



Summary of Tax Provisions in SFY 2008-09 Budget

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Summary of SFY 2008-09 Tax Provisions

Compliance and Enforcement Initiatives

Voluntary Compliance and Disclosure Program

Part CC-1 of Chapter 57 of the Laws of 2008 adds a new Article 36 to the Tax Law that establishes a procedure by which an eligible taxpayer may avoid civil penalties and criminal prosecution for past tax obligations, by voluntarily disclosing those obligations and by entering into a disclosure and compliance agreement with the Tax Department (the Department). To be eligible, a taxpayer must not be currently under audit or a criminal investigation. The tax liability disclosed must be one not already determined or identified by the Department at the time of disclosure. A taxpayer cannot disclose under the program a tax liability that is the result of participation in an abusive tax avoidance transaction that is either a Federal or a New York reportable or listed transaction.

The program is also available to taxpayers who disclose a delinquent tax liability that was deliberately or fraudulently evaded. If the taxpayer's financial situation requires, an installment payment plan may be entered into. In addition to terms regarding payment of the past tax liability, the compliance agreement will include terms to require the taxpayer to comply with the Tax Law in the future. The intentional failure by the taxpayer to pay the disclosed liability in accordance with the compliance agreement or the intentional violation of any term of the agreement may cause the agreement to be rescinded, in which case the taxpayer would face the penalties and criminal prosecution that the Department had waived in entering the agreement.

Financial Institution Data Match

Part CC-1 also requires the Department to develop and operate a financial institution data match system for State tax collection purposes. All warranted tax debt, including all unpaid tax, interest and penalties due from a person or entity must be included in the system together with information for identifying the tax debtor.

Each financial institution doing business in the State must provide a report for each calendar quarter that includes all account numbers and balances in each account for each tax debtor identified. If a financial institution has a data match system developed to administer the State's child support enforcement programs, that system may be approved as the institution's system for collection of warranted State tax debt.

Voluntary Compliance Initiative (VCI)

Part CC-1 also reopens the 2005-2006 VCI for the period from November 1, 2008 through January 31, 2009. Certain taxpayers with liabilities under Articles 9, 9-A, 22, 30, 32 or 33 of the Tax Law attributable to the use of tax avoidance transactions for tax years beginning before January 1, 2005 that were eligible to participate in that prior program, may participate in this program and disclose tax avoidance transactions to the Department. If the taxpayer is disclosing a listed or reportable transaction, the penalty for failure to disclose during the 2005-2006 program, which is equal to 100 percent of the interest that would be due, will be reduced to an amount equal to 50 percent of that interest. For all other tax avoidance transactions that are disclosed during this reopened VCI program, the 100 percent of interest penalty is waived. If a taxpayer fails to disclose during this VCI program, then the 100 percent penalty will be imposed.

Tax Shelter Reporting

Part DD-1 of Chapter 57 of the Laws of 2008 extends the requirement for reporting participation in abusive tax shelter transactions through June 2011. Taxpayers and material advisors that are required to file a reportable or listed transaction disclosure statement with the Internal Revenue Service must continue to provide a duplicate disclosure statement to New York.

Alcoholic Beverage Tax (ABT) Enforcement Provisions	Part TT-1 of Chapter 57 of the Laws of 2008 makes permanent the current ABT enhanced tax enforcement provisions, enacted as part of Chapter 508 of the Laws of 1993. These provisions include alcohol distributor and transporter registration requirements. The provisions also include invoice and transporter manifest requirements for the importation and movement of liquor in the State. Further, the provisions include seizure and forfeiture authority for both liquor and vehicles transporting it where untaxed liquor is discovered in violation of the ABT. These provisions were scheduled to sunset October 31, 2009.
Sales and Use Tax Vendor Re-Registration	Part LL-1 of Chapter 57 of the Laws of 2008 directs the Commissioner of Taxation and Finance (the Commissioner) to conduct a sales tax vendor re-registration. A vendor re-registration will provide a means to update taxpayer information, delete obsolete registrations, and collect new data to support administration of the sales tax. The legislation also imposes a \$50 vendor re-registration application fee to be paid by existing monthly and quarterly vendors and permits the Commissioner to retain from the fees collected amounts necessary to cover the reasonable costs of implementing, administering, and enforcing the registrations authorized under the re-registration program. New sales tax registrations will continue to be at no charge. These provisions take effect on November 1, 2008, with the re-registration to be completed by March 31, 2012.
Electronic Filing and Payment	Part UU-1 of Chapter 57 of the Laws of 2008 authorizes the Commissioner to require electronic filing (e-file) and payment (e-pay) of all tax documents, except those required for State and local income and earnings taxes. Tax preparers who prepare more than 100 original tax documents in any calendar year beginning on or after January 1, 2007, and at least one tax document authorized by the Commissioner to be e-filed using tax software in any succeeding calendar year, are required to e-file all authorized tax documents in that year and all subsequent years. Taxpayers who opt to use tax software to prepare their tax documents authorized to be e-filed during any calendar year beginning on or after January 1, 2008, are required to e-file those documents for that year and all subsequent years. All payments must be paid electronically if the accompanying documents must be e-filed.

The legislation provides penalties for failure to e-file or e-pay when it is mandated by the Commissioner. Tax preparers are subject to a penalty of \$50 for each failure to e-file and taxpayers are subject to a penalty of \$50 for each failure to e-pay. Tax preparers may avoid the penalty if they can show reasonable cause for their failure to e-file, such as the taxpayer's election not to e-file. These requirements take effect immediately, provided that no penalty will be imposed for failures that occur within 60 days after enactment.

Federal Offset Fee

Part BB-1 of Chapter 57 of the Laws of 2008 authorizes the Commissioner to implement a process where the fee imposed by the Federal government, and other states, for offsetting tax refunds to pay New York State income tax debts owed by those taxpayers would be absorbed by the taxpayer rather than the State of New York. The fee would be deemed part of the taxpayer's tax debt and would also be eligible for offset against the refund.

Business Taxes

Taxation of Credit Card Banks

Part EE-1 of Chapter 57 of the Laws of 2008 provides that a banking corporation operating as a credit card bank will be subject to taxation in New York under the Article 32 Franchise Tax on Banking Corporations when its operations in New York meet certain tests. A credit card bank will be considered doing business in New York if it meets any one of the following:

- (1) it has issued credit cards to 1,000 or more customers with mailing addresses in New York State as of the last day of its taxable year;
- (2) there are 1,000 or more locations in New York State covered by contracts with merchant customers to whom the banking corporation remitted payments for credit card transactions during the taxable year;
- (3) it has receipts of \$1 million or more during the taxable year from customers who have been issued credit cards by the banking corporation and have mailing addresses within New York State;
- (4) it has receipts of \$1 million or more from merchant customer contracts with merchants relating to locations in New York State; or

(5) it has either a) 1,000 or more card holders and merchant locations in New York State, or b) receipts of \$1 million or more from card holders and merchant locations in New York State.

The term “credit card” is defined to include various forms of cards that are generally considered credit cards, including bank, credit, travel, and entertainment cards. It also provides that interest, fees and penalties in the nature of interest, service charges, and other fees are earned within New York State if the mailing address of the card holder is within the State.

The legislation provides that a credit card bank that is an Article 32 taxpayer will not be included in a combined return with another Article 32 taxpayer unless it is necessary to properly reflect the tax liability of the taxpayers involved. However, a credit card bank that was included in a combined return for its most recent filing before January 1, 2008 may still be included in the combined return for future tax years. The credit card bank must remain in the combined return in future tax years unless it obtains the consent of the Commissioner to file separately because combined filing no longer properly reflects the tax liability of the combined group.

A credit card bank that is an Article 32 taxpayer will also be required to file a combined return with a banking corporation which is not an Article 32 taxpayer if the non-taxpayer bank is providing services for, or support to, the credit card bank’s operations, and:

- (1) the credit card bank owns 65 percent or more of the stock of the non-taxpayer bank;
- (2) the non-taxpayer bank owns 65 percent or more of the stock of the credit card bank; or
- (3) sixty-five percent or more of the stock of both the non-taxpayer bank and the credit card bank is owned by the same parent company.

Combination will not be required if it can be shown that it would not properly reflect the tax liability of the credit card bank. For purposes of this provision, services for, or support to, the credit card bank’s operations include billing, credit investigation and

reporting, marketing, research, advertising, mailing, customer service, information technology, lending and financing services, and communications services, but not accounting, legal, or personnel services.

The provisions of this section are effective immediately and apply to taxable years beginning on or after January 1, 2008.

Tax Treatment of REITs and RICs

Part FF-1 of Chapter 57 of the Laws of 2008 makes certain technical corrections and structural alterations to Part F of Chapter 60 of the Laws of 2007. Generally, the legislation requires all captive real estate investment trusts (REITs) and captive regulated investment companies (RICs) to file a combined return with the closest corporation that directly or indirectly owns or controls the captive.

Amendments to the Article 9-A Corporate Franchise Tax

The legislation requires a captive REIT or captive RIC to file a combined return under Article 9-A with the corporation that directly owns or controls over 50 percent of the voting stock of the captive if that corporation is (1) either an Article 9-A taxpayer or (2) a corporation required to file a combined return under Article 9-A.

In the event that the 50 percent threshold is not met, the captive must file a combined return with the closest controlling stockholder of the captive if the stockholder is (1) subject to tax under Article 9-A, 32, or 33, or (2) required to file a combined return under any of those articles.

The closest controlling stockholder is the corporation that indirectly owns or controls over 50 percent of the voting stock of the captive and is the fewest tiers of corporations away. The legislation also provides rules for the application of the other combined reporting provisions of Article 9-A to these captives, including the requirement for a qualified REIT subsidiary to join the combined return of its captive parent.

The amendments also provide that in the case of a captive included in a combined return, the entire net income of the captive is determined in accordance with the provisions concerning non-captive REITs or RICs, except that the deduction allowed by the Internal Revenue Code for dividends paid by the REIT or RIC is not allowed for taxable years beginning on or after January 1, 2008.

The legislation clarifies that a captive REIT or captive RIC that is required to file a combined return under Article 32 or Article 33 is not subject to tax under Article 9-A. The amendments remove the requirements of the 2007 legislation for certain REITs and RICs to file a combined return under Article 9-A.

Amendments to the Article 32 Franchise Tax on Banking Corporations

Part FF-1 adds provisions relating to the combination of these captives, as well as the determination of entire net income of a captive REIT or captive RIC included in a combined return. These provisions parallel the similar amendments made to Article 9-A described above. However, under Article 32, the Federal deduction for dividends paid by the captive to affiliates is phased-out over four years. Fifty percent of the dividends paid deduction is allowed for the 2008 taxable year, 25 percent is allowed for 2009 and 2010, and no dividends paid deduction is allowed for taxable years beginning on or after January 1, 2011.

A captive REIT or captive RIC will not be required to be included in a combined return if the bank which owns or controls over 50 percent of the voting stock of the captive or is the controlling stockholder of the captive is part of an affiliated group: (1) that does not include a corporation doing a business a subsidiary of a bank holding company would not be permitted to do, unless de minimis, and (2) whose members own assets the combined average value of which does not exceed \$8 billion.

The legislation provides that the franchise tax on banking corporations applies to any captive REIT or captive RIC required to file a combined return under the bank tax. The Gramm-Leach-Bliley (GLBA) transitional provisions do not apply to a captive REIT or a captive RIC. A captive REIT or captive RIC that was subject to tax under Article 9-A in 2007 will not be considered an Article 9-A taxpayer under the GLBA provisions in 2008.

The legislation also eliminates the 2007 amendments regarding the disallowed investment proceeds of banking corporations. The amendments are obsolete under the new combined reporting requirements.

Amendments to the Article 33 Franchise Tax on Insurance Corporations

Part FF-1 adds provisions relating to the combination of these captives, as well as the determination of entire net income of a captive REIT or captive RIC included in a combined return. These provisions parallel the similar amendments made to Article 9-A. The legislation also eliminates the 2007 amendments regarding the disallowed investment proceeds of insurance corporations, as well as the amendments made regarding subsidiary capital attributable to REITs and RICs. The 2007 amendments are obsolete under the new combined reporting requirements.

In addition to the tax changes made by this part, the legislation also mandates that a report be prepared by the Commissioner regarding the effects of these changes on taxpayers. The report is due by June 1, 2009.

The provisions of this section are effective immediately and apply to taxable years beginning on or after January 1, 2008 and are repealed for taxable years beginning on or after January 1, 2011.

LLC Fees

Part AA-1 of Chapter 57 of the Laws of 2008 restructures the member based filing fees for limited liability companies (LLCs) and limited liability partnerships, and changes the basis for the fixed dollar minimum tax on New York Article 9-A C and S corporations. The new structure is outlined in the table below.

<i>NY Source Gross Income or Receipts</i>	<i>LLC Fee</i>	<i>S Corp FDM</i>	<i>C Corp FDM</i>
Not more than \$100,000	\$25	\$25	\$25
\$100,001 - \$250,000	\$50	\$50	\$75
\$250,001 - \$500,000	\$175	\$175	\$175
\$500,001 - \$1,000,000	\$500	\$300	\$500
\$1,000,001 - \$5,000,000	\$1,500	\$1,000	\$1,500
\$5,000,001 - \$25,000,000	\$3,000	\$3,000	\$3,500
\$25,000,001 - Over	\$4,500	\$4,500	\$5,000
*FDM denotes a fixed dollar minimum tax			

Limited Liability Companies (and Limited Liability Partnerships)

The reform converts the current filing fee of \$50 per member (\$325 minimum and \$10,000 maximum) to a fee based on New York source gross income as shown in the table. Additionally, single-member LLCs, which are disregarded entities for Federal income tax purposes, are now required to remit a filing fee of \$25 beginning in 2008.

C and S Corporations

The current fixed dollar minimum tax on these corporations ranges from \$100 for payrolls of \$250,000 or less to \$1,500 for payrolls of \$6.25 million or more. The new fixed dollar minimum will vary depending on the amount of New York receipts as outlined in the table above. The current fixed dollar minimum of \$800 for corporations with total receipts, assets, and payroll all \$1,000 or less, is eliminated, with these entities paying \$25 under the new structure.

The fixed dollar minimum tax is only one of four tax bases that a C corporation may pay tax under. Therefore, it is possible that this new structure will allow C corporations to pay tax on their entire net income, capital, or minimum taxable income.

Foreign C and S corporations whose total tax liability (including MTA surcharge) is less than \$300 must still raise their payment to this amount to satisfy the maintenance fee requirement.

The new fee and fixed dollar minimum structure will apply to taxable years beginning on or after January 1, 2008.

Capital Base Changes

Part GG-1 of Chapter 57 of the Laws of 2008 reduces the capital base tax rate and temporarily increases the capital base liability cap. For taxable years beginning on or after January 1, 2008, the rate is reduced from 0.178 percent to 0.15 percent and the \$1 million liability cap for non-manufacturers is increased to \$10 million. The cap reverts to \$1 million for taxable years beginning on or after January 1, 2011.

The \$350,000 capital base liability cap for manufacturers is retained, but clarifying language regarding eligibility is added to the statute. To qualify, a taxpayer must have manufacturing property in New York State with a federal adjusted basis of at least \$1 million or have all of its real and personal property located in New York State. Taxpayers meeting the definition of a qualified emerging technology company (QETC) in Section 3102-e of the Public Authorities Law are deemed manufacturers and are not subject to the property test.

Qualified Production Activity Income (QPAI) Deduction

Part HH-1 of Chapter 57 of the Laws of 2008 decouples New York State from Internal Revenue Code (IRC) Section 199. Taxpayers are now required to add back the qualified production activities income (QPAI) deduction when computing New York taxable income. This requirement will apply to taxpayers subject to tax under Articles 9-A, 13, 22, 32, and 33 of the Tax Law as well as those subject to New York City’s General Corporate Business Tax, Banking Corporation Tax, and Personal Income Tax. The decoupling will apply to taxable years beginning on or after January 1, 2008.

Mandatory First Installment

Part JJ-1 of Chapter 57 of the Laws of 2008 increases the percentage that taxpayers, with a prior year tax liability over \$100,000, must use to calculate their mandatory first installment payment of franchise tax and MTA surcharge. For these large taxpayers, the percentage is increased from 25 percent to 30 percent of the prior year’s liability. This increase is applicable to all taxpayers subject to tax under Articles 9-A and 32 of the Tax Law and non-life insurance companies subject to tax under Article 33. Under Article 9, the increase only applies to taxpayers subject to tax under Sections 182, 182-a, 184, 186-a, and 186-e of the Tax Law. Taxpayers with a prior year liability between \$1,000 and \$100,000 will continue to use the 25 percent amount to calculate their mandatory first installment. The increase applies to taxable years beginning on or after January 1, 2009.

MTA Surcharge Extender

Part II-1 of Chapter 57 of the Laws of 2008 extends the temporary MTA surcharges imposed on business taxpayers which are scheduled to sunset for taxable years ending before December 31, 2009. The legislation extends the sunset date for four years to taxable years ending before December 31, 2013. The provisions of this section are effective immediately and apply to taxable years ending on or after December 31, 2009.

Sales and Use Tax

Sales Tax Nexus

Part OO-1 of Chapter 57 of the Laws of 2008 creates a presumption that sellers entering into agreements with New York residents under which the residents are compensated for referring customers to the sellers are “vendors” for purposes of the State and local sales and use taxes. As sales tax vendors, these sellers have a requirement to collect and remit New York State and local sales and use taxes on taxable property and services sold in New York. The customer referrals may take place through an Internet web link or by any other means. The legislation also provides for a \$10,000 de minimis exclusion. That is, only sellers that have

gross annual receipts of more than \$10,000 from sales to customers in the State that are referred to the seller by all residents with this type of agreement are included in the presumption.

The legislation provides that the presumption may be rebutted by proof that the resident with whom the seller has an agreement does not engage in any solicitation in New York that would satisfy the nexus requirements of the United States Constitution.

Part OO-1 also includes a limited amnesty, under which a seller that is a vendor only by virtue of this bill (and that meets certain other conditions) that registers as a sales tax vendor and commences collecting tax by June 1, 2008, will not be liable for past due tax.

Part OO-1 takes effect immediately.

Sales by Exempt Organizations

Part KK-1 of Chapter 57 of the Laws of 2008 requires tax-exempt nonprofit organizations to collect sales tax on additional classes of retail sales. Specifically, it amends section 1116(b) of the Tax Law to provide that the following sales by tax-exempt nonprofit organizations are not exempt from state and local sales and compensating use taxes by virtue of the general exemption provided in section 1116(a): utility services taxed under section 1105(b) and services to real property taxable under section 1105(c) (5), whether or not sold from the exempt organization's "shop or store;" tangible personal property and section 1105(b) and 1105(c) (5) services sold remotely (such as via telephone, the Internet, or mail order); and, tangible personal property leased or rented by an exempt organization to another person. Consequently, exempt organizations engaging in such sales will be required to register as vendors if not already registered and collect sales tax on these retail sales. This change will take effect on September 1, 2008.

New York City Sales Tax

Part SS-1 of Chapter 57 of the Laws of 2008 provides for a smooth transition to the re-imposition of New York City's Article 29 local sales and use taxes after the Municipal Assistance Corporation (MAC) sales and use taxes expire. Since 1975, the MAC sales and use taxes have been imposed in New York City in place of the City's local sales taxes authorized to be imposed under Article 29. This Part authorizes the imposition of the Article 29 local taxes at the rate of 4 percent (6 percent on parking services) in New York City and conforms the base of such taxes to the base of the expiring MAC taxes. It also amends the New York City Administrative Code to impose the taxes on the conformed base. These provisions take effect on August 1, 2008.

Part SS-1 also amends the Public Service Law to allow certain energy businesses to pass-through to an electric company an amount equal to the City sales and use tax on the natural gas used by them. An energy business must have entered into a contract with an electric corporation for the sale of electricity before June 1, 2000, to be eligible for the pass-through. This provision takes effect immediately.

Miscellaneous Provisions

Increase Cigarette Tax Rate	<p>Part RR-1 of Chapter 57 of the Laws of 2008 increases the New York State cigarette excise and use tax rates on cigarettes, from \$1.50 to \$2.75 for each 20 cigarettes. In addition, part RR-1 changes the disposition rate of revenue into the Tobacco Control and Insurance Initiatives Pool from 61.22 percent to 70.63 percent. This act takes effect on June 3, 2008.</p> <p>A floor tax is imposed on cigarettes stamped at the pre-June 3, 2008 rate and unaffixed tax stamps on hand at the close of business June 2, 2008.</p>
Reclassify Little Cigars	<p>Part MM-1 of Chapter 57 of the Laws of 2008 changes the definition of a cigarette for New York State and New York City excise taxes to parallel the Federal definition by defining cigarettes to include little cigars. It clarifies that certain rolls for smoking need to be treated as cigarettes for Federal excise tax purposes before they can fall under the definition for New York State and New York City excise tax purposes. The Federal definition of a cigar is added to the Tax Law for further clarification. This act takes effect on July 1, 2008.</p>
Convert Tax on Moist Snuff	<p>Part QQ-1 of Chapter 57 of the Laws of 2008 adds the Federal definition of snuff to the Tax Law to allow snuff to be categorized separately from other tobacco products. In addition, Part QQ-1 changes the tax rate for snuff from the current rate of 37 percent of the wholesale price to a rate of 96 cents per ounce with a proportionate rate for any fractional parts of an ounce. This act takes effect on July 1, 2008.</p>
HESC Data Sharing	<p>Part M of the Chapter 57 of the Laws of 2008 expands the current data exchange that exists between the Department and the Higher Education Services Corporation (HESC) to include any education loan debt collected by HESC including judgments owed to the Federal or New York State government. The expansion is effective immediately.</p>

Centralized Contract
Procurement Fee

Part F of Chapter 56 of the Laws of 2008 imposes a fee of one-half of one percent of the price on “authorized users” making purchases of commodities, services or technology under centralized contracts established by the Commissioner of General Services. “Authorized users” would include persons or entities (including State agencies) authorized to purchase commodities, services or technology under centralized contracts pursuant to sections 163.3 and 163.4 of the State Finance Law. Contractors would be required to electronically pay over collected fees to, and electronically file a return with, the Department quarterly. Electronic filing and payment would not be required if the contractor demonstrated to the Office of General Services (OGS) that it could not reasonably comply with these requirements.

Part F takes effect on the sixtieth day after enactment, and applies to bids issued on or after the first day of the calendar quarter next succeeding the date of enactment (July 1, 2008). For “small businesses,” the bill would take effect on July 1, 2008, and apply to bids issued on or after the first day of the calendar quarter next succeeding that date (October 1, 2008).

Child Health Plus Income
Verification

Part C of Chapter 58 of the Laws of 2008 allows the Commissioner to enter into agreements with the Department of Health to verify income data used to determine eligibility for subsidized health insurance coverage under Child Health Plus and Medical Assistance and Family Health Plus. These provisions take effect immediately and are deemed to be in full force and effect on or after April 1, 2008.

Tax Credits

Empire State Film
Production Credit

Part WW-1 of Chapter 57 of the Laws of 2008 amends the Empire State film production credit to increase the credit rate, accelerate the credit refund, and increase the statutory credit allotment. The credit rate is increased from 10 percent to 30 percent of qualified production costs. The credit refund language is amended to allow the entire amount of excess credit to be refunded in one year. Previously, any excess credit was refunded across two tax years.

Finally, the total amount of credit that can be awarded by the Governor's Office for Motion Picture and Television Development is increased from \$60 million annually in 2008 through 2011 to \$65 million in 2008, \$75 million in 2009, \$85 million in 2010, \$90 million in 2011 and 2012, and \$110 million in 2013.

Empire Zones

Part CCC-1 of Chapter 57 of the Laws of 2008 makes two amendments to the Empire Zones (EZ) Program pertaining to qualified investment projects (QUIPs) and significant capital investment projects (SCIPs).

EZ Wage Tax Credit - QUIPs and SCIPs will be able to delay the start of the five-year period in which to claim the EZ wage tax credit. The five-year period will begin in the first year of the QUIP's or SCIP's QEZE tax benefit period. Generally, the five-year period begins in the first year a taxpayer pays EZ wages. *EZ wages* are defined as wages paid by a certified taxpayer for full-time employment (excluding general executive officers) during the tax year in an area designated or previously designated as an EZ, if the employment is in a job created in the EZ during the period of its designation as an EZ, or within four years of the expiration of the EZ designation.

QUIP/SCIP Designation Deadlines - The deadline to submit applications to the Empire State Development Corporation to become certified as the owner of a QUIP is extended from December 31, 2007 to December 31, 2009. Applications to become certified as the owner of a SCIP submitted by an entity previously qualified as a QUIP, or a related person, must be submitted by June 30, 2011.

Brownfield Cleanup Program Temporary Moratorium

Part VV-1 of Chapter 57 of the Laws of 2008 institutes a 90-day moratorium on the Brownfield Cleanup Program (BCP). The Department of Environmental Conservation (DEC) will not accept any applications for BCP participation for 90 days following enactment of Chapter 57.

Participants in the BCP that have received a certificate of completion from DEC may be eligible to claim three tax credits: the brownfield redevelopment tax credit, the remediated brownfield credit for real property taxes, and the environmental remediation insurance credit.

Low-Income Housing Credit	<p>Part XX-1 of Chapter 57 of the Laws of 2008 increases the statewide aggregate credit limit for the low-income housing credit from \$16 million to \$20 million. The New York State low-income housing tax credit program is based on the existing Federal program and requires an agreement between the taxpayer and the Commissioner of the New York State Division of Housing and Community Renewal for a long-term commitment to low-income housing. The amount of the credit depends on the applicable percentage of the qualified basis of each low-income building. The credit amount allocated is allowed as a credit against tax for ten tax years. Unused credits may be carried forward indefinitely. The total amount of credit available is \$20 million each year. The credit program applies to personal income, corporate franchise, bank, and insurance taxpayers.</p>
Financial Services ITC	<p>Part YY-1 of Chapter 57 of the Laws of 2008 extends the sunset date for the financial services Investment Tax Credit (ITC) from October 1, 2008 to October 1, 2011. The financial services ITC allows brokers or dealers in securities to receive the ITC for equipment or buildings used in broker/dealer activity and in activities connected with broker/dealer operations such as the provision of investment advisory services for a regulated investment company, and lending activities associated with the purchase and sale of securities. The credit allowances are the same as the traditional ITC.</p>
Credit for Accessible Taxicabs for Individuals with Disabilities	<p>Part ZZ-1 of Chapter 57 of the Laws of 2008 extends for two years the tax credit allowed under the Personal Income Tax and the Corporation Franchise Tax for taxi and livery companies that upgrade their vehicles to make them accessible for individuals with disabilities. The credit is now available through December 31, 2010. The legislation also updates terminology in the Tax Law pertaining to the tax credit.</p>
Bioheat Tax Credit	<p>Part AAA-1 of Chapter 57 of the Laws of 2008 reinstates the tax credit allowed under the Personal Income Tax and the Corporation Franchise Tax for the purchase of bioheat for residential customers. The credit expired June 30, 2007, and is reinstated for period January 1, 2008 through December 31, 2011. The credit is equal to \$0.01 per percent of biodiesel per gallon of bioheat, not to exceed 20 cents per gallon, purchased by the taxpayer.</p>

Power for Jobs	Part Y of Chapter 59 of the Laws of 2008 extends the Power for Jobs program. This extension will allow public utilities delivering low cost power to businesses and not-for-profit corporations under the Power for Jobs program to continue receiving tax credits through calendar year 2009 for the transmission of power prior to June 30, 2009. The extension is effective immediately.
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School Tax Relief (STAR)

Delay Increase in Middle Class STAR Rebate	Part S of Chapter 57 of the Laws of 2008 delays for one year the scheduled increase in the basic Middle Class STAR rebate. The increase will now be fully phased in for school tax year 2010-11 instead of 2009-10.
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Restructure NYC School Tax Credits	Part R of Chapter 57 of the Laws of 2008 delays for one year the scheduled increase in the New York City school tax credit. Married couples filing jointly will receive a credit of \$290 for tax years beginning in 2008, \$310 for tax years beginning in 2009, and \$335 for tax years beginning after 2009. All other individuals will be eligible for a credit of \$145 for tax years beginning in 2008, \$155 for tax years beginning in 2009, and \$167.50 for tax years beginning after 2009.
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Part R also reduces the New York City school tax credit to zero for taxpayers with income in excess of \$250,000, beginning in 2008.

Offset Against Middle Class STAR rebate	Part Q of Chapter 57 of the Laws of 2008 allows offsets against the basic Middle Class STAR rebate. This new offset is similar to the current offsets of tax refunds allowed against tax debts, or debts owed to other State agencies. The offsets would apply to basic STAR rebates issued for the 2008-09 school year and subsequent school years.
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Section(s)	Page(s)	Subject	Description	Effective Date
Part M	46-54	Data sharing with HESC	Expands the current data exchange that exists between the Department and HESC.	Immediately
Part Q	56	Offsets against STAR	Allows offsets against STAR rebates for certain debts owed to the State.	Applies to rebates issued for 2008-09 and subsequent school years
Part R	56-58	NYC School Tax Credit	Eliminates the New York City School tax credit for high income taxpayers and delays the scheduled increase in the credit.	Immediately
Part S	58	Middle Class STAR	Delays for one year the scheduled increase in the basic Middle Class STAR rebates.	Immediately
Part AA-1	149-152	LLC Fees and Fixed Dollar Minimum Tax	Restructures the filing fees for limited liability companies (LLCs) and changes the basis for the fixed dollar minimum tax on New York S and C corporations. The new filing fees are based on New York gross income and the new tax is based on New York receipts.	TYBOA January 1, 2008
Part BB-1	152-153	Refund Offset Fees	Requires taxpayers to pay the fee charged by the Federal government, and other states, for offsetting tax refunds to pay New York State income tax debts owed by those taxpayers.	Immediately
Part CC-1	153-156	Compliance and Enforcement Initiatives	Establishes voluntary disclosure program; Establishes financial institution data match for warranted tax debt; and Establishes a voluntary compliance initiative from November 1, 2008 through January 31, 2009.	Immediately
Part DD-1	156-157	Tax Shelter Reporting	Extends sunset provisions to July 1, 2011.	Immediately

Part EE-1	157-158	Taxation of Credit Card Banks	Provides that a credit card bank will be subject to taxation in New York when its operations in New York meet certain tests. Establishes when and if a credit card bank can be included in a combined return.	TYBOA January 1, 2008
Part FF-1	158-169	Tax Treatment of REITs and RICs	Makes certain technical corrections and structural alterations to the 2007 REIT and RIC amendments. Requires all captive REITs and captive RICs to file a combined return with the closest corporation that directly or indirectly owns or controls the captive.	TYBOA January 1, 2008; repealed for TYBOA January 1, 2011
Part GG-1	169-170	Article 9-A Capital Base	Reduces rate; temporarily raises liability cap for non-manufacturers; and clarifies eligibility qualifications for the \$350,000 cap for manufacturers.	TYBOA January 1, 2008
Part HH-1	170-172	Qualified Production Activity Income (QPAI)	Decouples from IRC Section 199 and requires taxpayers to add back the Qualified Production Activity Income (QPAI) deduction.	TYBOA January 1, 2008
Part II-1	172-179	Extension of MTA Surcharges	Extends for four years the temporary MTA Surcharges imposed on business taxpayers which are scheduled to sunset for taxable years ending before December 31, 2009.	Taxable year ending on or after December 31, 2009 and before December 31, 2013
Part JJ-1	180-181	Mandatory First Installment	Increases the mandatory first installment of estimated tax and the MTA surcharge from 25% to 30% of prior year liability for certain business taxpayers with a prior year tax liability over \$100,000.	TYBOA January 1, 2009
Part KK-1	181-182	Exempt Organization Sales	Requires nonprofit tax-exempt organizations to collect sales tax on retail online and mail-order catalog sales, rentals or leases of tangible personal property, and certain services.	September 1, 2008
Part LL-1	182	Sales Tax Re-Registration	Directs the Commissioner to conduct a sales tax re-registration program and provides for a \$50 re-registration application fee to be paid by monthly and quarterly vendors.	November 1, 2008
Part MM-1	182-184	Little Cigars	Changes the definition of a cigarette for New York State and New York City excise tax to parallel the federal definition by defining cigarettes to include little cigars.	July 1, 2008

Part OO-1	184-185	Sales Tax Nexus	Creates an evidentiary presumption that certain sellers using New York residents to solicit sales are required to collect and remit State and local sales tax.	Immediately
Part QQ-1	186-187	Moist Snuff	Changes the tax rate on snuff products from 37 percent of the wholesale price to 96 cents per ounce.	July 1, 2008
Part RR-1	188-189	Cigarette Tax Increase	Increases the cigarette tax rate from \$1.50 to \$2.75 per pack.	June 3, 2008
Part SS-1	189-201	New York City/MAC	Imposes a permanent 4% rate of local sales and use taxes in New York City (6% on parking services) and conforms the base of the NYC local sales tax upon the expiration of the MAC sales and use taxes on July 31, 2008. Provides for a pass-through of New York City sales and use taxes on natural gas used by certain energy businesses.	Various
Part TT-1	201-202	ABT Enforcement Provisions	Makes permanent the current ABT enhanced tax enforcement provisions. These provisions were scheduled to sunset October 31, 2009.	Immediately
Part UU-1	202-203	Electronic Filing and Payment Mandate	Authorizes the Commissioner to require e-filing and e-pay of all tax documents, except those required for State and local personal income taxes. Requires payments to be made electronically if accompanying tax documents that must be e-filed. Imposes a \$50 penalty for failure to e-file or e-pay when mandated.	Immediately, but no penalties imposed for failures that occur within 60 days after enactment.
Part VV-1	203	Brownfield Cleanup Program (BCP)	Institutes 90 day moratorium for applications to the BCP.	Immediately
Part WW-1	203-205	Empire State Film Production Credit	Increases credit rate; accelerates credit refund; and extends and increases annual credit allocations.	TYBOA January 1, 2008
Part XX-1	205-206	Low-Income Housing Credit	Increases the aggregate amount of low-income housing tax credits by \$4 million dollars.	Immediately
Part YY-1	206	Financial Services ITC	Extends sunset date to October 1, 2011.	Immediately
Part ZZ-1	206-211	Credit for Accessible Taxicabs for Individuals with Disabilities	Extends for two years the tax credit for taxi and livery companies that upgrade their vehicles to make them accessible for individuals with disabilities. The credit is now available through December 31, 2010.	Immediately

Part AAA-1	211-212	Reinstates the Bioheat Tax Credit	Reinstates the credit for the purchase of bioheat for residential customers. The credit expired June 30, 2007, and is reinstated for the period January 1, 2008 through December 31, 2011.	January 1, 2008
Part CCC-1	213-214	Empire Zone (EZ) Program Amendments	Allows qualified investment projects (QUIPs) and significant capital investment projects (SCIPs) to delay start of EZ wage tax credit period; and extends the deadline for QUIP applications to December 31, 2009 and the deadline for SCIP applications to June 30, 2011.	Immediately

Summary of Tax Provisions in SFY 2008-09 Budget				
Chapter 56 of the Laws of 2008 (A.9806-C/S.6806-C)				
Section(s)	Page(s)	Subject	Description	Effective Date
Part F	8-10	Centralized Contract Procurement Fee	Imposes a fee of 0.5 percent of the price on persons or entities purchasing commodities under a centralized contract established by the Office of General Services.	Applies to bids issued on or after July 1, 2008. However, it will apply to bids issued on or after October 1, 2008 for small businesses.

Summary of Tax Provisions in SFY 2008-09 Budget				
Chapter 58 of the Laws of 2008 (A.9808-C/S.6808-C)				
Section(s)	Page(s)	Subject	Description	Effective Date
Part C	123-130	Income Verification for the Health Department	Authorizes the Tax Department to verify income for Child Health Plus, Medical Assistance, and Family Health Plus programs administered by the Health Department.	Immediately, provided it is deemed to be in full force and effect April 1, 2008

Summary of Tax Provisions in SFY 2008-09 Budget				
Chapter 59 of the Laws of 2008 (A.9809-C/S.6809-C)				
Section(s)	Page(s)	Subject	Description	Effective Date
Part Y	11-16	Power for Jobs	Extends the Power for Jobs program for one year.	Immediately

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