchise Tax	507.0	498.0	511.0	520.0
Corporation & Utilities Tax	252.0	326.0	420.0	811.0
Insurance Tax	94.0	97.0	109.0	117.0
Bank Tax	95.0	93.0	95.0	95.0
Petroleum Business Taxes	209.0	229.0	244.0	245.0
Other Taxes	210.0	217.0	359.0	569.0
Estate and Gift Taxes	80.0	81.0	231.0	440.0
Real Property Gains Tax	116.0	128.0	123.0	124.0
Pari-Mutuel Tax	14.0	8.0	5.0	5.0
Taxes Total	\$6,108.0	\$6,296.0	\$6,977.0	\$8,150.0

Summary of 1997-98 Tax Provisions

STAR — Property Tax Relief

The budget legislation creates a new program that reduces residential school property taxes. The State school tax relief (“STAR”) program first takes effect for taxes levied in the school year beginning on July 1, 1998. STAR provides, when fully effective during the 2001-2002 school year, exemptions against school property taxes, resulting in at least a \$30,000 full value exemption for homeowners under the age of 65, and at least a \$50,000 full value exemption for homeowners age 65 and over with incomes of \$60,000 or less.

Minimum base exemption amounts are as follows:

School Year	Senior Citizens*	Others
1998-1999	\$12,500	\$ 0
1999-2000	\$25,000	\$10,000
2000-2001	\$37,500	\$20,000
2001-2002 and After	\$50,000	\$30,000

* With income of \$60,000 or less.

Base exemption amounts will be increased in counties with median selling prices in excess of the Statewide median. The percentage increase in base amount will equal the percentage by which the county median price exceeds the State median price. In no case will the base amounts be less than the amounts shown above. The State will reimburse school districts for their reduced school property tax revenues.

The STAR legislation also provides school contingency budget reforms effective for the 1998-99 school year. It also contains a “Property Taxpayer’s Bill of Rights” to provide additional information on property tax bills.

STAR — New York City

As part of the property tax relief program, the budget legislation provides residents of New York City with reductions in the resident City personal income tax. Similar to the property tax relief program, the State will reimburse New York City for its reduced personal income tax revenues.

The New York City income tax reduction has two components. First, a new refundable credit will apply as outlined below:

Tax Year	Married Joint/Qualifying Widow(er) Filing Status	Other Filing Statuses
1998	\$ 12	\$12.00
1999	\$ 35	\$30.00
2000	\$ 85	\$45.00
2001 and After	\$125	\$62.50

Second, tax rates, before the “Safe Streets Surcharge” and 14 percent additional tax, and the extension of the temporary basic rates (see below) will be reduced over a three-year period beginning in tax year 1999. Compared to the temporary basic rates, the across-the-board rate reductions will average between three and eight percent between 1999 and 2001.

Finally, the budget legislation extends through 1999 the New York City temporary basic rates which were scheduled to expire in tax years beginning after 1997.

Estate & Gift Tax

The budget legislation phases in a reduction of the current estate tax, ultimately replacing it with a “pickup” tax equal to the maximum federal credit for State death taxes. It also reduces and then repeals the gift tax.

In the first phase, the unified credit against tax is increased from \$2,950 to \$10,000, thereby increasing the exemption equivalent from \$115,000 to \$300,000. This applies for estates of decedents dying on or after October 1, 1998, and gift tax years beginning on or after January 1, 1999. Also, the requirement that 90 percent of estate tax be paid within six months of the decedent’s death, to avoid underpayment interest, is increased to seven months, effective for estates of decedents dying on or after October 1, 1998.

In the second phase, the gift tax is repealed for gifts made on or after January 1, 2000. The estate tax is replaced by a “pickup tax,” for estates of decedents dying on or after February 1, 2000. Also, the fee for filing a duplicate estate tax return with the Surrogate’s Court (contained in the Surrogates’ Court Procedure Act), is repealed for estates of decedents dying on or after February 1, 2000.

The legislation also clarifies that New York's pickup tax on estates will conform to increases in the federal unified credit enacted by the federal Taxpayer Relief Act of 1997. However, New York law will not conform to any increase in the level of federally taxable estates above \$1 million.

Personal Income Tax

Agricultural School Property Tax Credit

The legislation amends the farm school property tax credit under both the personal income tax and general corporate franchise tax, for tax years beginning on or after January 1, 1998. For corporations, the bill defines excess federal gross income for determination of the 2/3 farming income test to be equal to federal gross income from all sources in excess of \$30,000. For personal income taxpayers, excess federal gross income is defined as federal gross income reduced by the sum (not to exceed \$30,000) of earned income, pension and social security income, interest and dividends. Earned income consists of wages, salaries, tips, other employee compensation, and gross income included in the computation of net earnings from self-employment.

In addition, the income limitation which phases out the credit is modified such that payments on principal on farm indebtedness may be subtracted from New York State adjusted gross income (entire net income for corporations) in order to calculate the income limitation.

Finally, the statute makes clear that gross income from production of maple syrup, or cider, or sale of wine from a licensed farm winery, shall be included in "federal gross income from farming" for purposes of determining the 2/3 farming income test.

Enhanced Child Care
Credit

The budget legislation provides further enhancements to the New York State child and dependent care credit. For tax years beginning on or after January 1, 1998, the credit is increased to 100 percent of the federal child care credit for taxpayers with New York adjusted gross income (NYAGI) of \$17,000 or less. The credit phases down from 100 to 20 percent of the federal credit for taxpayers with NYAGI between \$17,000 and \$30,000 and above.

These new credit parameters continue the enhancements made to the child care credit enacted as part of last year's 1996-97 budget. For tax year 1997, the credit equals 60 percent of the federal credit for taxpayers with NYAGI under \$10,000. The credit phases down from 60 percent at \$10,000 to 20 percent at \$14,000 and above. The credit was also made refundable to resident taxpayers as part of last year's budget.

Employment Incentive
Credit

The new law extends the employment incentive credit (EIC) to small businesses, such as partnerships, S corporations, LLCs, LLPs and sole proprietorships, whose owners pay tax under the personal income tax. It also extends the economic development zone employment incentive credit (EDZ-EIC) to these taxpayers. The new law provides that for owners of new businesses, the EIC credit will be fully refundable, and the EDZ-EIC credit will be 50 percent refundable. The credits apply to property placed in service on or after January 1, 1997, and are claimed in tax years following the placed in service year.

The credits apply to taxpayers making a qualified investment tax credit (ITC) investment who increase their number of employees following the investment. (The EDZ-EIC applies to taxpayers in an Economic Development Zone.) These credits previously applied only to the corporation franchise tax.

Solar Credit

Legislation creates a new income tax credit for residential investments in solar electric generating equipment, effective for equipment placed in service in tax years beginning on or after January 1, 1998. The legislation requires electric utilities to connect such equipment to their systems, using a process called "net metering," for billing purposes. The credit equals 25 percent of qualifying costs, limited to \$1.50 multiplied by the number of watts included in the rated capacity, up to a 10 kilowatt maximum. Therefore, the maximum credit equals 25 percent of \$15,000, or \$3,750.

Taxpayers who share a single residence will be able to divide the credit between them. In addition, the legislation excludes government grants from the computation of the credit base, and establishes a five-year carryforward in cases where the credit exceeds tax liability.

New York State College
Choice Tuition Savings
Program

Legislation created the New York State College Choice Tuition Savings Program. New York State residents and nonresidents can establish savings accounts to pay for qualified higher education expenses of attending recognized public or private institutions of higher education. The State Comptroller is charged with implementing the program and selecting financial organizations to invest funds.

For tax years beginning after December 31, 1997, persons entering into a "tuition savings agreement" may establish an account on behalf of a "designated beneficiary." Individuals may contribute up to \$5,000 per year. Aggregate contributions may not exceed \$100,000 per designated beneficiary. Contributions are deductible under the personal income tax, and distributions of contributions and accumulated earnings, if used to pay for qualified higher education expenses, are exempt from personal income tax. The plan is designed to be a "qualified State tuition program" for federal income tax purposes.

MABSTOA Pension
Exemption

Effective for tax years beginning in 1997, the new law allows retired Manhattan and Bronx Surface Transit Operating Authority (MABSTOA) employees to exempt all of their MABSTOA pension income from State and local income taxation. This grants them the same treatment with regard to the taxation of their pension as most other retired State or local employees. The new law also requires that current MABSTOA employees add back their section 414(h) pension contributions to federal adjusted gross income (FAGI) and such contributions be subject to State and local income tax withholding. Current State and local employees also add back their contributions to FAGI and are also subject to withholding.

New York City Credit for
Unincorporated Business
Taxes Paid

Legislation authorizes the City of New York to provide a credit against the City's personal income tax on residents for City unincorporated business tax (UBT) imposed on those residents. The credit also applies on residents' share of UBT imposed on partnerships where the residents are partners.

Effective for tax years beginning on or after January 1, 1997, the credit equals 65 percent of UBT for taxpayers with City taxable income equal to \$42,000 or less. The credit is reduced by 0.1 percentage point for every increment of \$200 of taxable income over \$42,000. The minimum credit equals 15 percent of UBT for taxpayers with City taxable income over \$142,000.

The bill also increases the City's UBT small business tax credit from \$1,000 to \$1,800. Reduced credits are provided against UBT liability up to \$3,200, an increase from the current \$2,000 tax threshold.

Sales Tax

Clothing Exemption

The legislation provides a one-week exemption from the four percent State sales and use tax on clothing costing less than \$100 from September 1, 1997 through September 7, 1997 (with a local option to exempt clothing from local sales and use taxes). A second one-week exemption will occur from September 1, 1998 through September 7, 1998 (also with a local option). The legislation provides an exemption from the 0.25 percent sales and use tax in the twelve county Metropolitan Commuter Transportation District (MCTD) during these periods.

Starting December 1, 1999, clothing costing less than \$100 is permanently exempted from the four percent State sales tax. Localities will have the option to also exempt clothing on a permanent basis. The legislation also provides that when a county or city located within the MCTD opts for the permanent exemption, clothing will also be exempt from the 0.25 percent MCTD sales tax. The locality will reimburse the MCTD for one half of the sales and use tax forgone on exempt clothing sales and the State will reimburse the MCTD for the other half.

Bus Companies

The budget exempts from tax, effective December 1, 1997, buses used to provide passenger transportation service, including charter and tour services. The exemption also covers parts, equipment, lubricants and repair services for covered buses. These provisions supplement existing sales tax credits for companies that provide local bus service.

Circus Admission Charges

This legislation exempts from State and local sales taxes admission charges to live circus performances effective December 1, 1997.

Coin-Operated Devices

This budget provides relief to businesses and consumers selling and purchasing goods and services through coin-operated devices. These changes are effective on December 1, 1997.

Bulk Vending Machine Sales - The sales and use tax exemption threshold is increased from 25 cents or less to 50 cents or less for items sold through coin-operated bulk vending machines.

Coin-Operated Car Washing - Eliminates State and local sales tax on the service of washing, waxing or vacuuming a motor vehicle, by means of coin-operated equipment.

Coin-Operated Photocopying - Exempts from State and local sales and use tax copies made using a coin-operated photocopier where the charge is 50 cents or less.

Hot Drinks and Certain Food and Beverages - Provides a State and local sales and use tax exemption for hot drinks sold through vending machines and exempts all vending machine sales of other food and beverage if the

food or beverages would be exempt when sold at a grocery store (previously, these sales were only exempt under certain conditions).

Temporary Transportation Devices - Exempts temporary transportation devices used to carry luggage or merchandise (e.g., luggage carts typically available at airports) when dispensed via coin-operated devices.

Emission Testing
Equipment

The budget provides for a sales tax exemption on the purchase of enhanced emission testing equipment by an official motor vehicle inspection station, effective September 1, 1997. This equipment is used to conduct the enhanced emission inspections required by the Federal Clean Air act of 1990 and the New York State Clean Air Compliance Act enacted by Chapter 608 of the Laws of 1993.

Homeowner Association
Parking

The legislation adds a new exemption for parking services sold by a homeowners association to its members, effective December 1, 1997. Outside New York City, the exemption is from all State and local sales taxes. Within New York City, the exemption is from the State sales tax and the 0.25 percent MCTD tax.

Vendor Allowance

The budget increases the sales tax vendor allowance to three and one-half percent of the State sales tax collected, with an increase in the cap from \$100 per quarter to \$150. The higher rate for the vendor allowance applies to sales tax returns filed for quarterly periods beginning on or after March 1, 1999 and for annual returns required to be filed after March 1, 1999.

Wine Used for Wine
Tasting

The budget exempts the wine and wine products that a winery, wholesaler or importer furnishes to customers or prospective customers at a wine tasting, effective December 1, 1997.

Corporation & Utilities Tax

Power for Jobs Program

The Power for Jobs Program, Chapter 316 of the Laws of 1997, creates a new tax credit against the tax on the furnishing of utility services imposed by section 186-a of the Tax Law. The credit is available to help compensate utilities for revenue losses associated with participating in the program.

The Power for Jobs Program has been established to make low-cost power available to businesses, small businesses and not-for-profit corporations for job retention and creation. The Economic Development Power Allocation Board is authorized to make available a total of 400 megawatts of power obtained from the Fitzpatrick Nuclear Project and a competitive bidding process. The tax credit is allowed to the utility

providing the power to retail customers which have been selected by the Allocation Board to receive power under this program. It is based upon the net revenue loss of the utility associated with the sale of the low cost power. The credit will be reduced for “new” system power defined in terms of baseline energy use of all of the utility’s customers participating in the program.

The credit will be available based upon certification by the Department of Public Service. The Program, beginning immediately, terminates on December 31, 2003.

Rate Reduction

The budget reduces the tax rate on transportation, transmission, and local telephone companies (Section 184) from 3/4 percent (6/10 percent in the case of railroads and trucking companies electing taxation under Article 9) to 3/8 percent as of July 1, 2000. It also lowers the tax rates on the furnishing of utility services (Section 186-a) and telecommunication services (Section 186-e) from 3.5 percent to 3.25 percent as of October 1, 1998, and further reduces the rate to 2.5 percent on January 1, 2000.

The temporary Metropolitan Transportation Authority (MTA) surcharge on the above taxes (Sections 184, 186-a, and 186-e) will be calculated as if the rates of the taxes were not changed. In addition, the Mass Transportation Operating Assistance fund (MTOA) percentage of Sections 183 and 184 increases from 54 percent to 64 percent effective January 1, 2000, and to 80 percent effective January 1, 2001.

Corporation Franchise Tax

Investment Tax Credit Carryforward

The new budget extends the investment tax credit carryforward period from ten to 15 years. Any unused pre-1987 credits will now be available until 2002 to provide relief for businesses. Post-1986 credits will have a 15-year carryforward.

Alternative Fuels Vehicle Credit

The new law allows credits for electric vehicles, clean fuel vehicles using natural gas, methanol and other alternative fuels, and clean fuel refueling facility property. The tax credits are available for property placed in service in taxable years beginning on or after January 1, 1998 and before 2003. The new sales tax exemptions take effect on March 1, 1998 and expire on February 28, 2003. The new law also extends the existing sales and use tax exemption for five more years and broadens it to include equipment installed at alternative vehicle refueling facilities.

The new credits apply to corporate franchise taxpayers, personal income taxpayers (including S corporation shareholders, LLC members, etc.) and

corporation taxpayers, such as utilities. Gas and electric corporations are excluded from claiming the electric vehicle tax credit and are also excluded from the sales tax exemption for the incremental cost of an electric vehicle. These companies may claim all other credits and sales and use tax exemptions allowed under the bill, including those for refueling facilities. For Article 9-A corporate franchise taxpayers, the credits may be transferred to affiliates.

The tax credits equal 50 percent of the incremental cost of new electric vehicles registered in New York (capped at \$5,000 per vehicle); 60 percent of the cost of new clean-fuel components for alternative fuel vehicles registered in New York (capped at \$5,000 per vehicle with a gross vehicle weight rating of 14,000 pounds or less, and \$10,000 for those over 14,000 pounds); and 50 percent of the cost of new clean-fuel refueling property used in a trade or business.

The new law extends the existing sales and use tax exemption for the incremental cost of an alternative fuel vehicle an additional five years. It also expands the exemption to receipts from the retail sale of alternative fuel vehicle refueling property (including sales to contractors) and receipts from the sale of the service of installing the property.

Credit for Employers Who Hire Persons With Disabilities

Chapter 142 of the Laws of 1997 created a new tax credit for employers who employ individuals with disabilities. The credit is available to employers who pay franchise tax under Articles 9, 9-A, 32 or 33, and to employers who are not incorporated and pay tax under the personal income tax, Article 22.

The credit equals 35 percent of the first \$6,000 of first year wages paid to the disabled employee (a maximum of \$2,100 per employee). However, if the first year wages qualify for the federal work opportunity tax credit, the New York credit will apply to second year wages. Recently, the federal tax credit was extended for an additional 9 months to July 1, 1998.

To become eligible for the State credit, an employee must work for the employer on a full time basis for at least 180 days or 400 hours, and must be certified as disabled by the State Education Department. Visually handicapped employees may receive certification from the appropriate agency responsible for vocational rehabilitation of the blind and visually impaired.

The credit becomes effective for tax years beginning on or after January 1, 1998, with respect to employees who begin work on or after January 1, 1997. Unused credits are not refundable, but they may be carried forward indefinitely.

Corporation
Franchise Tax on
Insurance
Companies

Life Insurance Premiums
Tax Rate & Cap
Reduction

Effective January 1, 1998, the legislation provides for a premiums tax rate reduction and a reduction in the limitation on tax liability for life insurers. The premiums tax rate will decrease from 0.8 percent to 0.7 percent. The legislation also lowers the limitation on tax liability from 2.6 percent of premiums to 2.0 percent of premiums. In addition, the legislation provides that the required first installment of estimated tax will increase from 25 percent to 40 percent of the preceding year's tax, effective January 1, 1999.

Credit for Investment in
Certified Capital
Companies

The budget allows insurance companies subject to Article 33 to claim a credit for 100 percent of the amount invested in certified capital companies (CAPCOs) effective for taxable years beginning after 1998, although the credits may be earned before 1999. The credit would be claimed over ten years, at a rate of ten percent each year. There is a Statewide cap of \$100 million on the total amount of investments for which credits may be claimed (no more than \$50 million for 1999). In addition, in total, insurance companies may not claim credits of more than \$10 million in any taxable year.

Captive Insurance
Companies

Beginning in 1998, New York State will allow the formation of captive insurance companies and provide these entities with preferential tax treatment under the insurance tax. (A captive insurer is generally a company that primarily insures the risks of a parent or its parents' affiliated companies.) Captive insurers will be subject to a special premiums tax in lieu of the premiums and "income-based" tax that applies to other insurers. The tax imposed on captives will equal 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 will decrease as the amount of premiums subject to tax increases, with the highest rate equaling 0.4 percent. Captive insurers may not claim credits against tax liability and may not be included in a combined return.

Corporation
Franchise Tax on
Banking
Corporations

Bank Tax Net Operating
Loss Deduction

Banking corporations subject to Article 32 will be allowed to claim a prospective net operating loss deduction (NOLD) for losses incurred on or after January 1, 2001. Taxpayers will be allowed to carry losses forward for 15 years. The Article 32 NOLD will be limited to the federal NOLD in any given year with one exception. The exception allows taxpayers to increase the NOLD by the excess of the State bad debt deduction over the federal bad debt deduction.

S Corporation Conformity

The new law conforms the treatment of New York S corporations to the treatment of federal Subchapter S corporations as governed by the 1996 Federal Small Business Job Protection Act. The legislation allows banks which have elected S corporation status for federal purposes to elect New York S corporation status and receive the same treatment as other New York S corporations under the corporation franchise tax. The bill provides for the treatment of qualified Subchapter S corporations (QSSS) under Article 9-A and Article 32. It also conforms the treatment of QSSS under Article 32 to the treatment of QSSS under Article 9-A.

Limited Liability Trust
Companies

Chapter 248 of the Laws of 1997, effective immediately, authorizes the formation of limited liability trust companies, which are unincorporated trust companies formed and operating in accordance with the Limited Liability Law and the Banking Law, subject to certain restrictions. Limited liability trust companies will be taxed like partnerships.

Business Tax Extenders

Bank Tax Extender

Chapter 59 of the Laws of 1997 extends, for four years, bank tax provisions that expired on January 1, 1997. These provisions, which originated in the 1985 bank tax reform legislation and the Business Tax Reform and Rate Reduction Act of 1987, pertain to commercial banks. By extending these provisions, the statute ensures that banks will continue to be taxed in a manner similar to general business corporations. The temporary extension also continues the similar treatment of commercial banks and thrifts.

Metropolitan Transportation Authority Business Tax Surcharge

Chapter 59 of the Laws of 1997 extends, for four years, the 17 percent Metropolitan Transportation Authority (MTA) surcharge for taxpayers conducting business within the Metropolitan Commuter Transportation District. The surcharge applies through taxable years ending before December 31, 2001. For gas importers under Article 9, the surcharge has been extended through June 30, 2001.

Other Significant Provisions

Taxpayer Bill of Rights Act of 1997

Legislation enacted concomitantly with the budget creates the “Taxpayer Bill of Rights Act of 1997.” Many of the provisions exist in federal-level taxpayer rights legislation, while others relate to New York-specific concerns.

Some major elements of the Taxpayer Bill of Rights include:

- Awarding attorneys’ fees and other costs to taxpayers in certain proceedings, where the Tax Department has not proved that its position is substantially justified.
- Awarding damages to taxpayers for certain unauthorized Tax Department actions.
- Allowing tax levies to be released in certain hardship situations.
- Giving taxpayers additional time to pay tax, after receipt of a notice that tax is due, before interest and certain penalties accrue.
- Allowing taxpayers to use the date stamp of certain designated delivery services, in addition to the postmark of the U.S. Postal Service.

- Eliminating an estate tax fee charged for discharging liens against real property.
- Requiring the Tax Department, if requested by a responsible person, to disclose names and penalty collection records of other persons responsible for the same tax debt.
- Providing for compromise of liability, in certain circumstances, on a joint return attributable to a former spouse; and conforming to a federal provision that allows a credit upon repayment of “claim of right” income.

The Taxpayer Bill of Rights generally takes effect immediately, but different specific provisions have various effective dates.

Beverage Container Tax

The legislation eliminates the one cent non-refillable beverage container tax (Article 18-A) starting October 1, 1998.

Alcoholic Beverage Tax-- Enforcement Provision Extender

This legislation extends until October 31, 2002, the Alcoholic Beverage Tax (ABT) enhanced enforcement provisions enacted as part of Chapter 508 of the Laws of 1993. These provisions added registration, invoice and manifest requirements as well as seizure/forfeiture enforcement provisions. These provisions were scheduled to sunset on October 31, 1997.

Petroleum Business Tax and Motor Fuel Tax Additional Credits

This legislation amends the petroleum business tax (PBT) and motor fuel excise tax to create additional refunds and credits. The bill clarifies the legal incidence of the PBT--that is, a pass through of the tax occurs to the ultimate consumer. Motor fuel and diesel motor fuel on which tax has been paid, and which is subsequently exported from the State for use, is eligible for credit or refund under the motor fuel excise tax and PBT. A PBT credit/refund is available for commercial vessels where gallonage purchases in the State exceed gallonage consumed in the State.

Tax on Motor Vehicle Damage Awards (Article 15)

This legislation repeals the tax on motor vehicle damage insurance awards.

Appendix: Summary of FY 1997-98 Tax Provisions

Summary of FY 1997-98 Budget Bill Tax Provisions — Chapter 389 of the Laws of 1997

Section(s)	Page(s)	Subject	Description	Effective Date
1-3; 5-6; 10-13; 15; 18-24; 26-27; 29-32; 34-35	4-5, 6, 9-15	Estate & Gift Tax	Makes various technical and conforming amendments to the Tax Law and other State laws.	Immediately, and GmoA 1/1/2000, DdoA 2/1/2000
4	5-6	Estate Tax	Clarifies that New York law conforms to increases in federal unified credit, up to \$1 million taxable estates.	Immediately
7	6	Estate & Gift Tax	Repeals gift tax and various estate tax provisions.	GMoA 1/1/2000, DdoA 2/1/2000
8	6-7	Estate Tax	Increases unified credit from \$2,950 to \$10,000.	DDoA 10/1/98, and before 2/1/2000
9 & 14	7-9	Estate Tax	Provides for pickup tax and allocation of federal death tax credit.	DDoA 2/1/2000
16-17	9	Estate Tax	Increases return requirement threshold to conform to increased unified credit and to pickup tax.	DDoA 10/1/98, and before 2/1/2000
25	12	Estate Tax	Increases time for payment to avoid underpayment interest from 6 to 7 months.	DDoA 10/1/98
28	13-14	Gift Tax	Increases unified credit from \$2,950 to \$10,000.	GMoA 1/1/99, and before 1/1/2000
33	15	Surrogate's Court Procedure Act	Repeals fee for filing duplicate estate tax return.	DDoA 2/1/2000
40-41	15-16	School Property Tax Credit To Farmers	Expands the agricultural property tax credit by revising the test for determining an eligible farmer. Redefines income for purposes of the cap to allow a deduction for farm-related principal repayments. Increases the amount of income a farmer may earn before the value of the credit is phased out. Specifically includes income from the production of maple syrup and farm wineries.	TYBOA 1/1/98
42-44	16-20	Corporation Organization, License & Maintenance Fees	Makes clarifying corrections to the Tax Law.	Immediately

Summary of FY 1997-98 Budget Bill Tax Provisions — Chapter 389 of the Laws of 1997

Section(s)	Page(s)	Subject	Description	Effective Date
45-78	20-36	S Corporations conforming to federal tax treatment	Conforms the treatment of New York corporations to 1996 federal changes made to S corporations. Allows certain banks to form as S corporations and receive the same treatment as Article 9-A S corporations.	<p>§45,46,47,49 relating to federal QSSS conformity, effective for TYBA 12/31/96</p> <p>§48,50 relating to nonprofits owning S corporation stock, effective for TYBA 12/31/97</p> <p>§51, 52, 53 relating to conforming NYS elections with federal counterparts, effective for TYBA 1982</p> <p>§54 technical corrections effective immediately</p> <p>§55 90-day window after date of enactment for S election or termination and for QSSS inclusion election for 1997 tax year</p> <p>§56-78 relating to conforming banks to State and federal tax law changes effective for TYBA 12/31/96</p>
79-83	36-40	Container Tax	Repeals the one cent tax on non-refillable beverage containers.	October 1, 1998
85-86	40	Banks	Allows a net operating loss (NOL) carry-forward deduction against Article 32 franchise tax liability.	January 1, 2001
87-89	40-42	Decrease Tax on Life Insurance Companies	Reduces the cap imposed on life insurance companies' liabilities under Article 33 from 2.6 percent to 2.0 percent of premiums. Reduces the gross premiums tax from 0.8 percent to 0.7 percent.	TYBOA 1/1/98
90	42	Sales Tax on Vending Machine Purchases	Increases the threshold for exempt sales from bulk vending machines from twenty-five cents to fifty cents.	December 1, 1997

Summary of FY 1997-98 Budget Bill Tax Provisions — Chapter 389 of the Laws of 1997

Section(s)	Page(s)	Subject	Description	Effective Date
91	42	Sales Tax on Coin-Operated Photocopiers	Exempts from sales tax sales from coin-operated photocopiers of fifty cents or less.	December 1, 1997
92	42	Sales Tax Vendor Allowance	Increases the allowable vendor credit from one and one-half percent to three and one-half percent of the State imposed sales tax due. The cap on this credit is increased from \$100 to \$150 per quarter.	Quarterly periods beginning on or after March 1, 1999.
93	42	Sales Tax on Coin-Operated Car Washes	Exempts coin-operated car washes from the sales tax.	December 1, 1997
94-95	43	Sales Tax on Buses	Exempts from the sales tax, sales of and maintenance and repairs to buses providing passenger transportation services.	December 1, 1997
96-97	43	Sales Tax on Vending Machine Purchases	Exempts hot beverages sold in vending machines from the sales tax. Also exempts all food and drink purchased from vending machines that would be exempt if purchased through a retail store.	December 1, 1997
98	43-44	Sales Tax on Luggage Carts	Exempts the use of coin dispensed luggage carts from the sales tax.	December 1, 1997
99	44	Sales Tax on Wine Tasting	Exempts wine and wine products furnished at wine tastings at New York State wineries.	December 1, 1997
100-101	44	Sales Tax on Circus Admissions	Exempts admission charges to live circus performances from the sales and use tax.	December 1, 1997
102	44-45	Personal Income Tax Child Care Credit	Enhances the current child and dependent care credit to 100 percent of the federal credit for taxpayers with New York State adjusted gross income (NYSAGI) of \$17,000 or less. The credit phases down from 100 to 20 percent for NYSAGI between \$17,000 and \$30,000 and above.	TYBOA 1/1/98
103	45	ABT Enforcement	Extends the Alcoholic Beverage Tax enforcement provisions for five years to October 31, 2002.	Immediately
104-105	45-47	Employment Incentive and Economic Development Zone Credits	Expands the State's current employment incentive and economic development zone employment incentive credits to sole proprietorships, partnerships, and S corporations. These credits were previously given only to C corporations.	Property placed in service on or after January 1, 1997

Summary of FY 1997-98 Budget Bill Tax Provisions — Chapter 389 of the Laws of 1997

Section(s)	Page(s)	Subject	Description	Effective Date
106-108	48	Investment Tax Credit	Extends the period allowable for carry-forwards of unused investment tax credits from 10 to 15 years. Permits any pre-1987 credits to be used through 2002.	Immediately
109-113	48-51	Temporary Exemption for Sales Tax on Clothing	Provides for a one week exemption from the State and MCTD sales and use taxes for clothing, excluding footwear, costing less than \$100 for the weeks of September 1, 1997-September 7, 1997, and September 1, 1998-September 7, 1998. Localities are provided the option of participating in these one-week exemptions.	Immediately
114-118a	51-57	Permanent Exemption for Sales Tax on Clothing	Exempts clothing, excluding footwear, costing less than \$100 from the State sales tax. Provides an option for localities to also exempt such clothing.	December 1, 1999
119	57-60	Rate Reduction for Section 184 in Article 9	Reduces the gross earnings tax rate in Section 184 from 0.75 percent to 0.375 percent. For transportation companies the rate reduction is from 0.6 percent to 0.375 percent.	July 1, 2000
121-124	61-63	Rate Reduction for Sections 186-a and 186-e of Article 9	Reduces the rate from 3.5 percent to 3.25 percent on October 1, 1998. Further reduces the rate to 2.5 percent on January 1, 2000.	October 1, 1998; January 1, 2000
120-123	60-63	Computation of Metropolitan Transportation Authority (MTA) Surcharge	For purposes of computing the Metropolitan Transportation Authority (MTA) surcharge on the above Sections 184, 186-a, and 186-e, the tax shall be computed as if the rate reduction had not occurred.	Effective dates of above rate reductions.
125	63-64	General Fund/MTOA Percentages	Changes the formula for the distribution of revenues received from Sections 183 and 184 to maintain the required funding level for the Mass Transportation Operating Assistance Fund (MTOA).	January 1, 2000 January 1, 2001
126	64	Tax Reduction Benefit to Ratepayers	Requires that any decrease in costs to utility or telecommunications taxpayers resulting from the above tax reductions inure to the benefit of the ratepayers.	Immediately

Summary of FY 1997-98 Budget Bill Tax Provisions — Chapter 389 of the Laws of 1997

Section(s)	Page(s)	Subject	Description	Effective Date
127-130	64-72	Alternative Fuel Vehicle Credit	Provides corporations and individuals with a tax credit for a portion of the cost of purchasing or converting a vehicle to operate on alternative fuels. Also provides a credit for new clean fuel refueling property.	Property placed in service in taxable years beginning January 1, 1998 but not taxable years beginning after December 31, 2002.
131-132	72-73	Sales Tax Exemption for Alternative Fuel Vehicles	Extends the existing sales and use tax exemption for five more years and broadens it to equipment installed at alternative vehicle refueling facilities.	March 1, 1998 and expires on February 28, 2003.
133-139	74-94	New York City Personal Income Tax	Provides New York City residents with base income tax rate relief and a refundable income tax credit to supplement the region's share of local tax relief under the Statewide STAR program. Also extends elements of the New York City resident personal income tax scheduled to expire in tax years beginning after 1997.	TYBA 1997
142-145	94-103	Credit for Insurance Companies	Allows insurance companies subject to Article 33 to claim a credit for 100 percent of the amount invested in certified capital companies (CAPCOs). The credit would be claimed over 10 years, at a rate of 10 percent each year.	TYBA 1998
146-150	103-112	Captive Insurance Companies	Allows for the formation of captive insurance companies and provides these entities with preferential tax treatment under the insurance tax. Captive insurers will be subject to a special premiums tax in lieu of the premiums and "income-based" tax that applies to other insurers.	TYBOA 1/ 1/98
151-158	112-116	Petroleum Business Tax (Article 13-A)	Amends the PBT and motor fuel excise tax to clarify these taxes and to provide certain refunds and credits.	Date of enactment of provisions of Article 13-A.
160-161	116-117	Article 15	Repeals Article 15 of the tax law, the tax on motor vehicle insurance damage awards.	Generally November 30, 1997.
181	118	Sales Tax on Homeowner Association Parking	Exempts from State, and local sales tax outside New York City, homeowners' association sales of parking services to its members.	December 1, 1997
185	122	Sales Tax on Emission Testing Equipment	Exempts equipment used for enhanced emissions inspections of motor vehicles from the sales tax.	September 1, 1997

Summary of FY 1997-98 Budget Bill Tax Provisions — Chapter 389 of the Laws of 1997

Section(s)	Page(s)	Subject	Description	Effective Date
Part B	136-151	School Tax Relief (STAR)	The legislation creates a new program to provide reductions in residential school property taxes. When fully effective in the 2001-2002 school year, the STAR program results in minimum school property tax savings of 27 percent for homeowners under the age of 65, and 45 percent for homeowners age 65 and over.	Phase-in begins for real property taxes levied for fiscal years commencing on or after July 1, 1998.

GMoA — Gifts made on or after

DdoA — Deceased dying on or after

TYBOA — Tax years beginning on or after

TYBA — Tax years beginning after

Summary of Other FY 1997-98 Tax Provisions

Chapter/ Bill Number	Subject	Description	Effective Date
Chapter 399	Solar Credit	Creates a new credit for residential investments in solar electric generating equipment. The credit equals 25 percent of qualifying costs. The maximum credit allowable is \$3,750.	TYBOA 1/1/98
S.5031/A.7719	New York City Credit for Unincorporated Business Taxes Paid	Authorizes the City of New York to enact a credit against the City's personal income tax on residents for payments of the City's unincorporated business tax (UBT). The credit also applies on residents' share of UBT paid by partnerships where the residents are partners.	TYBOA 1/1/97
Chapter 316	Power for Jobs	Makes low cost power available to businesses, small businesses, and not-for-profit corporations to enhance job creation and retention. Provides a credit under Section 186-a to compensate utilities for participating in the program.	Immediately
Chapter 142	Disabilities Credit	Creates a new tax credit available to employers who employ individuals with disabilities. The credit is available for employers who pay franchise tax under Articles 9, 9-A, 32 or 33 and to employers who are not incorporated and pay tax under the personal income tax, Article 22.	TYBOA 1/1/98 for employees who begin work after January 1, 1997.
Chapter 312	Manhattan and Bronx Surface Transit Operating Authority (MABSTOA) Pension Exemption	Allows retired MABSTOA employees to exempt all of their MABSTOA pension income from State and local taxation. This grants them the same treatment of their pension as most other retired State and local employees.	Tax years beginning in 1997.
S.5205-A/A.8063-A	Taxpayer Bill of Rights	Adopts many of the provisions that exist in federal-level taxpayer rights legislation as well as others that relate to New York-specific concerns.	Immediately for most provisions.
S.3-A/A5735-C	New York State College Choice Tuition Savings Program	Creates "Family Tuition Accounts" administered by the State Comptroller. Individuals may contribute max. \$5,000 per year (\$100,000 aggregate per beneficiary). Contributions are deductible under the personal income tax, and distributions of contributions and earnings are exempt from personal income tax if used for tuition and other qualifying higher education expenses.	TYBA 12/31/97

Summary of Other FY 1997-98 Tax Provisions

Chapter 59	Business Tax Extenders	Extends for four years the bank tax provisions that expired January 1, 1997. Also extends the 17 percent temporary Metropolitan Transportation Authority (MTA) surcharge for four years.	Immediately
Chapter 248	Limited Liability Trust Companies	Authorizes formation of limited liability trust companies and taxes them as partnerships.	Immediately

TYBOA — Tax years beginning on or after

TYBA — Tax years beginning after

