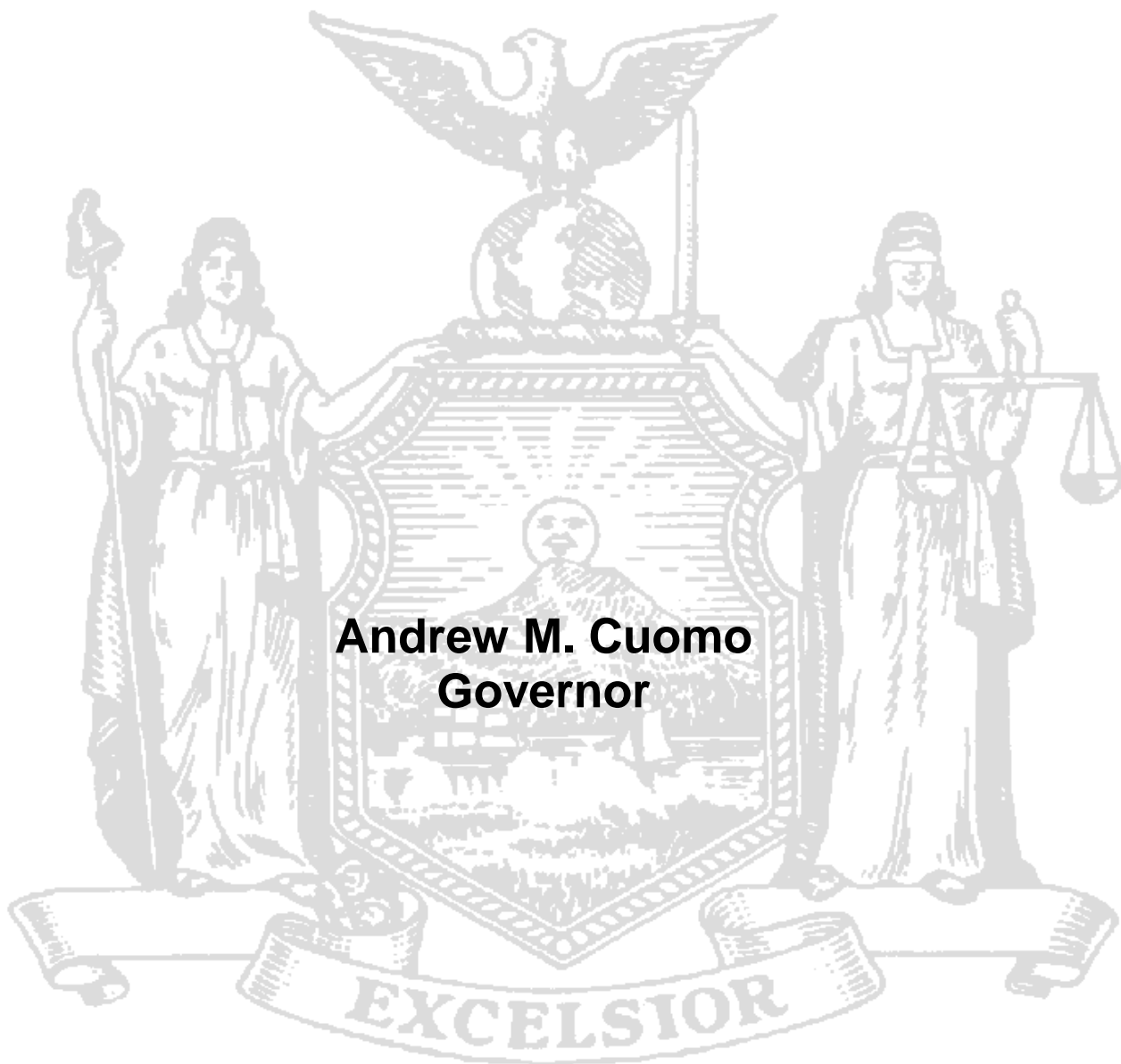


ANNUAL REPORT ON NEW YORK STATE TAX EXPENDITURES

2011-12 STATE FISCAL YEAR



**Andrew M. Cuomo
Governor**

New York State
Division of the Budget

New York State
Department of Taxation and Finance

TAX EXPENDITURE REPORT

TABLE OF CONTENTS

I.	Introduction.....	1
II.	Use of this Report and Data Limitations.....	3
III.	An Illustration of the Impact of Tax Expenditures on Personal Income Tax Liability.....	7
IV.	Summary of Tax Expenditures	11
V.	Recent Legislation that has Affected Tax Expenditures.....	15
VI.	Estimates of Tax Expenditures by Tax	
	a. Personal Income Tax.....	19
	b. Corporation Franchise Tax	55
	c. Bank Tax	87
	d. Insurance Tax.....	103
	e. Corporation Tax	121
	f. Sales and Use Tax.....	137
	g. Petroleum Business Tax.....	179
	h. Real Estate Transfer Tax.....	195
VII.	Cross-Article Tax Expenditures.....	203
VIII	2011-12 Executive Budget Tax Expenditure Proposals	205
IX.	Glossary	211
X.	Appendix — Federal Exclusions from Income	A-1

TABLES

Table 1	Significant Tax Expenditures by Category	12
Table 2	2011 New York State Personal Income Tax Expenditure Estimates	22
Table 3	2011 New York State Article 9-A Tax Expenditure Estimates	57
Table 4	2011 New York State Bank Tax Expenditure Estimates	89
Table 5	2011 New York State Insurance Tax Expenditure Estimates	105
Table 6	2011 New York State Corporation and Utilities (Article 9) Tax Expenditure Estimates	124
Table 7	2011 New York State Sales and Use Tax Expenditure Estimates	139
Table 8	2011 New York State Petroleum Business Tax Expenditure Estimates	182
Table 9	2011 New York State Real Estate Transfer Tax Expenditure Estimates	196
Table 10	2011 Selected Cross-Article Tax Expenditure Estimates	203
Table 11	2011-12 Executive Budget Proposals Affecting Tax Expenditures	205

FIGURES

Figure 1	Calculation of New York State Personal Income Tax Liability, Tax Year 2011	8
----------	--	---

INTRODUCTION

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

As required by statute, the Report includes:

- An enumeration of the tax expenditures (Section VI) associated with the:
 - Personal Income Tax (Article 22 of the Tax Law)
 - Corporate Franchise Tax (Article 9-A of the Tax Law)
 - Bank Tax (Article 32 of the Tax Law)
 - Insurance Tax (Article 33 of the Tax Law)
 - Corporation and Utility Taxes (Article 9 of the Tax Law, excluding the organization tax imposed under Section 180 of Article 9 of the Tax Law, which the Department of State administers)
 - Sales and Compensating Use Tax (Article 28 of the Tax Law)
 - Petroleum Business Tax (Article 13-A of the Tax Law)
 - Real Estate Transfer Tax (Article 31 of the Tax Law);
- The provisions of law authorizing the tax expenditures, their effective dates, and where applicable, the date that such tax expenditures expire or are reduced (Section VI);
- Estimates (if reliable data are available) of the costs of the tax expenditures for the current taxable or calendar year and the five preceding years¹ (Section VI);
- An analysis of tax expenditure proposals included in the Governor’s 2011-12 Executive Budget (Section VIII); and
- Cautionary or advisory notes regarding the use of the Report and data limitations (Section II).

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

- Federal tax expenditures that “flow through” to New York and impact the Personal Income, Corporate Franchise, Bank and Insurances Taxes (Section X);
- Tax expenditures that appear in more than one Article of the Tax Law, i.e., “Cross-Article Tax Expenditures” (Section VII); and

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

INTRODUCTION

- State legislation enacted in recent years that has resulted in the addition, deletion, or modification of various tax expenditure provisions (Section V).

The report also includes the following additional information:

- An illustration of the impact of tax expenditures on tax liability under the Personal Income Tax (Section III);
- A summary of tax expenditures by general policy area (Section IV);
- An expanded distributional breakdown of select credits associated with the Personal Income Tax and Corporate Franchise Tax (Section VI); and
- A glossary of terms used in this report (Section IX).

USE OF THIS REPORT AND DATA LIMITATIONS

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

This report does not purport to offer an official list of tax expenditures. Rather, it describes as many tax expenditures as possible and provides revenue estimates for as many provisions as can be isolated and measured. Where applicable data is available, tax expenditure estimates generally cover five historical years. Forecasted estimates project the cost of a tax expenditure as reflected in the Tax Law as it was in effect on January 1, 2011. The forecasted estimates do not reflect changes proposed in the Executive Budget. A description of the Executive Budget Tax Expenditure proposals is included in a separate section of this report. As a result of new or improved information, the estimates may differ from those published in previous reports. The estimates in the report do not reflect the impact of the Metropolitan Transportation Authority (MTA) surcharge, imposed on businesses operating in the Metropolitan Transportation Commuter District (MCTD).

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

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

	Historical	Forecast
Income Tax	2004, 2005, 2006, 2007, 2008	2011
Corporate Franchise Tax*	2003, 2004, 2005, 2006, 2007	2011
Sales and Use Tax	2004, 2005, 2006, 2007, 2008	2011
Corporation and Utilities	2003, 2004, 2005, 2006, 2007	2011
Bank Tax*	2003, 2004, 2005, 2006, 2007	2011
Insurance Tax*	2003, 2004, 2005, 2006, 2007	2011
Petroleum Business Tax	2005, 2006, 2007, 2008, 2009	2011
Real Estate Transfer Tax	2005-06, 2006-07, 2007-08, 2008-09	2011-12

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

² Section 181(a).

³ Section 181(b).

USE OF THIS REPORT AND DATA LIMITATIONS

Federal Exclusions

The personal income (Article 22), corporate franchise (Article 9-A), bank (Article 32), and insurance (Article 33) taxes are all based, to some extent, on the Federal tax structure. There are provisions in Federal law that reduce the base subject to New York tax because the exclusion flows through to New York law. For example, employer contributions for medical insurance and care are excluded from Federal adjusted gross income. This exclusion flows through to New York which uses Federal adjusted gross income as a starting point for determining New York income. In most cases, New York policymakers have opted to conform to the Federal base for these taxes. Conformity eases administration of the Tax Law while at the same time promoting taxpayer compliance. These items do not constitute tax expenditures in the same sense as provisions specifically designed by New York policymakers to promote economic development or to provide specific tax relief. To focus attention on New York source tax expenditures, Federal exclusions are listed in the Appendix which provides estimates of the revenue foregone by conformity to these provisions.

Reliability of the Estimates

Estimates of the cost of tax expenditures have different levels of reliability based on the accuracy of both the data and the estimation procedure. For all of the taxes, with the exception of the Sales and Compensating Use Tax, the Department of Taxation and Finance assigns the highest category of reliability, Level 1, to estimates based on information from actual tax returns that were verified for accuracy. It assigns Level 2 to estimates based on data files containing unverified or incomplete information from actual tax returns. Neither of these return data sources is augmented with audit information. In Level 3 estimates, average marginal tax rates are applied to aggregate data. This sometimes includes Federal tax return data from the Internal Revenue Service's *Statistics of Income*. Level 4 estimates are based on national tax expenditure estimates made by the Federal Joint Committee on Taxation (JCT) or the Office of Management and Budget (OMB) or are estimates derived from non-tax data sources.

Estimates for most of the Sales Tax expenditures are derived from non-tax data sources. Therefore, a somewhat different reliability scheme is employed with all estimates given the fourth level of reliability. Within this fourth level, the report further categorizes estimates based on the accuracy and suitability of the data sources. Category A estimates use both New York State and industry-specific data. Category B estimates use New York-specific data from industry sources, or national data derived from direct industry information such as industry associations. Category C estimates use data other than state or industry-specific data.

The last level of estimates, Level 5, includes those items for which no reliable data source currently exists.

In some cases the reliability of estimates can change from year to year. This is especially the case for base year and forecast estimates versus historical estimates. For example, provisions previously estimated with either less reliable tax return data or Federal

USE OF THIS REPORT AND DATA LIMITATIONS

tax information might become Level 1 (highest reliability) if added directly to tax returns and verified for accuracy. This could cause current and projected estimates to differ from historical estimates.

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

USE OF THIS REPORT AND DATA LIMITATIONS

AN ILLUSTRATION OF THE IMPACT OF TAX EXPENDITURES ON PERSONAL INCOME TAX LIABILITY

The following flow chart (Figure 1) provides an illustration of how tax expenditures impact the computation of tax liability under the Personal Income Tax. The (●) reflects components of income that are included in computing tax liability and ∇ reflects tax expenditures that, if applicable to a taxpayer, reduce their tax liability.

New York is one of approximately 27 states that use Federal adjusted gross income (FAGI) as the starting point in calculating their personal income taxes. New York is one of 14 states that automatically conform to changes in FAGI. The additional 13 states conform to FAGI as of a certain point in time.

IMPACT ON PERSONAL INCOME TAX LIABILITY

**Figure 1: Calculation of New York Personal Income Tax Liability
Tax Year 2011**

Federal Gross Income	•	Wages, salaries, bonuses, and tips
	•	Annuities, pensions, and taxable IRA distributions
	•	Dividends received
	•	Taxable interest received
	•	Net business income
	•	Net gain on sales or exchanges
	•	Certain taxable fringe benefits
	•	Net rent, royalty, partnership, or S-corporation income
	•	Prizes
	•	Net farm income
	•	Taxable Social Security
	•	Unemployment compensation
	•	Alimony received
	•	Other income
<i>minus</i>		
Adjustments to Gross Income	•	Self-employed retirement plan contributions
	•	Alimony paid
	•	Income earned abroad
	•	Contributions to individual retirement accounts
	•	Interest forfeited upon premature withdrawals
	•	Employment-related moving expenses
	•	Other Federal exclusions
	•	Other adjustments
<i>equals</i>		
Federal Adjusted Gross Income		
<i>minus</i>		
Negative Modifications	∇	Pension/Annuity exclusion
	∇	Social Security and Tier 1 Railroad Retirement exclusion
	∇	Interest on U.S. obligations
	∇	State and Federal pensions
	∇	Disability income exclusion
	∇	Exclusion of certain dividends
	∇	Accelerated death benefits
	∇	Contributions to NYS college choice tuition savings program
	∇	Deferral of gain from sale on qualified emerging technology investments
	∇	Payments to victims of Nazi persecution
	∇	Militia compensation
	∇	Exclusion for living human organ donors
	∇	Exclusion of compensation for active service in a combat zone
	∇	Other subtractions
<i>plus</i>		
Positive Modifications	•	Interest on state and local bonds from other states
	•	Public employee retirement contributions
	•	Unqualified withdrawals from college choice savings accounts
	•	Other additions
<i>equals</i>		
New York Adjusted Gross Income		
<i>minus</i>		
Deductions	•	Standard deduction or
	∇	Itemized deductions
<i>minus</i>		
Exemptions	∇	Dependent exemptions

IMPACT ON PERSONAL INCOME TAX LIABILITY

<i>equals</i>		
New York Taxable Income	•	Multiplied by tax rate schedule
<i>yields</i>		
New York Tax Liability Before Credits		
<i>minus</i>		
Credits	∇	Household credit
	∇	Earned income credit
	∇	Child and dependent care credit
	∇	Real property tax credit
	∇	Farmer's school property tax credit
	∇	Investment credit
	∇	Investment credit for financial securities industry
	∇	Accumulation distribution credit
	∇	Empire zone and zone equivalent areas tax credits
	∇	Qualified empire zone enterprise credits
	∇	Solar electricity generating equipment credit
	∇	Credit for employment of persons with disabilities
	∇	Qualified emerging technology companies credits
	∇	College tuition credit
	∇	Credit for the purchase of an automated external defibrillator
	∇	Green building credit
	∇	Low income housing credit
	∇	Long-term care insurance credit
	∇	Empire state film, post production, and commercial production credits
	∇	Brownfields tax credits
	∇	Nursing home assessment tax credit
	∇	Special additional mortgage recording tax credit
	∇	Security training tax credit
	∇	Empire state child credit
	∇	Enhanced state earned income tax credit for certain non-custodial parents
	∇	Volunteer firefighters and ambulance workers credit
	∇	Biofuel production credit
	∇	Land conservation easement credit
	∇	Rehabilitation of historic properties credit
	∇	Historic homeownership rehabilitation credit
	∇	Clean heating fuel credit
	∇	Excelsior jobs program (EJP) tax credits
	∇	Resident credit
<i>equals</i>		
New York Tax Liability After Credits		
∇ Tax expenditure		

SUMMARY OF TAX EXPENDITURES

The Joint Committee on Taxation (JCT) of the U.S. Congress publishes an annual report on Federal Tax Expenditures.⁴ One feature of this report is that tax expenditures are presented by Federal budgetary outlay categories.⁵ JCT classifies Federal tax expenditures into 12 different outlay categories. This classification allows policymakers to consider tax expenditures in the same policy context as direct expenditures, should they choose to do so. This section of the *New York State Tax Expenditure Report* attempts to provide the same form of data presentation.

The state tax expenditures are listed by the general policy area. The classification scheme utilized for this report attempts to follow – where practicable – the JCT scheme. That is, it is not appropriate to strictly follow the JCT methodology given that the Federal report only provides data on income taxes, whereas New York’s report includes many additional taxes (i.e., Bank Tax, Insurance Tax, Corporation Tax, Sales and Use Tax, Petroleum Business Tax, Real Estate Transfer Tax).

In addition, the Federal and New York State governments fulfill different roles in society. The classic example of the difference in their roles is that the Federal government, unlike New York State, makes outlays for the purpose of national defense. Similarly, New York does not typically engage in international affairs. Accordingly, the JCT categories were modified slightly to better represent the various functions of New York State government. The categories for New York State tax expenditures are:

- Government;
- General Science and Technology;
- Energy, Natural Resources, and Environment;
- Agriculture;
- Economic Development;
- Other Business and Commerce;
- Housing;
- Transportation;
- Education and Training;
- Social Services;
- Health;
- Income Security, Social Security, and Railroad Retirement;
- Veterans’ Benefits and Services; and
- General Purpose Fiscal Assistance.

In keeping with JCT practice, several individual (personal) income tax expenditures were classified into multiple categories. These specific tax expenditures are the itemized deduction for charitable contributions (found in the Education and Training, Social Services, and Health categories), the itemized deduction for taxes paid (only a portion of which is found in Education and Training and General Purpose Fiscal Assistance), and dependent exemptions (only a portion of which is found in Education and Training). In keeping with

⁴Joint Committee on Taxation, *Estimates of Federal Tax Expenditures for Fiscal Years 2011-2014* (JCS-3-10), December 15, 2010.

⁵ For a discussion of the origins and uses of the Federal budget functions, see U.S. General Accounting Office. *Budget Function Classifications: Origins, Trends, and Implications for Current Use*. GAO/AIMD-98-67. Washington, D.C., February 1998.

SUMMARY OF TAX EXPENDITURES

this scheme, it was also necessary to classify several Sales and Use Tax expenditures into multiple categories. These include the exemptions for New York State and its political subdivisions (found in Government and Education and Training) and the exemption for charitable organizations (found in the Education and Training, Social Services, and Health).

Table 1 shows the five largest tax expenditures, in terms of base year estimates (Minimal or larger), for each of the governmental function categories noted above. In two categories, there are less than five tax expenditures: Veterans' Benefits and Services; and General Purpose Fiscal Assistance.

Table 1
Significant Tax Expenditures by Category

Government

Tax	Description	Base Year	Item #	Amount (\$ Millions)
Sales and Use Tax	New York State Agencies and Political Subdivisions	2008	113	614.0
Sales and Use Tax	Federal Agencies	2008	115	297.0
Personal Income Tax	Exclusion of Interest on U.S. Obligations	2008	3	133.1
Petroleum Business Tax	Governments	2009	7	61.7
Sales and Use Tax	U.S. Military Post Exchanges	2008	122	8.0

General Science and Technology

Tax	Description	Base Year	Item #	Amount (\$ Millions)
Sales and Use Tax	Research and Development Property	2008	68	58.0
Corporate Franchise Tax	QETC Facilities, Operations and Training Credit	2007	14c	11.7
Personal Income Tax	QETC Facilities, Operations and Training Credit	2008	30c	6.3
Corporate Franchise Tax	Manufacturer and QETC Rate	2007	34	4.9
Personal Income Tax	QETC Capital Tax Credit	2008	30a	0.9

Energy, Natural Resources, and Environment

Tax	Description	Base Year	Item #	Amount (\$ Millions)
Petroleum Business Tax	Residential Heating	2009	8	239.7
Sales and Use Tax	Automotive Fuel Receipts Exceeding Two Dollars Per Gallon	2008	37	204.0
Corporate Franchise Tax	Brownfields Tax Credits	2007	19	127.9
Personal Income Tax	Brownfields Tax Credits	2008	38	82.3
Petroleum Business Tax	Crude Oil and Liquid petroleum Gases	2009	3	47.9

Agriculture

Tax	Description	Base Year	Item #	Amount (\$ Millions)
Sales and Use Tax	Farm Production and Commercial Horse Boarding	2008	67	66.0
Personal Income Tax	Farmers' School Property Tax Credit	2008	22	28.6
Sales and Use Tax	Fuel, Gas, Electricity, Refrigeration, and Steam Used in Farming and Commercial Horse Boarding	2008	32	13.0
Petroleum Business Tax	Fuel Used for Farm Production	2009	10	7.8
Corporate Franchise Tax	Farmers' School Property Tax Credit	2007	12	1.1

SUMMARY OF TAX EXPENDITURES

Economic Development

Tax	Description	Base Year	Item #	Amount (\$ Millions)
Corporate Franchise Tax	Exclusion of Interest, Dividends, and Capital Gains from Subsidiary Capital	2007	1	1,796.1
Corporate Franchise Tax	QEZE Real Property Tax Credit	2007	10d	118.6
Corporate Franchise Tax	Investment and Retail Enterprise Tax Credit, Employment Incentive Credit, and Rehabilitation Credit for Historic Barns	2007	7	99.0
Bank Tax	Deduction of 60 Percent of Dividend income and Excess Gains from Subsidiary Capital	2007	4	84.7
Corporate Franchise Tax	Empire State Film Production Credit	2007	20a	61.4

Other Business and Commerce

Tax	Description	Base Year	Item #	Amount (\$ Millions)
Sales and Use Tax	Precious Metal Bullion and Coins	2008	98	382.0
Personal Income Tax	Miscellaneous Deductions Subject to 2 Percent of AGI Limitation	2008	17f	370.5
Sales and Use Tax	Machinery and Equipment Used in Production	2008	69	302.0
Sales and Use Tax	Fuel, Gas, Electricity, Refrigeration and Steam Used in Research & Development and Production	2008	31	290.0
Insurance Tax	Exclusion from the Premiums Tax of Premiums Written on Certain Reinsurance Policies	2007	7	228.2

Housing

Tax	Description	Base Year	Item #	Amount (\$ Millions)
Personal Income Tax	Interest Deduction	2008	17b	1,327.4
Sales and Use Tax	Capital Improvement Installation Services	2008	5	582.0
Sales and Use Tax	New Mobile Homes	2008	88	2.0
Corporate Franchise Tax	Credit for Rehabilitation of Historic Properties	2007	24	0.3
Personal Income Tax	Low-Income Housing Credit	2008	34	0.1

Transportation

Tax	Description	Base Year	Item #	Amount (\$ Millions)
Sales and Use Tax	Fuel Sold to Airlines	2008	43	153.0
Petroleum Business Tax	Bunker fuel	2009	2	56.2
Sales and Use Tax	Commercial Aircraft	2008	42	19.0
Sales and Use Tax	Tractor-Trailer Combinations	2008	49	7.0
Sales and Use Tax	Food Sold to Airlines	2008	17	5.0

Education and Training

Tax	Description	Base Year	Item #	Amount (\$ Millions)
Sales and Use Tax	New York State Agencies and Political Subdivisions	2008	113	614.0
Personal Income Tax	Taxes Paid Deduction	2008	17e	450.0
Personal Income Tax	College Tuition Credit	2008	31	247.8
Sales and Use Tax	Food Sold at School Cafeterias	2008	18	109.0
Personal Income Tax	Charitable Contribution Deduction	2008	17c	85.1

SUMMARY OF TAX EXPENDITURES

Social Services

Tax	Description	Base Year	Item #	Amount (\$ Millions)
Personal Income Tax	Empire State Child Credit	2008	42	655.2
Personal Income Tax	Charitable Contribution Deduction	2008	17c	487.3
Sales and Use Tax	Charitable Organizations	2008	118	353.9
Personal Income Tax	Child and Dependent Care Credit	2008	25	297.4
Sales and Use Tax	Property Sold to Contractors for Capital Improvements or Repairs for Exempt Organizations	2008	95	97.0

Health

Tax	Description	Base Year	Item #	Amount (\$ Millions)
Sales and Use Tax	Drugs, Medicine, and Medical Supplies	2008	26	860.0
Sales and Use Tax	Eyeglasses, Hearing Aids and Prosthetic Aids	2008	27	114.0
Personal Income Tax	Medical/Dental Deduction	2008	17a	108.0
Personal Income Tax	Charitable Contribution Deduction	2008	17c	41.7
Sales and Use Tax	Charitable Organizations	2008	118	30.3

Income Security, Social Security, and Railroad Retirement

Tax	Description	Base Year	Item #	Amount (\$ Millions)
Sales and Use Tax	Certain Food Products	2008	16	1,093.0
Personal Income Tax	Earned Income Credit	2008	20	811.1
Sales and Use Tax	Clothing and Footwear	2008	106	740.0
Sales and Use Tax	Residential Energy	2008	30	765.0
Personal Income Tax	Exclusion of Social Security and Tier I Railroad Retirement Benefits	2008	2	617.1

Veterans' Benefits and Services

Tax	Description	Base Year	Item #	Amount (\$ Millions)
Petroleum Business Tax	Not-For-Profit Groups and Veterans Organizations	2009	11	11.0
Sales and Use Tax	Veterans Posts or Organizations	2008	119	*
Sales and Use Tax	Veterans Home Gift Shops	2008	120	*
Petroleum Business Tax	Not-For-Profit Groups and Veterans Organizations	2009	28	*

General Purpose Fiscal Assistance

Tax	Description	Base Year	Item #	Amount (\$ Millions)
Personal Income Tax	Taxes Paid Deduction	2008	17e	300.0

RECENT LEGISLATION THAT HAS AFFECTED TAX EXPENDITURES

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

Additions:

- The Excelsior Jobs Program (EJP) Act created four new tax credits: a jobs tax credit, an investment tax credit, a research and development tax credit, and a real property tax credit. The program is administered by Empire State Development (ESD). ESD can issue up to \$50 million in new credit annually beginning on or after January 1, 2011.
- For tax years beginning on or after January 1, 2010, the rehabilitation of historic properties credit is available to bank and insurance taxpayers.
- A new Empire State film post production credit is available to Article 9-A and Article 22 taxpayers. The credit equals 10 percent of the qualified post production costs paid in the production of a qualified film at a qualified production facility. The credit is administered by the Governor's Office for Motion Picture and Television Development and is capped at \$7 million per year.
- Charges for transportation services provided by affiliated livery vehicles wholly within New York City are excluded from the sales tax on certain transportation services. The amendment is effective retroactively to June 1, 2009.

Deletions:

- The credit for accessible taxicabs for individuals with disabilities expired for tax years beginning on or after January 1, 2011.
- The alternative fuels credit expired for tax years beginning on or after January 1, 2011.
- The New York State bad debt deductions for bank taxpayers are repealed for tax years beginning on or after January 1, 2010.

Modifications:

- The Empire Zones Program expired on June 30, 2010. No new entrants will be admitted to the Program, but existing participants can continue to earn credits for several years. Taxpayers will be allowed to utilize the remainder of their five year period for the EZ wage tax credit and the remainder of their benefit period for the QEZE credits. Taxpayers will be allowed to earn additional EZ-ITC until April 1, 2014, but qualified investment projects (QUIPS) can earn EZ-ITC for their next nine tax years. The EZ-EIC will be fully available for the three years after an EZ-ITC is

RECENT LEGISLATION

- claimed if the taxpayer meets the requisite employment tests. Finally, taxpayers can continue to earn the EZ capital credit through March 31, 2014 for certified contributions in fulfillment of a pledge made to an EZ community development project.
- Taxpayers are required to defer the use and refund of certain tax credits if they exceed \$2 million in aggregate for tax years beginning on or after January 1, 2010 and before January 1, 2013.
 - An additional \$2.1 billion is authorized for the Empire State film production credit over the next five years. The Governor's Office for Motion Picture and Television Development will award \$420 million annually in 2010 through 2014. The film post production credit is funded out of this authorization.
 - The low-income house credit allocation pool is increased by \$4 million, raising the aggregate annual cap from \$24 million to \$28 million.
 - For tax years beginning on or after January 1, 2010, the rate for the credit for rehabilitation of historic properties increases from 30 percent to 100 percent of the federal credit. The credit is further amended to increase the maximum amount of credit to \$5 million per structure. The limit is imposed at the entity level for flow-through entities.
 - The rehabilitation of historic properties credit allowed under Article 9-A may no longer reduce the tax to zero. Instead, the credit may now only reduce the tax to the higher of the alternative minimum tax or the fixed dollar minimum tax.
 - For tax years beginning on or after January 1, 2010, the historic homeownership rehabilitation credit cap is increased to \$50,000, made refundable for certain taxpayers and is expanded to include more eligible locations.
 - Taxpayers certified on or after April 1, 2009 must reduce the amount of QEZE real property tax credit (RPTC) computed by 25 percent.
 - The definition of *real property taxes* for purposes of the QEZE RPTC now excludes charges for local benefits that inure to specific properties (i.e. special assessments). The exclusion applies to all open periods and future tax returns although maintenance and interest charges will be allowed for tax years prior to January 1, 2010.
 - The qualified emerging technology company facilities, operations, and training credit and the biofuel production credit have been revised to provide that the respective credit limitations will now apply at the entity level instead of the partner or shareholder level.
 - For tax years 2010 through 2012, the New York State itemized deduction for charitable contributions for taxpayers with New York adjusted gross income over \$10 million is reduced to 25 percent of their federal deduction for charitable contributions.

RECENT LEGISLATION

- An addback of the federal itemized deduction for state and local sales taxes paid has been applied to taxpayers who itemize deductions for their state income taxes.
- Effective September 1, 2010, the sales tax vendor collection credit is no longer available for monthly sales tax filers and those who are required to remit sales tax by electronic funds transfer.
- For the period of October 1, 2010 through March 31, 2011, the sales tax exemption for clothing, footwear and items used or consumed to make or repair clothing selling for less than \$110 is suspended. An exemption for clothing and footwear priced under \$55 is in effect for the April 1, 2011 through March 31, 2012 period. Beginning April 1, 2012, the exemption for clothing and footwear priced under \$110 that was in effect prior to October 1, 2010, is reinstated.

PERSONAL INCOME TAX

This section provides revenue estimates of tax expenditures for 72 provisions of the 2011 New York State Personal Income Tax. Tax expenditures are first estimated for the 2008 tax year (the latest year for which historical tax data are available) and then projected to the 2011 tax year. This section also provides historical estimates from 2004 through 2007 for comparison. Table 2 lists the income tax provisions for which estimates exist, and the estimates themselves. To provide some perspective, it also shows total Personal Income Tax liability for the 2008 tax year. The data used to generate the estimates do not include late filed returns, audited returns, or fiduciary returns because no contemporaneous data exist to make the estimates. On average, the sample used to make the estimates covers between 90 and 95 percent of total Personal Income Tax liability.

Description of Tax

The computation of the New York State Personal Income Tax starts with the Federal definition of adjusted gross income as included in the Internal Revenue Code (IRC). The IRC permits certain exclusions and adjustments in arriving at Federal adjusted gross income. New York allows several subtraction modifications and requires certain addition modifications in arriving at New York adjusted gross income (NYAGI). Taxpayers can then reduce their NYAGI by subtracting the higher of the New York standard deduction or New York itemized deductions. New York itemized deductions generally conform to Federal itemized deductions; however, certain modifications, such as an add-back for income taxes, apply. Federal law, to which New York conforms, requires certain high-income taxpayers to further limit itemized deductions. In addition, an overall New York State deduction limitation applies to upper-income taxpayers. New York taxpayers may also subtract from NYAGI a \$1,000 exemption for each dependent, not including the taxpayer and spouse.

The above computation determines taxable income. After computing taxable income, taxpayers apply a marginal tax rate schedule to compute their tax. For tax years 1997 through 2002, the top marginal rate was 6.85 percent, applying to taxable income in excess of \$20,000 for single individuals, \$30,000 for heads of households, and \$40,000 for married couples filing jointly. For tax years 2003-2005, the top rate was 7.7 percent on taxable incomes above \$500,000 for all filing statuses. For tax years 2006-2008, the top rate returned to the pre-2003 level of 6.85 percent. For tax years 2009-2011, the top rate is 8.97 percent on taxable incomes above \$500,000 for all filing statuses. If New York adjusted gross income exceeds \$100,000, then taxpayers must also compute a supplemental tax that recaptures the tax benefit that results from income being taxed at less than the top marginal rate. Taxpayers may then subtract certain credits in arriving at their actual tax liability. An add-on minimum tax then applies to certain Federal tax preference items.

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

PERSONAL INCOME TAX

The descriptive paragraph on each income tax expenditure summarizes the provision as it appears in the Tax Law in effect as of January 1, 2011. It also includes any differences applicable between the 2008 and 2011 tax years. The listing does not include provisions repealed or sunsetted prior to 2011.

Data Sources

The major sources of data used in this section and the Appendix include:

- 2008 Personal Income Tax Study File — A data file based on a statistical sample of approximately 644,000 New York State Personal Income Tax returns. The sample is weighted to be consistent with income and liability totals for the taxpayer population contained on the New York State Department of Taxation and Finance’s master file. Double-checking all sample data ensures accuracy and reliability. This data file is then used in conjunction with a Personal Income Tax simulation model, a set of complex computer programs which simulate the various features of the Tax Law and variations thereof for the years being estimated.

It is important to note that, beginning with the 2005 file, the sample size is significantly larger than in previous years. This has resulted in smaller sampling error and more accurate estimates compared to estimates prior to 2005.

- 2008 Federal Statistics of Income (SOI) — An annual statistical report produced by the U.S. Treasury Department. It contains Internal Revenue Service data collected from the Federal tax returns filed by New York residents. Verification of the data for accuracy ensures high data quality. The SOI sample of New York taxpayers contains 27,280 returns.
- Office of Management and Budget (OMB) Federal tax expenditure estimates — OMB’s estimates of Federal tax expenditure items listed in this report came from the fiscal year 2011 *Corporate and Individual Income Tax Revenue Loss Estimates for Tax Expenditures*. Historical estimates were based on prior reports.
- U.S. Congressional Joint Committee on Taxation (JCT) Federal tax expenditure estimates — JCT’s estimates of Federal tax expenditure items listed in this report came from *Estimates of Federal Tax Expenditures for Fiscal Years 2010-2014*. The JCT publishes this pamphlet annually. Historical estimates are based on prior reports.

Methodology

For estimating tax expenditures in 2011, components of income, modifications, and itemized deductions on the 2008 sample return file are extrapolated to 2011 levels using growth assumptions based on the economic forecast provided by the Division of the Budget during December 2010. This data file is then used with the Personal Income Tax model revised to simulate 2011 tax law.

The Federal Office of Management and Budget and U.S. Joint Committee on Taxation tax expenditure estimates of Federal tax expenditure items are prorated to New York using New York's share of total U.S. personal income and applying New York State effective tax rates.

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

PERSONAL INCOME TAX

Table 2
2011 Personal Income Tax Expenditure Estimates
(2008 Total Personal Income Tax Liability = \$31,629 Million)
(Millions of Dollars)

Tax Item	History					Forecast	Reliability
	2004	2005	2006	2007	2008	2011	Level
New York Modifications							
1. Pension/Annuity Exclusion	371.6	434.4	472.1	508.9	503.1	512.0	1
2. Exclusion of Social Security and Tier I Railroad Retirement Benefits (Taxable Social Security for Federal Purposes but New York Exempt)	413.3	483.8	568.2	608.2	617.1	726.0	1
3. Exclusion of Interest on U.S. Obligations	95.2	127.2	168.9	217.7	133.1	77.0	1
4. Exclusion of Pensions, Annuities, Interest, and Lump Sum Payments Received by New York State and Municipal Retirees	510.7	575.7	609.8	609.5	607.4	727.0	1
5. Exclusion of Pensions, Annuities, Interest, and Lump Sum Payments by Federal Retirement Systems	104.6	117.9	123.6	122.6	120.9	140.0	1
6. Disability Income Exclusion	N/A	N/A	N/A	N/A	N/A	N/A	5
7. Exclusion of Interest or Dividends on Obligations or Securities of a U.S. Agency	N/A	N/A	N/A	N/A	N/A	N/A	5
8. Exclusion of Interest or Dividend Income on Obligations or Securities Taxable for Federal Purposes but Exempt for New York Tax Purposes	N/A	N/A	N/A	N/A	N/A	N/A	5
9. Exclusion of Accelerated Death Benefits and Viatical Settlements	*	*	*	*	*	*	4
10. Exclusion for Contributions to New York State College Choice Tuition Savings Program	37.6	40.1	44.9	50.3	45.9	58.0	1
11. Deferral of Gain from Sale of Qualified Emerging Technology Investments	*	*	*	*	*	*	4
12. Exclusion of Payments to Victims of Nazi Persecution	*	*	*	*	*	*	4
13. Exclusion of Compensation for Members of an Organized Militia	*	*	*	*	*	*	4
14. Exclusion for Living Human Organ Donors	--	--	--	*	*	*	4
15. Exclusion of Compensation for Service in a Combat Zone for Members of the Armed Services	--	--	--	--	*	*	4
New York Itemized Deductions and Exemptions							
16. Value of Standard Deductions for Those Returns with Itemized Deductions in Excess of Standard Deduction	1,477.4	1,561.6	1,614.6	1,681.5	1,681.4	1,689.0	1
17. Itemized Deductions							
a. Medical/Dental Deduction	85.7	94.3	100.7	114.4	108.0	101.0	1
b. Interest Deduction	856.9	1,017.6	1,175.4	1,343.7	1,327.4	1,460.0	1
c. Charitable Contribution Deduction	556.5	624.1	623.2	686.0	614.1	603.0	1
d. Casualty/Theft Deduction	3.4	6.8	5.6	3.8	6.0	4.5	1
e. Taxes Paid Deduction	510.0	585.0	650.0	735.0	750.0	850.0	1
f. Miscellaneous Deductions Subject to 2 Percent of AGI Limitation	335.3	344.1	337.4	356.9	370.5	352.0	1
g. Other Miscellaneous Deductions	37.3	42.6	38.6	43.4	95.7	56.0	1
18. Dependent Exemptions	291.3	286.8	293.2	299.4	293.9	305.0	1
New York Credits							
19. Household Credit	96.6	96.2	95.9	96.7	93.2	94.0	1
20. Earned Income Credit	662.6	700.0	759.7	858.1	811.1	880.0	1
21. Real Property Tax Credit (Circuit Breaker)	29.9	29.6	26.8	31.0	25.5	27.0	1

PERSONAL INCOME TAX

Tax Item	History					Forecast	Reliability
	2004	2005	2006	2007	2008	2011	Level
22. Farmers' School Property Tax Credit	24.3	24.8	24.3	26.0	28.6	30.0	1
23. Investment Credit ^{2,6}	28.1	24.0	23.1	25.7	25.2	26.0	1
24. Investment Credit for Financial Services Industry ^{2,6}	0.2	0.3	0.3	0.1	0.5	0.5	1
25. Child and Dependent Care Credit	339.3	341.6	352.3	332.3	297.4	300.0	1
26. Accumulation Distribution Credit ²	*	0.2	0.2	0.1	*	*	1
27. Empire Zone (EZ) and Zone Equivalent Areas Tax Credit ^{2,6}							1
a. EZ Investment Tax Credit and Employment Incentive Credit	25.5	11.9	16.1	17.8	12.2	10.0	1
b. EZ/ZEA Wage Tax Credit	50.1	31.7	32.3	30.0	17.0	15.0	1
c. EZ Capital Credit	2.2	2.0	2.0	1.5	1.2	1.0	1
28. Solar Energy System Equipment Credit ^{1,2,6}	0.5	0.4	1.7	2.3	3.2	4.0	1
29. Credit for Employment of Persons with Disabilities ^{2,6}	0.1	*	*	*	*	*	1
30. Qualified Emerging Technology Company Credits							
a. QETC Capital Tax Credit ^{2,6}	0.5	0.5	1.0	0.5	0.9	1.0	1
b. QETC Employment Credit ^{2,6}	0.1	0.2	0.2	0.2	0.2	0.2	1
c. QETC Facilities, Operations and Training Credit ⁶	--	1.1	2.3	3.4	6.3	6.0	1
31. College Tuition Credit ³	205.8	209.5	229.9	227.3	247.8	252.0	1
32. Credit for Purchase of an Automated External Defibrillator ^{2,6}	*	0.1	0.1	0.1	*	*	1
33. Green Building Credit ^{2,6}	0.9	0.7	0.8	0.3	*	0.1	1
34. Low-Income Housing Credit ^{2,6}	*	0.1	*	0.1	0.1	0.1	1
35. Qualified Empire Zone (QEZE) Credits ^{2,6}							1
a. QEZE Real Property Tax Credit	73.4	81.4	103.8	100.9	70.7	65.0	1
b. QEZE Tax Reduction Credit	27.3	39.2	41.8	53.1	29.8	25.0	1
36. Long-Term Care Insurance Credit ²	75.1	47.3	56.9	63.6	63.9	70.0	1
37. Empire State Film and Commercial Production Credits							
a. Empire State Film Production Credit ²	0.7	0.3	2.8	5.8	8.3	15.0	1
b. Empire State Film Post Production Credit	--	--	--	--	--	*	4
c. Empire State Commercial Production Credit ⁶	--	--	--	0.9	2.6	6.0	1
38. Brownfields Tax Credits ⁶	--	*	28.2	88.0	82.3	354.0	1
39. Nursing Home Assessment Tax Credit	--	5.3	8.4	11.3	12.3	12.0	1
40. Special Additional Mortgage Recording Tax Credit ^{2,4,6}	--	19.2	18.2	19.3	11.2	13.0	1
41. Security Training Tax Credit ^{2,6}	--	*	*	0.2	*	0.2	1
42. Empire State Child Credit	--	--	642.3	660.0	655.2	700.0	1
43. Enhanced State Earned Income Tax Credit for Certain Non-Custodial Parents	--	--	2.1	2.1	2.8	3.5	1
44. Volunteer Firefighters and Ambulance Workers Credit	--	--	--	13.9	13.0	14.0	1
45. Biofuel Production Credit ⁶	--	--	*	0.3	5.8	10.0	1
46. Land Conservation Easement Credit ⁶	--	--	1.0	1.1	1.1	1.1	1
47. Rehabilitation of Historic Properties Credit ⁶	--	--	--	0.2	0.1	5.0	1
48. Historic Homeownership Rehabilitation Credit ⁶	--	--	--	*	*	5.0	1
49. Clean Heating Fuel Credit ^{5,6}	--	--	0.3	0.5	0.3	0.4	1
50. Excelsior Jobs Program (EJP) Tax Credits	--	--	--	--	--	25.0	5

PERSONAL INCOME TAX

Tax Item	History					Forecast	Reliability
	2004	2005	2006	2007	2008	2011	Level
¹ A new tax expenditure item or a revision of the methodology or revisions in the data sources resulted in an estimate which better reflects the tax expenditure value.							
² Beginning in 2005, credit estimates include non-refundable amount used to reduce current year tax liability. Figure also includes refundable amounts where applicable.							
³ Estimate includes value of itemized deduction and credit.							
⁴ Claims of this credit for tax years 2004 and 2005 were reported in aggregate on 2005 tax returns.							
⁵ The clean heating fuel credit is reinstated for period January 1, 2008 through December 31, 2011. The clean heating fuel credit had expired on June 30, 2007.							
⁶ For tax years 2010, 2011, and 2012, credits subject to deferral.							
[*] Less than \$0.1 Million							
^{**} The tax expenditure was not applicable for these years.							
N/A No data available.							

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

New York Modifications

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

1. **Pension/Annuity Exclusion**

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

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

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

Estimates: 2008: \$503.1 million — 2011: \$512.0 million

Data Source: PIT Simulation Model

Reliability: Level 1

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

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

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

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

Estimates: 2008: \$617.1 million — 2011: \$726.0 million

Data Source: PIT Simulation Model

Reliability: Level 1

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

Citation: Section 612(c)(1)

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

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

Estimates: 2008: \$133.1 million — 2011: \$77.0 million

Data Source: PIT Simulation Model

Reliability: Level 1

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

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

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

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

Estimates: 2008: \$607.4 million — 2011: \$727.0 million

PERSONAL INCOME TAX

- Data Source:** PIT Simulation Model
Reliability: Level 1
5. **Exclusion of Pensions, Annuities, Interest, and Lump Sum Payments by Federal Retirement Systems**
Citation: Section 612(c)(3)(ii)
Effective Date: Effective for tax years beginning on or after January 1, 1989
Description: Payments received by officers and employees (and their beneficiaries) from Federal retirement systems, to the extent includable in Federal adjusted gross income, may be subtracted in determining New York adjusted gross income. A 1989 U.S. Supreme Court ruling (*Davis v. Michigan Department of Treasury*) mandated that states must provide equal tax treatment for Federal and state/local pensions.
Estimates: 2008: \$120.9 million — 2011: \$140.0 million
Data Source: PIT Simulation Model
Reliability: Level 1
6. **Disability Income Exclusion**
Citation: Section 612(c)(3-b)
Effective Date: Effective for taxable years beginning after December 31, 1983
Description: A taxpayer may subtract up to \$5,200 of disability income included in Federal adjusted gross income, to the extent that such income would have been excluded from Federal gross income prior to January 1, 1984, under the repealed provisions of IRC Section 105(d). The total exclusion for disability and pension and annuity income may not exceed \$20,000. The exclusion is reduced by the amount that the taxpayer's adjusted gross income exceeds \$15,000.
Estimate: No data available. Included in "other" category for New York modifications in second pass data and, therefore, cannot be separately identified.
Reliability: Level 5
7. **Exclusion of Interest or Dividends on Obligations or Securities of a U.S. Agency**
Citation: Section 612(c)(2)
Effective Date: Effective for taxable years on or after January 1, 1960
Description: Taxpayers may subtract from Federal adjusted gross income, interest or dividend income on obligations or securities of a U.S. agency, to the extent that such income has been included in Federal adjusted gross income. Federal law prohibits New York from taxing this income.
Estimate: No data available. Included in "other" category for New York modifications in second pass data and, therefore, cannot be separately identified.
Reliability: Level 5
8. **Exclusion of Interest or Dividend Income on Obligations or Securities Taxable for Federal Purposes but Exempt for New York Tax Purposes**
Citation: Section 612(c)(6)
Effective Date: Effective for taxable years beginning on or after January 1, 1960
Description: The taxpayer may subtract from Federal adjusted gross income interest or dividend income on obligations or securities, to the extent that such income is exempt for New York income tax purposes under New York law but is subject to Federal income tax.

Estimate: No data available. Included in “other” category for New York modifications in second pass data and, therefore, cannot be separately identified.

Reliability: Level 5

9. **Exclusion of Accelerated Death Benefits and Viatical Settlements**

Citation: Section 612(c)(30)

Effective Date: Effective for taxable years beginning on or after January 1, 1991 for death benefits and for payments received on or after July 27, 1994 on viatical settlements

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

Estimates: 2008: Minimal — 2011: Minimal

Data Source: Federal Office of Management and Budget

Reliability: Level 4

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

Citation: Section 612(c)(32)

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

Description: Taxpayers may subtract from Federal adjusted gross income up to \$5,000 per year (\$10,000 for married couples filing jointly) of contributions to “family tuition accounts,” as defined in Article 14-A of the Education Law, to the extent not deductible or eligible for credit for Federal tax purposes. The maximum account balance may not exceed \$235,000 per beneficiary, and the State Comptroller has authority to increase this figure to reflect increases in higher education costs.

Estimates: 2008: \$45.9 million — 2011: \$58.0 million

Data Source: PIT Simulation Model

Reliability: Level 1

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

Citation: Section 612(c)(34)

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

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

Estimates: 2008: Minimal — 2011: Minimal

Data Source: Industry Data

Reliability: Level 4

PERSONAL INCOME TAX

- 12. Exclusion of Payments to Victims of Nazi Persecution**
Citation: Sections 612(c)(35) and (36)
Effective Date: Effective for taxable years beginning on or after January 1, 1995
Description: Taxpayers may subtract certain distributions, to the extent included in FAGI, made based on their status as a victim of Nazi persecution as defined in Public Law 103-286. The subtraction also applies to distributions received by victims' spouses and needy descendants. In addition, a subtraction is allowed for items of income included in FAGI attributable to assets stolen or hidden from, or otherwise lost by victims of Nazi persecution immediately prior to, during, or after World War II.
Estimates: 2008: Minimal — 2011: Minimal
Data Source: New York State Banking Department
Reliability: Level 4
- 13. Exclusion of Compensation for Members of an Organized Militia**
Citation: Section 612(c)(8-b)(i)(ii)
Effective Date: Effective for taxable years beginning on or after January 1, 2004
Description: An individual who is a member of a New York State organized militia may subtract from Federal adjusted gross income compensation received for performing active service within New York State pursuant to active duty orders issued by the Governor or the Federal government.
Estimates: 2008: Minimal — 2011: Minimal
Data Source: Estimates from Division of the Budget
Reliability: Level 4
- 14. Exclusion for Living Human Organ Donors**
Citation: Section 612(c)(38)
Effective Date: Effective for taxable years beginning on or after January 1, 2007
Description: Resident taxpayers may subtract certain unreimbursed expenses from Federal adjusted gross income which are incurred by the taxpayer while donating one or more of their human organs, while living, to another human being for human organ transplantation. Unreimbursed expenses include travel expenses, lodging expenses and lost wages. In addition, a "human organ" is defined as all or part of a liver, pancreas, kidney, intestine, lung or bone marrow. The subtraction can only be claimed once and must be claimed in the taxable year in which the human organ transplantation occurs. The maximum allowable subtraction is \$10,000 per taxpayer.
Estimates: 2008: Minimal — 2011: Minimal
Data Source: Estimates from Division of the Budget
Reliability: Level 4
- 15. Exclusion of Compensation for Service in a Combat Zone for Members of the Armed Services of the United States**
Citation: Section 612(c)(8-c)
Effective Date: Effective for taxable years beginning on or after January 1, 2008
Description: An individual who is a member of the armed services of the United States may subtract from federal adjusted gross income compensation received for performing active service in an area designated by the President of the United States by executive order as a "combat zone."

Estimates: 2008: Minimal — 2011: Minimal
Data Source: Estimates from Division of the Budget
Reliability: Level 4

New York Itemized Deductions and Exemptions

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

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

Citation: Section 614

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

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

Estimates: 2008: \$1,681.4 million — 2011: \$1,689.0 million

Data Source: PIT Simulation Model

Reliability: Level 1

17. **Itemized Deductions**

Taxpayers who itemize deductions on their Federal returns may also itemize on their New York State returns if the aggregate of such deductions, minus state and local income taxes and certain other modifications, exceeds the New York standard deduction.

New York itemized deductions flow through from Federal law. Thus, the citations below reference the Internal Revenue Code. They are authorized in New York Tax Law, Article 22, Section 615. New York limits the availability of itemized deductions for certain high income taxpayers. The percentage of disallowed deductions varies according to the taxpayer’s NYAGI and filing status. Itemized deductions for a single taxpayer with NYAGI in excess of \$100,000 are reduced by up to 25 percent. This reduction also applies to married taxpayers filing jointly with NYAGI in excess of \$200,000 and heads of household with NYAGI exceeding \$250,000. For all taxpayers with NYAGI above \$475,000, itemized deductions are reduced by up to an additional 25 percent, equaling 50 percent for all taxpayers with NYAGI above \$525,000. Beginning in tax year 2009 and after, the New York itemized deduction limitation has been revised to further limit a taxpayer’s New York itemized deduction. If a taxpayer’s NYAGI is more than \$1,000,000, the New York itemized deduction is now limited to 50 percent of the federal itemized deduction for charitable contributions. Beginning in tax year 2010 and ending after tax year 2012, taxpayers with NYAGI over \$10,000,000 will have the New York itemized deduction further limited to 25 percent of the federal itemized deduction for charitable contributions. All other federal itemized deductions will be reduced to zero based on the new limitation.

PERSONAL INCOME TAX

For tax years prior to 2010, the Federal itemized deduction limitation further reduced the value of the deductions. However, for tax years 2010 through 2012, the Federal itemized deduction limitation is completely eliminated.

a. **Medical/Dental Deduction**

Citation: IRC Section 213

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

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

Estimates: 2008: \$108.0 million — 2011: \$101.0 million

Data Source: PIT Simulation Model

Reliability: Level 1

b. **Interest Deduction**

Citation: IRC Section 163

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

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

Estimates: 2008: \$1,327.4 million — 2011: \$1,460.0 million

Data Source: PIT Simulation Model

Reliability: Level 1

c. **Charitable Contribution Deduction**

Citation: IRC Section 170

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

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

Estimates: 2008: \$614.1 million — 2011: \$603.0 million

Data Source: PIT Simulation Model

Reliability: Level 1

d. **Casualty/Theft Deduction**

Citation: IRC Section 165

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

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

Estimates: 2008: \$6.0 million — 2011: \$4.5 million

Data Source: PIT Simulation Model

Reliability: Level 1

e. **Taxes Paid Deduction**

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

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

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

Estimates: 2008: \$750.0 million — 2011: \$850.0 million

Data Source: PIT Simulation Model

Reliability: Level 1

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

Citation: IRC Sections 67, 212, 280A

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

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

Estimates: 2008: \$370.5 million — 2011: \$352.0 million

Data Source: PIT Simulation Model

Reliability: Level 1

g. **Other Miscellaneous Deductions**

Citation: IRC Section 67

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

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

Estimates: 2008: \$95.7 million — 2011: \$56.0 million

Data Source: PIT Simulation Model

Reliability: Level 1

18. **Dependent Exemptions**

Citation: Section 616

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

PERSONAL INCOME TAX

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

Estimates: 2008: \$293.9 million — 2011: \$305.0 million

Data Source: PIT Simulation Model

Reliability: Level 1

New York Credits

Credits are amounts which may be subtracted from the individual's computed State tax liability. Improvements in data sources and methodology now allow the reporting of credit claims by New York adjusted gross income class for many of the largest income tax credits for tax year 2008. Furthermore, the nonrefundable credit amounts reported for 2008 are credit "used" to reduce liability for the tax year. For tax years beginning in 2010 and ending after tax year 2012, taxpayers are required to defer the use and refund of certain tax credits if they exceed \$2 million in aggregate. See Table 2 for a list of affected tax credits.

19. Household Credit

Citation: Section 606(b)

Credit Type: Non-refundable/Non-carryforward

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

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

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

Estimates: 2008: \$93.2 million — 2011: \$94.0 million

Data Source: PIT Study File

Reliability: Level 1

20. Earned Income Credit

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

Credit Type: Refundable (Residents only)

Effective Date: Effective for taxable years beginning after 1993

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

PERSONAL INCOME TAX

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

The table below shows income eligibility parameters and maximum amounts for the 2011 tax year:

	Maximum Creditable Earnings	Federal Credit Rate	Maximum State Credit	Income for Start of Phase-out (MFJ)*	Others	Income Cut-off (MFJ)*	Others
Taxpayers With 1 Child	\$9,100	34%	\$928	\$21,770	\$16,690	\$41,132	\$36,052
Taxpayers With 2 Children	\$12,780	40%	\$1,534	\$21,770	\$16,690	\$46,044	\$40,964
Taxpayers With 3 or More Children	\$12,780	45%	\$1,725	\$21,770	\$16,690	\$49,078	\$43,998
Taxpayers Age 25-64 Without Children	\$6,070	7.65%	\$139	\$12,670	\$7,590	\$18,740	\$13,660

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

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

Estimates: 2008: \$811.1 million — 2011: \$880.0 million

Data Source: Earned Income Tax Credit Study

Reliability: Level 1

21. Real Property Tax Credit (Circuit Breaker)

Citation: Section 606(e)

Credit Type: Refundable

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

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

Estimates: 2008: \$25.5 million — 2011: \$27.0 million

Data Source: Real Property Tax Credit Study

Reliability: Level 1

22. Farmers' School Property Tax Credit

Citation: Section 606(n)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after January 1, 1997

Description: Taxpayers primarily engaged in farming may claim a credit equal to 100 percent of total school property taxes paid on qualified New York agricultural property up to 350 acres, and 50 percent of the school taxes paid on acres in excess

PERSONAL INCOME TAX

of 350. To be eligible, taxpayers must earn two-thirds of their Federal income from farming, with three-year income averaging allowed in determining this threshold. For purposes of this test, total gross income is reduced by the sum (not to exceed \$30,000) of earned income, pensions, social security, interest, and dividends. The credit begins to phase out for taxpayers with NYAGI in excess of \$200,000, after subtracting principal on farm indebtedness, and is phased out completely at \$300,000. Recapture provisions apply if the taxpayer converts the property to a nonqualified use in the two years subsequent to first use of the credit.

Estimates: 2008: \$28.6 million — 2011: \$30.0 million

Data Source: PIT Study File

Reliability: Level 1

23. **Investment Credit**

Citation: Sections 606(a), a-1

Credit Type: Non-refundable/Carryforward

Effective Date: Effective for taxable years beginning on or after January 1, 1969

Description: Taxpayers may claim an investment tax credit (ITC) of 4 percent of the cost of tangible property including buildings and structural components of buildings which are depreciable, have a useful life of four years or more, are located within the state, and are used principally for the production of goods. Eligible costs also include those associated with retail enterprises' investment in a qualified rehabilitated building, and research and development (R&D) property. The rate of credit for R&D property equals 7 percent.

Beginning in 1997, a credit applies for 25 percent of the taxpayer's qualified expenditures paid to rehabilitate historic barns and similar structures. Qualified expenditures do not qualify for the regular ITC.

Effective for tax years beginning after 1997, taxpayers who increase their number of employees may be eligible for the employment incentive credit (EIC) with respect to property acquired or constructed on or after January 1, 1997. This credit applies to property that is eligible for the investment tax credit.

The taxpayer is allowed the EIC for each of the two years next succeeding the taxable year for which the investment tax credit is allowed. The amount of the EIC is as follows:

1.5 percent of the investment tax credit base if employment is at least 101 percent but less than 102 percent of the employment base year;

2.0 percent of the investment tax credit base if employment is at least 102 percent but less than 103 percent of the employment base year;

2.5 percent of the investment tax credit base if employment is at least 103 percent of the employment base year.

Where the allowable credit exceeds the taxpayer's liability for a given year, the taxpayer may carry forward the excess credit for 10 subsequent tax years. In the case of a new business, excess credit may be received as a refund.

An 8 percent ITC is allowed if qualified property is located within State-designated Empire Zones. The regular ITC cannot be claimed for property on which an Empire Zone credit is claimed.

Estimates: 2008: \$25.2 million — 2011: \$26.0 million

Data Source: PIT Study File

Reliability: Level 1

24. **Investment Credit for Financial Services Industry**

Citation: Section 606(a)(2)(A)

Credit Type: Non-refundable/Carryforward

Effective Date: Effective for property placed in service on or after October 1, 1998, and before October 1, 2011

Description: An investment credit is allowed for qualified property used in the financial services industry. The rate of credit, maximum amounts, carryforward provisions, and recapture rules are generally the same as for the regular investment credit.

Qualified property includes property principally used in the ordinary course of the taxpayer's trade or business:

- as a broker or dealer in connection with the purchase or sale of stocks, bonds, or other securities as defined in Internal Revenue Code (IRC) Section 475(c)(2), or of commodities as defined in IRC Section 475(e), or in providing lending, loan arrangement, or loan origination services to customers in connection with the purchase or sale of securities as defined in IRC Section 475(c)(2);
- of providing investment advisory services for a regulated investment company as described in IRC Section 851.

In addition, qualified property includes property principally used in the ordinary course of the taxpayer's business as an exchange registered as a national securities exchange (such as the New York Stock Exchange) or a board of trade defined under the New York Not-For-Profit Corporation Law, or an entity wholly owned by one or more national security exchanges or boards of trade that provides automation or technical services to the national security exchanges or boards of trade.

Property purchased by a taxpayer affiliated with a regulated broker, dealer, registered investment advisor, or national securities exchange or board of trade, or property leased by a taxpayer to an affiliated regulated broker, dealer, registered investment advisor, national securities exchange, or board of trade is eligible for this credit if the property is used by the affiliate in an activity described above.

The credit is not allowed unless one of the following conditions is met:

PERSONAL INCOME TAX

- Eighty percent or more of the taxpayer's or affiliate's employees performing the administrative and support functions resulting from or relating to the qualifying uses of the property are located in New York State; OR
- The average number of the taxpayer's or affiliate's employees is equal to or greater than 95 percent of the average number of employees performing the administrative and support functions resulting from or related to the qualifying uses of such equipment and are located in New York State during the 36 months immediately preceding the year for which the credit is claimed; OR
- The number of employees located in New York State during the taxable year for which the credit is claimed is equal to or greater than 90 percent of the number of employees located in New York State on December 31, 1998 or, if the taxpayer was not a calendar year taxpayer in 1998, the last day of its first taxable year ending after December 31, 1998.

Estimates: 2008: \$0.5 million — 2011: \$0.5 million

Data Source: PIT Study File

Reliability: Level 1

25. **Child and Dependent Care Credit**

Citation: Section 606(c)

Credit Type: Refundable (Residents only)

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

Description: Taxpayers may claim a credit for a percentage of the Federal credit for household and dependent care expenses necessary to allow gainful employment. The Federal credit was significantly enhanced beginning in 2003 when allowable expenses increased from \$2,400 per child (\$4,800 maximum) to \$3,000 per child (\$6,000 maximum) and the credit rate schedule was enriched. These enhancements have been extended through tax year 2012. A husband and wife filing a joint Federal return, but electing to file separate New York returns, may apply the credit only against the tax of the spouse with the lower taxable income.

The credit equals the following percentages of the Federal credit:

- 110 percent for NYAGI of \$25,000 or less
- 110-100 percent for NYAGI between \$25,000 and \$40,000
- 100 percent for NYAGI between \$40,000 and \$50,000
- 100-20 percent for NYAGI between \$50,000 and \$65,000
- 20 percent for NYAGI greater than \$65,000

Estimates: 2008: \$297.4 million — 2011: \$300.0 million

Data Source: PIT Study File

Reliability: Level 1

26. **Accumulation Distribution Credit**

Citation: Sections 621 and 635

Credit Type: Non-refundable/Non-carryforward

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

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

Estimates: 2008: Minimal — 2011: Minimal

Data Source: PIT Study File

Reliability: Level 1

27. **Empire Zone (EZ) and Zone Equivalent Areas Tax Credits**

The Empire Zones (EZ) Program expired on June 30, 2010. No new entrants will be admitted to the Program, but existing participants can continue to earn credits for several years. Taxpayers will be allowed to utilize the remainder of their five year period for the EZ wage tax credit and the remainder of their benefit period for the Qualified Empire Zone (QEZE) credits (15 or 10 years, depending on the date of first certification). Taxpayers will be allowed to earn additional Empire Zone Investment Tax Credit (EZ-ITC) until April 1, 2014, but qualified investment projects can earn EZ-ITC for their next nine tax years. The Empire Zone Employment Incentive Credit (EZ-EIC) will be fully available for the three years after an EZ-ITC is claimed if the taxpayer meets the requisite employment tests. Finally, taxpayers can continue to earn the EZ capital credit through March 31, 2014 for certified contributions in fulfillment of a pledge made to an EZ community development project.

a. **EZ Investment Tax Credit and Employment Incentive Credit**

Citation: Sections 606(j), (j-1)

Credit Type: Refundable to new business only

Effective Date: Effective for tax years beginning on or after January 1, 1986

Description: Taxpayers may qualify for an investment tax credit of 8 percent of the cost or other Federal basis of tangible personal property, including buildings and structural components of buildings located within a designated Empire Zone.

In addition, effective for property placed in service on or after January 1, 1997, an employment incentive credit applies. This credit applies for taxpayers that increase their average number of employees by at least one percentage point over the preceding base year.

Estimates: 2008: \$12.2 million — 2011: \$10.0 million

<i>EZ Investment Tax Credit and Employment Incentive Credit Claims in 2008</i>		
<i>By New York Adjusted Gross Income</i>		
NYAGI	Number of Claims	Amount Claimed (millions \$)
Less than \$10,000	42	\$1.1
\$ 10,000 - \$24,999	18	Less than \$50,000
\$ 25,000 - \$49,999	82	\$0.3
\$ 50,000 - \$99,999	221	\$0.4
\$100,000 - \$199,999	306	\$1.1
\$200,000 and over	665	\$9.3
Total:	1,334	\$12.2

Data Source: PIT Study File

Reliability: Level 1

PERSONAL INCOME TAX

b. **EZ/ZEA Wage Tax Credit**

Citation: Section 606(k)

Credit Type: Refundable to new business only

Effective Date: Effective for tax years beginning on or after January 1, 1986

Description: A taxpayer may claim a wage tax credit for doing business and creating jobs in Empire Zones. The credit has two components. This credit equals the product of the average number of newly hired targeted Empire Zone employees receiving Empire Zone wages times \$3,000. The corresponding credit amount for other employees equals the product of the average number of newly hired nontargeted Empire Zone employees receiving Empire Zone wages times \$1,500. Taxpayers certified in Investment Zones may claim an additional \$500 for each employee paid over \$40,000 in wages. Taxpayers employing individuals in areas eligible to become Empire Zones but not so designated (Zone Equivalent Areas, or ZEAs) may take a credit for Empire Zone wages paid for full-time employment in jobs created in the ZEA. The ZEA credit expired in 2004, but taxpayers are allowed to use carryforwards until exhausted. The total wage tax credit cannot exceed 50 percent of tax due before credits.

Estimates: 2008: \$16.0 million — 2011: \$15.0 million

***EZ/ZEA Wage Tax Credit Claims in 2008
By New York Adjusted Gross Income***

NYAGI	Number of Claims	Amount Claimed (Millions \$)
Less than \$10,000	75	\$0.9
\$ 10,000 - \$24,999	72	(Less than \$50,000)
\$ 25,000 - \$49,999	163	\$0.2
\$ 50,000 - \$99,999	595	\$0.9
\$100,000 - \$199,999	681	\$1.8
\$200,000 and over	1,451	\$12.3
Total:	3,037	\$16.0

Data Source: PIT Study File

Reliability: Level 1

c. **EZ Capital Credit**

Citation: Section 606(l)

Credit Type: Non-refundable/Carryforward

Effective Date: Effective for tax years beginning on or after January 1, 1986

Description: Taxpayers may qualify for credit for direct equity investments in certified zone businesses and contributions to community development projects. The credit equals 25 percent of the sum of each type of investment. The maximum credit per taxpayer is \$200,000 and cannot exceed one half of the taxpayer's pre-credit tax.

Estimates: 2008: \$1.2 million — 2011: \$1.0 million

*EZ Capital Credit Claims in 2008
By New York Adjusted Gross Income*

NYAGI	Number of Claims	Amount Claimed (Millions \$)
Less than \$10,000	4	(Less than \$50,000)
\$ 10,000 - \$24,999	3	(Less than \$50,000)
\$ 25,000 - \$49,999	55	(Less than \$50,000)
\$ 50,000 - \$99,999	166	\$0.1
\$100,000 - \$199,999	211	\$0.1
\$200,000 and over	507	\$1.0
Total:	946	\$1.2

Data Source: PIT Simulation Model

Reliability: Level 1

28. Solar Energy System Equipment Credit

Citation: Section 606(g-1)

Credit Type: Non-refundable/Carryforward

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

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

Estimates: 2008: \$3.2 million — 2011: \$4.0 million

Data Source: PIT Study File

Reliability: Level 1

29. Credit for Employment of Persons with Disabilities

Citation: Section 606(o)

Credit Type: Non-refundable/Carryforward

Effective Date: Effective for taxable years beginning on or after January 1, 1998, applicable to individuals who begin work on or after January 1, 1997

Description: Employers may claim a credit equal to 35 percent of the first \$6,000 of wages paid to workers with disabilities, as certified by the State Department of Education or other designated State agency. The credit applies for the second year of employment if a Federal work opportunity tax credit applies for the first year. Alternatively, taxpayers may claim the credit based on the first year of employment if no work opportunity tax credit applies.

Estimates: 2008: Minimal — 2011: Minimal

Data Source: PIT Study File

Reliability: Level 1

PERSONAL INCOME TAX

30. **Qualified Emerging Technology Company (QETC) Credits**

a. **QETC Capital Tax Credit**

Citation: Section 606(r)

Credit Type: Non-refundable/Carryforward

Effective Date: Effective for tax years beginning on or after January 1, 1999

Description: Taxpayers who make a qualified investment in a certified QETC can receive a credit that varies depending upon how long the investment is held. Taxpayers claim the credit in the year the investment is made and certify the duration of the holding period. Investments held for four years from the close of the tax year in which the credit is first claimed qualify for a 10 percent credit. Investments held for nine years qualify for a 20 percent credit. If the property is sold, transferred, or disposed of prior to the end of the holding period, the taxpayer must recapture a portion of the credit. The aggregate limits for all years are \$150,000 for the 10 percent credit, and \$300,000 for the 20 percent credit. The amount of credit deducted may not exceed 50 percent of the tax due before any credits.

Estimates: 2008: \$0.9 million — 2011: \$1.0 million

Data Source: PIT Study File

Reliability: Level 1

b. **QETC Employment Credit**

Citation: Section 606(q)

Credit Type: Refundable

Effective Date: Effective for tax years beginning on or after January 1, 1999

Description: A QETC may receive a credit equaling \$1,000 for each individual employed over a base year level and is allowed for three years.

Estimates: 2008: \$0.2 million — 2011: \$0.2 million

Data Source: PIT Study File

Reliability: Level 1

c. **QETC Facilities, Operations, and Training Credit**

Citation: Section 606(nn)

Credit Type: Refundable

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

Description: QETCs may receive this credit which consists of three components. The first is an 18 percent credit for qualified research and development property. The second is a 9 percent credit for qualified research expenses. The third is a 100 percent credit for employee training expenses, up to \$4,000 per employee per year. The credit is available for four consecutive years, although a taxpayer relocating from an academic incubator facility is entitled to an additional year. The credit is capped at \$250,000 per taxpayer per year. In the case of partnerships, S corporations, and limited liability companies, the aggregate credit that flows to all partners, shareholders, or members of each entity cannot exceed \$250,000 per year. The credit expires after December 31, 2011.

Estimates: 2008: \$6.3 million — 2011: \$6.0 million

Data Source: PIT Study File

Reliability: Level 1

31. College Tuition Credit/Deduction

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

Credit Type: Refundable

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

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

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

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

Estimates: 2008: \$247.8 million — 2011: \$252.0 million

*College Tuition Credit/Deduction in 2008
By New York Adjusted Gross Income*

NYAGI	Number of Taxpayers	Tax Expenditure (Millions \$)
Less than \$10,000	79,348	\$20.9
\$ 10,000 - \$24,999	137,031	\$32.7
\$ 25,000 - \$49,999	193,733	\$47.9
\$ 50,000 - \$99,999	199,884	\$63.4
\$100,000 - \$199,999	137,643	\$59.1
\$200,000 and over	49,744	\$23.6
Total:	797,383	\$247.8

Data Source: PIT Simulation Model

Reliability: Level 1

32. Credit for Purchase of an Automated External Defibrillator

Citation: Section 606(s)

Credit Type: Non-refundable/Non-carryforward

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

Description: Taxpayers may claim a credit for the purchase of an automated external defibrillator, as defined in section 3000-b of the Public Health Law. The

PERSONAL INCOME TAX

amount of credit equals the cost of such purchase, up to a maximum of \$500 per defibrillator.

Estimates: 2008: Minimal — 2011: Minimal

Data Source: PIT Study File

Reliability: Level 1

33. **Green Buildings Credit**

Citation: Section 19 and Section 606(y)

Credit Type: Non-refundable/Carryforward

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

Description: Taxpayers may claim a credit for the purchase of recyclable building materials and other environmentally preferable tangible personal property. Credits may also be claimed for the purchase of fuel cells, photovoltaic modules, and environmentally sensitive non-ozone depleting refrigerants. Phase 1 of the program applied to costs incurred on or after June 1, 1999 for property placed in service or that received a final certificate of occupancy in tax years 2001 to 2004. Phase 2 of the program begins with the 2005 tax year. An additional \$25 million in total credit may be issued under Phase 2, although the amount of any single credit certified is limited to \$2 million.

Estimates: 2008: Minimal — 2011: \$0.1 million

Data Source: PIT Study File

Reliability: Level 1

34. **Low-Income Housing Credit**

Citation: Section 18 and Section 606(x)

Credit Type: Non-refundable/Carryforward

Effective Date: Effective for tax years beginning on or after January 1, 2000, with respect to commitments for construction of low-income housing agreed upon on or after May 15, 2000

Description: Taxpayers may claim credits under the “New York State Low-Income Housing Tax Credit Program.” Based on the existing Federal program, the program requires an agreement between the taxpayer and the commissioner of the New York State Division of Housing and Community Renewal (DHCR) for a long-term commitment to low-income housing. The amount of the credit a taxpayer may claim is determined by the commissioner of the DHCR and depends on the applicable percentage of the qualified basis of each low-income building. The credit amount allocated is allowed as a credit against tax for 10 tax years. The total amount of credit available is \$280 million, or \$28 million each year.

Estimates: 2008: \$0.1 million — 2011: \$0.1 million

Data Source: PIT Study File

Reliability: Level 1

35. **Qualified Empire Zone (QEZE) Credits**

a. **QEZE Real Property Tax Credit**

Citation: Section 15 and Section 606(bb)

Credit Type: Refundable

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

Description: The credit is allowed for taxpayers that are sole proprietors of a QEZE, or members of a partnership or shareholders of an S corporation that is a QEZE. For taxpayers certified prior to April 1, 2005, the QEZE real property tax credit (RPTC) is the product of three factors. The benefit period factor is 1.0 in the first ten years of certification, declining by .02 each year thereafter. The employment increase factor is based upon the QEZE’s job growth. The final factor is the QEZE’s real property taxes for the current tax year.

For taxpayers certified on or after April 1, 2005 and located in an Investment Zone (IZ), the credit equals 25 percent of the wages and health and retirement benefits of net new employees. Taxpayers located in a Development Zone (DZ) use the same formula but include an additional factor, the DZ employment increase factor (EIF), scaled to reward greater job increases. The credit can exceed these amounts if the capital investment limitation is greater, but the credit is capped at the amount of real property taxes. Taxpayers certified on or after April 1, 2009 must reduce the computed credit amount by 25 percent.

Estimates: 2008: \$70.7 million — 2011: \$65.0 million

*QEZE Real Property Tax Credit Claims in 2008
By New York Adjusted Gross Income*

NYAGI	Number of Claims	Amount Claimed (Millions \$)
Less than \$10,000	283	\$12.8
\$ 10,000 - \$24,999	76	\$0.8
\$ 25,000 - \$49,999	167	\$1.5
\$ 50,000 - \$99,999	394	\$3.6
\$100,000 - \$199,999	642	\$6.2
\$200,000 and over	1,730	\$45.8
Total:	3,292	\$70.7

Data Source: PIT Study File

Reliability: Level 1

b. QEZE Tax Reduction Credit

Citation: Section 16 and Section 606(cc)

Credit Type: Non-refundable/Non-carryforward

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

Description: The credit is allowed for taxpayers that are sole proprietors of a QEZE, or members of a partnership or shareholders of an S corporation that is a QEZE. The QEZE tax reduction credit is the product of four factors: the benefit period factor, the employment increase factor, the zone allocation factor, and the tax factor. The first two factors are discussed above. The zone allocation factor measures the QEZE’s economic presence in the zone. The tax factor is the amount of personal income tax attributable to allocated QEZE income.

Estimates: 2008: \$29.8 million — 2011: \$25.0 million

PERSONAL INCOME TAX

QEZE Tax Reduction Credit in 2008
By New York Adjusted Gross Income

NYAGI	Number of Claims	Amount Claimed (Millions \$)
Less than \$10,000	4	(Less than \$50,000)
\$ 10,000 - \$24,999	13	(Less than \$50,000)
\$ 25,000 - \$49,999	83	(Less than \$50,000)
\$ 50,000 - \$99,999	211	\$0.2
\$100,000 - \$199,999	489	\$1.4
\$200,000 and over	1,384	\$28.2
Total:	2,184	\$29.8

Data Source: PIT Study File

Reliability: Level 1

36. Long-Term Care Insurance Credit

Citation: Section 606(aa)

Credit Type: Non-refundable/Carryforward

Effective Date: Effective for tax years beginning on or after January 1, 2002

Description: Taxpayers may claim a credit equal to 20 percent of the premiums paid for long-term care insurance policies approved by the New York State Department of Insurance.

Estimates: 2008: \$63.9 million — 2011: \$70.0 million

Long-Term Care Insurance Credit Claims in 2008
By New York Adjusted Gross Income

NYAGI	Number of Claims	Amount Claimed (Millions \$)
Less than \$10,000	1,410	(Less than \$50,000)
\$ 10,000 - \$24,999	12,533	\$2.8
\$ 25,000 - \$49,999	22,871	\$10.7
\$ 50,000 - \$99,999	33,918	\$18.3
\$100,000 - \$199,999	29,992	\$16.7
\$200,000 and over	23,164	\$15.4
Total:	123,888	\$63.9

Data Source: PIT Study File

Reliability: Level 1

37. Empire State Film and Commercial Production Credits

a. Empire State Film Production Credit

Citation: Section 24 and Section 606(gg)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after January 1, 2004

Description: Taxpayers satisfying a threshold level of film production activity in the State may claim the Empire State film production credit. The credit equals 30 percent of qualified production costs incurred in the production of films and certain television shows.

Credit is awarded on a first come, first served basis with applications made to the New York State Governor’s Office for Motion Picture and Television Development (MP/TV). The annual amount of credit that can be allocated by MP/TV is \$420 million in 2010 through 2014. However, up to \$7 million of the annual allocation is available for the Empire State film post production credit. MP/TV has the authority to redirect Empire State film post production credit funds to the film credit if there are insufficient claims for the post production credit and applications for the film production credit exceed the allotted total.

For tax years prior to January 1, 2008, the credit was refundable across two years. For tax years starting in 2008, the credit was fully refundable. For tax years beginning on or after January 1, 2009, the utilization of the credit is spread across several years, depending on the size of the credit:

If the amount of the credit is:	Than the credit is claimed:
under \$1 million	in the taxable year in which the film is completed
at least \$1 million but less than \$5 million	over a two year period, with half claimed each year
at least \$5 million	over a three year period, with one-third claimed each year

Taxpayers awarded credit from the 2010-2014 allocations can claim their credits in the later of the tax year the production of the qualified film is completed or the tax year immediately following the allocation year from which the taxpayer was awarded credit.

Estimates: 2008: \$8.3 million — 2011: \$15.0 million

Data Sources: PIT Study File

Reliability: Level 1

b. Empire State Film Post Production Credit

Citation: Section 31 and Section 606(qq)

Credit Type: Refundable – Over 2 Years

Effective Date: Effective for taxable years beginning on or after August 11, 2010

Description: Companies that are ineligible for the film production credit may qualify for the film post production credit. The credit equals 10 percent of qualified post production costs paid in the production of a qualified film at a qualified post production facility, generally a facility in New York State. To be eligible for the credit, the costs incurred at a qualified post production facility must equal or exceed 75 percent of the total post production costs at any post production facility. The credit is allowed for the taxable year in which the production of the qualified film is completed. The credit is administered by the Governor’s Office for Motion Picture and Television Development and is capped at \$7 million per year (total allocation of \$35 million). MP/TV has the authority to redirect post production credit funds to the film credit if there are insufficient claims for the post production credit and applications for the film production credit exceed the allotted total.

Estimates: 2008: Not applicable – 2011: Minimal

PERSONAL INCOME TAX

Data Source: New York State Division of the Budget

Reliability: Level 4

c. **Empire State Commercial Production Credit**

Citation: Section 28 and Section 606(jj)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after January 1, 2007 and before January 1, 2012

Description: A taxpayer satisfying a threshold level of commercial production activity may claim a tax credit for qualified commercial production in New York State. The credit equals 20 percent of qualified production costs in excess of the average of the three prior years' costs incurred in the production of commercials. In addition, the credit includes five percent of qualified production costs in excess of \$500,000 during the calendar year for work within the Metropolitan Commuter Transportation District (MCTD) and five percent of qualified production costs in excess of \$200,000 during the calendar year for work done outside the MCTD. All components are distributed on a pro-rata basis. The State credit is capped at \$7 million per year and is allocated by the Governor's Office for Motion Picture and Television Development.

Estimates: 2008: \$2.6 million — 2011: \$6.0 million

Data Source: PIT Study File

Reliability: Level 1

38. **Brownfields Tax Credits**

Citation: Sections 21, 22, 23, and 606(dd)(ee)(ff)

Credit Type: Refundable

Effective Date: Effective for tax years beginning on or after April 1, 2005

Description: Three tax credits are available to taxpayers who remediate a site under the Brownfield Cleanup Program. The brownfield redevelopment tax credit consists of three credit components relating to costs associated with: site preparation; tangible property; and on-site groundwater remediation. For sites accepted into the Brownfield Cleanup Program (BCP) prior to June 23, 2008, the credit equals 10 percent of costs associated with each component. The credit increases by two percent if the site is remediated to a Track 1 cleanup level (determined by the Department of Environmental Conservation), and by another eight percent if at least one half of the site is located in an Environmental Zone (En-Zone). An En-Zone is an area designated by the Commissioner of Economic Development, and as of the 2000 census, has a poverty rate of at least 20 percent and an unemployment rate of at least 1 1/4 times the statewide unemployment rate, or an area that has a poverty rate of at least two times the poverty rate for the county in which the site is located provided the site was subject to a cleanup agreement before September 1, 2010.

PERSONAL INCOME TAX

Sites accepted into the BCP after June 23, 2008 are subject to a different credit calculation for the redevelopment credit. The site preparation and groundwater remediation component rates are as follows:

Cleanup Standard	Rate	Track 4
Soil cleanup for unrestricted use; protection of groundwater/ecological resources	50%	n/a
Residential use	40%	28%
Commercial use	33%	25%
Industrial Use	27%	22%

NOTE: Track 4 is a cleanup level that will be protective for the site's current, intended or reasonably anticipated residential, commercial, or industrial use with restrictions and with reliance on the long-term employment of institutional or engineering controls to achieve such level.

The rates for the tangible property component remain the same with a new 2 percent bonus rate available for sites redeveloped in conformity with the goals and priorities of the brownfield opportunity area in which the site is located. Also, sites are subject to a cap on the amount of tangible property component they can generate. The cap is the lesser of:

- \$35 million or three times the site preparation and groundwater component costs; or
- \$45 million or six times the site preparation and groundwater component costs if the site is to be used for manufacturing.

The remediated brownfield credit for real property taxes equals 25 percent of the product of the taxpayer's employment factor (a percentage based on the number of persons employed by the taxpayer on a qualified site) and the taxpayer's eligible real property taxes. If the site is located in an En-Zone the credit increases to 100 percent. There is a credit limitation equal to the product of the number of full time employees at the qualified site multiplied by \$10,000.

The environmental remediation insurance credit is allowed for premiums paid for environmental remediation insurance up to the lesser of \$30,000 or 50 percent of the cost of the premiums.

Estimates: 2008: \$82.3 million — 2011: \$354.0 million

**Brownfields Tax Credit Claims in 2008
By New York Adjusted Gross Income**

NYAGI	Number of Claims	Amount Claimed (Millions \$)
Less than \$10,000	21	\$39.0
\$ 10,000 - \$24,999	0	\$0.0
\$ 25,000 - \$49,999	4	\$0.1
\$ 50,000 - \$99,999	6	\$0.3
\$100,000 - \$199,999	11	\$0.3
\$200,000 and over	75	\$25.6
UNCLASSIFIED	60	\$17.0
Total:	177	\$82.3

d/ Tax Law secrecy provisions prohibit disclosure.

PERSONAL INCOME TAX

Data Source: PIT Study File

Reliability: Level 1

39. **Nursing Home Assessment Tax Credit**

Citation: Section 606 (hh)

Credit Type: Refundable

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

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

Estimates: 2008: \$12.3 million — 2011: \$12.0 million

*Nursing Home Assessment Tax Credit Claims in 2008
By New York Adjusted Gross Income*

NYAGI	Number of Claims	Amount Claimed (Millions \$)
Less than \$10,000	1,655	\$5.6
\$ 10,000 - \$24,999	601	\$2.3
\$ 25,000 - \$49,999	437	\$1.7
\$ 50,000 - \$99,999	344	\$1.6
\$100,000 - \$199,999	160	\$0.8
\$200,000 and over	61	\$0.3
Total:	3,258	\$12.3

Data Source: PIT Study File

Reliability: Level 1

40. **Special Additional Mortgage Recording Tax Credit**

Citation: Section 606(f)(3)

Credit Type: Refundable or Non-refundable/Carryforward

Effective Date: The credit is effective for taxable years beginning after 2003

Description: Taxpayers may claim a credit for special additional mortgage recording tax paid for certain mortgages recorded on or after January 1, 2004. The credit is not available for special additional tax paid on mortgages of real property principally improved by one or more structures containing in the aggregate not more than six residential dwelling units, each dwelling unit having its own separate cooking facilities, where the real property is located in one or more of the counties comprising the Metropolitan Commuter Transportation District or Erie County. If the amount of the credit exceeds tax liability for the year, the taxpayer may carry over the amount of credit exceeding tax to the following year or years, or can elect to treat the unused amount of credit as an overpayment of tax to be credited or refunded, without interest.

Estimates: 2008: \$11.2 million — 2011: \$13.0 million

Data Source: PIT Study File

Reliability: Level 1

41. Security Training Tax Credit

Citation: Section 606(ii)

Credit Type: Refundable

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

Description: Owners of commercial buildings over 500,000 square feet can receive a credit of \$3,000 for each security guard employed who has undergone training certified by the New York State Office of Homeland Security (OHS) and is paid a certain minimum wage. The credit is administered by OHS.

Estimates: 2008: Minimal — 2011: \$0.2 million

Data Source: PIT Study File

Reliability: Level 1

42. Empire State Child Credit

Citation: Section 606(c-1)

Credit Type: Refundable (Residents only)

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

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

Estimates: 2008: \$655.2 million — 2011: \$700.0 million

*Empire State Child Credit Claims in 2008
By New York Adjusted Gross Income*

NYAGI	Number of Claims	Amount Claimed (Millions \$)
Less than \$10,000	143,847	\$24.0
\$ 10,000 - \$24,999	404,323	\$128.5
\$ 25,000 - \$49,999	458,486	\$217.6
\$ 50,000 - \$99,999	428,553	\$217.1
\$100,000 - \$199,999	164,007	\$67.9
\$200,000 and over	258	\$0.1
Total:	1,599,474	\$655.2

Data Sources: PIT Study File

Reliability: Level 1

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

Citation: Section 606(d-1)

Credit Type: Refundable (Residents only)

Effective Date: Effective for taxable years beginning on or after January 1, 2006 and before January 1, 2013

Description: Certain taxpayers may claim an enhanced State earned income tax credit (EITC). To qualify for the enhanced credit, claimants must be a resident taxpayer, age 18 and over, and have a minor child with whom they do not reside.

PERSONAL INCOME TAX

The credit is equal to the greater of 20 percent of the Federal EITC that the taxpayer would otherwise be able to claim for one qualifying child (if he/she were a custodial parent) or 2.5 times the EITC for taxpayers without qualifying children. Claimants must have a child support order in effect for at least half the tax year and have made required support payments. In addition, unlike the existing State EITC, the amount of credit allowed is not reduced by the amount of the State household credit used by the taxpayer. Taxpayers are not allowed more than one credit if they have multiple children or support orders.

Estimates: 2008: \$2.8 million — 2011: \$3.5 million

Data Source: PIT Study File

Reliability: Level 1

44. Volunteer Firefighters and Ambulance Workers Credit

Citation: Section 606(e-1)

Credit Type: Refundable

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

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

Estimates: 2008: \$13.0 million — 2011: \$14.0 million

Data Source: New York State Office of Fire Prevention and Control

Reliability: Level 1

45. Biofuel Production Credit

Citation: Section 28 and Section 606(jj)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after 2006 and before January 1, 2013

Description: Taxpayers may claim a tax credit for the production of biofuel. Biofuel is defined as fuel which includes biodiesel and ethanol. Biodiesel is fuel comprised exclusively of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100, which meets the specifications of American Society of Testing and Materials designated D 6751. The credit equals 15 cents per gallon after the production of the first 40,000 gallons per year presented to market. The credit is capped at \$2.5 million per taxpayer per year for up to four consecutive years per biofuel plant. In addition, the aggregate credit that flows through to all partners, shareholders, or members of a partnership, S corporation, and limited liability company cannot exceed \$2.5 million per year.

Estimates: 2008: \$5.8 million — 2011: \$10.0 million

Data Source: PIT Study File

Reliability: Level 1

46. Land Conservation Easement Credit

Citation: Section 606(kk)

Credit Type: Refundable

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

Description: Taxpayers may claim a tax credit for 25 percent of the taxpayer’s school district, county, and city/town real property taxes paid on land that is under a conservation easement held by a public or private conservation agency. The term “conservation easement” means a perpetual and permanent conservation easement as defined in article forty-nine of the Environmental Conservation Law that serves to protect open space, scenic, natural resources, biodiversity, agricultural, watershed, and/or historic preservation resources. Any conservation easement for which a tax credit is claimed shall be filed with the Department of Environmental Conservation, as provided for in article forty-nine of the Environmental Conservation Law and such conservation easement shall comply with the provisions of title three of such article, and the provisions of subdivision (h) of section 170 of the Internal Revenue Code. The maximum allowable tax credit is \$5,000.

Estimates: 2008: \$1.1 million — 2011: \$1.1 million

Data Source: PIT Study File

Reliability: Level 1

47. **Rehabilitation of Historic Properties Credit**

Citation: Section 606(oo)

Credit Type: Non-refundable/Carryforward

Effective Date: Effective for taxable years beginning on or after January 1, 2007/Amended Credit effective for taxable years beginning on or after January 1, 2010 and before January 1, 2015.

Description: Taxpayers may claim a tax credit for the rehabilitation of depreciable historic properties located in New York State. The amount of the credit is equal to 30 percent of the credit amount allowed under subsection (a)(2) of section 47 of the Federal Internal Revenue Code (IRC) for the same taxable year. IRC§47(c)(3) defines a certified historic structure as a building and its structural components which are listed in the National Register of Historic Places or located in a registered historic district and certified to be of historic significance to the district. The credit is capped at \$100,000 and any State credit taken must be recaptured if the Federal credit upon which it is based is recaptured by the taxpayer. For taxable years beginning on or after January 1, 2010, the credit is increased from 30 percent to 100 percent of the amount of the federal historic properties credit claimed by the taxpayer. The credit is further amended to increase the maximum credit allowed from \$100,000 to \$5 million. Also, the credit will now be limited to projects located in distressed areas as defined in IRC section 143(j) or located within a census tract that is at or below 100 percent of the state median family income in the most recent federal census. After December 31, 2014, the credit reverts back to pre-2010 law. Finally, if a taxpayer is a partner in a partnership or a shareholder of a New York S corporation, the credit cap is applied at the entity level and not at the partner or shareholder level.

Estimates: 2008: \$0.1 million — 2011: \$5.0 million

Data Source: Internal Revenue Service

Reliability: Level 1

48. **Historic Homeownership Rehabilitation Credit**

Citation: Section 606(pp)

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

PERSONAL INCOME TAX

Effective Date: Effective for taxable years beginning on or after January 1, 2007/Amended credit effective for taxable years beginning on or after January 1, 2010 and before January 1, 2015.

Description: Taxpayers may claim a tax credit for the rehabilitation of historic homes located in New York State. The amount of the credit is equal to 20 percent of qualified rehabilitation expenditures made by the taxpayer with respect to a qualified historic home. A qualified historic home is defined as one located in a targeted area within the meaning of section 143(j) of the Internal Revenue Code and located in an area of a city, town, or village whose governing body has identified by resolution that such area is an area in need of community renewal and which has adopted an historic preservation and community renewal program. The taxpayer must own the home and reside there during the taxable year. The credit is limited to \$25,000 per residence. For taxable years beginning on or after January 1, 2010, the credit is amended by increasing the credit cap from \$25,000 to \$50,000, making the credit refundable for taxpayers with New York adjusted gross income that is less than or equal to \$60,000, and expanding the definition of eligible properties to include those located within a census tract that is at or below 100 percent of the state median family income in the most recent federal census. After December 31, 2014, the credit reverts back to pre-2010 law.

Estimates: 2008: Minimal — 2011: \$5.0 million

Data Source: NYS Historic Preservation Office

Reliability: Level 1

49. **Clean Heating Fuel Credit**

Citation: Section 606(mm)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after January 1, 2008 and before January 1, 2012.

Description: Taxpayers may claim a tax credit for bioheat used for space heating for hot water production for residential purposes within the state. The credit equals 1 cent per percent of biodiesel per gallon of bioheat purchased by the taxpayer and is capped at 20 cents per gallon. Biodiesel is defined as fuel comprised exclusively of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100, which meets the specifications of American Society of Testing and Materials designated D6751. In addition, bioheat means a fuel comprised of biodiesel blended with conventional home heating oil, which meets the specifications of the American Society of Testing and Materials designation D396 or D975. Prior to January 1, 2008, the credit was allowed for bioheat purchased by the taxpayer on or after July 1, 2006 and before July 1, 2007.

Estimates: 2008: \$0.3 million — 2011: \$0.4 million

Data Source: PIT Study File

Reliability: Level 1

50. **Excelsior Jobs Program Tax Credits**

Chapter 59 of the Laws of 2010 created the Excelsior Jobs Program (EJP) Act.

The new program is administered by Empire State Development (ESD) and offers four tax credits focused on certain strategic industries. To claim credits, taxpayers must first apply to and be approved by ESD. ESD can issue up to \$50 million in

new credit annually, with a fully effective annual total program cost of \$250 million. ESD will calculate the amount of each credit annually and issue a certificate of tax credit to participants entitling them to the credits. Taxpayers are allowed to claim credits for five consecutive years.

a. **Excelsior Jobs Tax Credit**

Citation: Section 31 and Section 606(gg)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after January 1, 2011

Description: EJP participants may claim a credit for each net new job created in the State. The value of the credit cannot exceed \$5,000 per new job and is computed on marginal wages plus benefits basis as follows:

- 5 percent of wages plus benefits of \$50,000 or less;
- 4 percent of wages plus benefits between \$50,001 and \$75,000; and
- 1.33 percent of wages plus benefits over \$75,000.

b. **Excelsior Investment Tax Credit (EJP-ITC)**

Citation: Section 31 and Section 606(gg)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after January 1, 2011

Description: EJP participants may claim a credit equal to two percent of the cost of qualified investments in New York. Taxpayers cannot claim both the EJP-ITC and the regular ITC or both the EJP-ITC and the brownfield tangible property credit component for the same property in a given year.

c. **Excelsior Research and Development Tax Credit (EJP-R&D)**

Citation: Section 31 and Section 606(gg)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after January 1, 2011

Description: EJP participants may claim a credit for research and development expenditures in New York. The credit is equal to ten percent of the portion of the taxpayer's federal research and development credit pertaining to expenditures attributable to New York. Eligible expenditures are defined in section 41 of the Internal Revenue Code.

d. **Excelsior Real Property Tax Credit (EJP-RPTC)**

Citation: Section 31 and Section 606(gg)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after January 1, 2011

Description: EJP participants located in areas formerly designated as Investment Zones under the Empire Zones Program or that qualify as regionally significant projects may claim a credit for real property taxes. The credit equals 50 percent of the property taxes assessed and paid in the year

PERSONAL INCOME TAX

immediately prior to a taxpayer's application to the EJP and declines by 10 percent each year.

Estimates: 2008: Not Applicable – 2011: \$25.0 million

Data Source: New York State Division of the Budget

Reliability: Level 5

CORPORATION FRANCHISE TAX

This section of the report provides tax expenditure estimates for 52 separate provisions of the Corporation Franchise Tax on general business corporations. It contains estimates of the tax expenditures for tax years 2003 through 2007 (2007 is the latest year for which Article 9-A tax return data are available). The list of tax expenditures is based on the Tax Law as of January 1, 2011. The estimates are also extrapolated to the 2011 tax year. The tax year refers to both the 2011 calendar year and fiscal years beginning in 2011. Table 3 summarizes the tax expenditure estimates. It also includes total Article 9-A corporate franchise tax liability for the 2007 tax year.

Description of Tax

Article 9-A imposes a Corporate Franchise Tax on general business corporations for the privilege of conducting business in New York. Certain other corporations (public utilities, banks, and insurance companies) pay tax under other articles of the Tax Law. The Corporation Franchise Tax has four separate bases: allocated entire net income; allocated business and investment capital; allocated minimum taxable income; and a fixed dollar minimum. Corporations pay the highest tax computed on these bases less applicable credits, but generally not less than the higher of the minimum tax or fixed dollar amount. The Tax Law imposes an additional tax on allocated subsidiary capital. Because of the similarities between the entire net income and alternative minimum taxable income computations, the tax expenditure provisions and estimates discussed in this section pertain only to the allocated entire net income and allocated business and investment capital bases.

The computation of Corporation Franchise Tax on the allocated entire net income and allocated minimum taxable income bases generally starts with Federal taxable income. Taxpayers then make several state-specific modifications to arrive at New York entire net income and alternative minimum taxable income. Both income bases consist of business and investment income. Taxpayers allocate each type of income to New York by its respective allocation percentage. The sum of these allocated incomes equals the taxable income bases. The tax rates are:

- 7.1 percent of allocated entire net income;
- 6.5 percent of allocated entire net income for manufacturers and qualified emerging technology companies; or
- 1.5 percent of alternative minimum taxable income.

The tax on allocated business and investment capital starts with the taxpayer's total assets. Taxpayers reduce their assets by both long- and short-term liabilities to arrive at total capital. Total capital minus subsidiary capital and investment capital equals business capital. Taxpayers then multiply each type of capital by its respective allocation percentage. Total allocated business and investment capital forms the allocated capital base. (A separate tax applies to allocated subsidiary capital.) A 0.15 percent tax rate applies to allocated capital, and the maximum tax under this base is capped at \$350,000 for manufacturers and qualified emerging technology companies and \$10 million for all other taxpayers. The \$10 million cap reverts to \$1 million for tax years beginning on or after January 1, 2011.

CORPORATION FRANCHISE TAX

In taxable years beginning on or after January 1, 2008, the fixed dollar minimum tax ranges from \$25 to \$5,000 depending on the amount of New York receipts for the taxable year. Prior to the 2008 tax year, the fixed dollar minimum tax was based on a taxpayer's gross payroll. The amounts ranged from \$100 to \$1,500, although in the 2004 and 2005 tax years, the \$1,500 amount was temporarily raised to \$5,000 and \$10,000. Also in those two tax years, taxpayers with gross payroll between \$250,001 and \$500,000 paid \$100 instead of the \$225 amount in effect for tax years prior to 2004 and in 2006 and 2007.

Data Sources

The major sources of data used to compute the tax expenditure estimates include:

- 2007 Article 9-A Corporation Franchise Tax Study File — This file, compiled by the Department of Taxation and Finance, includes all corporations filing under Article 9-A except the fixed minimum tax filers and S corporations. It includes selected data items from the tax returns for each corporation. Simulations of the file generate the base case tax expenditures.
- Congressional Joint Committee on Taxation (JCT) Estimates of Federal Tax Expenditures — Because no data for Federal exclusion items which are listed in the Appendix exist at the State level, the estimates of the Federal tax expenditure items come from prorations of JCT estimates to New York.

Methodology

The projections of the tax expenditures from 2007 to 2011 use a variety of economic forecast variables. Projections of items under Federal exclusions from income in the Appendix were taken from the JCT estimates of Federal tax expenditures and prorated to New York.

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

The study file is comprised of taxpayers whose filing period began in 2007.

CORPORATION FRANCHISE TAX

Table 3
2011 New York State Article 9-A Tax Expenditure Estimates
(2007 Total Corporate Franchise Tax Liability = \$2,228.0 Million)
(Millions of Dollars)

Tax Item	2003	History				Forecast	Reliability
		2004	2005	2006	2007	2011	Level
New York Modifications to Federal Taxable Income							
1. Exclusion of Interest, Dividends, and Capital Gains from Subsidiary Capital	1,517.5	1,521.8	2,919.1	2,603.3	1,796.1	1,797.0	1
2. Deduction of Fifty Percent of Dividends from Non-Subsidiary Corporations	34.4	62.4	67.1	57.3	20.9	21.0	1
3. New Small Business Exemption (Capital Base only)	N/A	N/A	N/A	N/A	N/A	N/A	5
4. Deduction of Receipts from School Bus Operation	N/A	N/A	N/A	N/A	N/A	N/A	5
5. Exclusion of Income for Foreign Airlines	N/A	N/A	N/A	N/A	N/A	N/A	5
Allocation Percentages							
6. Optional Treatment of Cash	5.6	3.9	4.9	9.4	8.9	8.0	1
Credits							
7. Investment Tax Credit, Retail Enterprise Tax Credit, Employment Incentive Credit, and Rehabilitation Credit for Historic Barns ⁵	86.2	92.4	100.4	113.5	99.0	97.0	1
8. Investment Tax Credit for the Financial Services Industry ⁵	15.4	9.5	13.2	17.1	6.8	7.0	1
9. Special Additional Mortgage Recording Tax Credit ⁵	6.2	3.0	5.4	7.0	7.0	5.0	1
10. Empire Zone (EZ) and Qualified Empire Zone Enterprise (QEZE) Credits ^{1,5}							
a. EZ Investment Tax Credit and Employment Incentive Credit	17.2	33.6	22.3	53.7	30.9	30.0	1
b. EZ and Zone Equivalent Area Wage Tax Credit	29.5	43.1	27.4	31.3	28.9	26.0	1
c. EZ Capital Credit	*	0.1	0.1	0.2	0.1	0.0	1
d. QEZE Real Property Tax Credit	72.2	87.0	82.5	106.7	118.6	180.0	1
e. QEZE Tax Reduction Credit	10.1	21.8	28.4	43.0	30.8	32.0	1
11. Credit for Servicing SONYMA Mortgages ⁵	*	*	*	*	0.0	0.0	1
12. Farmers' School Property Tax Credit	0.9	0.9	0.9	1.1	1.1	1.0	1
13. Credit for Employment of Persons with Disabilities ⁵	0.1	0.1	0.1	0.1	0.1	0.0	1
14. Qualified Emerging Technology Company (QETC) Credits ⁵							
a. QETC Capital Tax Credit	*	*	*	*	0.0	0.0	1
b. QETC Employment Credit	0.1	0.1	1.2	1.0	0.3	1.0	1
c. QETC Facilities, Operations, and Training Credits	--	--	5.1	7.0	11.7	22.0	1
15. Low-Income Housing Credit ⁵	*	0.0	0.0	0.0	0.0	0.0	1
16. Credit for Purchase of an Automated External Defibrillator ⁵	*	*	*	*	0.0	0.0	1
17. Green Building Credit ⁵	0.0	0.0	0.0	1.2	1.2	1.0	1
18. Long-Term Care Insurance Credit	*	*	0.1	0.1	0.1	0.0	1
19. Brownfields Tax Credits ⁵	--	--	0.0	42.9	127.9	195.0	1
20. Empire State Film and Commercial Production Credits							
a. Empire State Film Production Credit	--	0.4	14.2	39.8	61.4	276.0	1
b. Empire State Film Post Production Credit ²	--	--	--	--	--	7.0	5
c. Empire State Commercial Production Credit ^{2,5}	--	--	--	--	0.6	2.0	1
21. Security Training Tax Credit ⁵	--	--	0.0	0.3	0.4	0.0	1

CORPORATION FRANCHISE TAX

Tax Item	2003	History				Forecast	Reliability
		2004	2005	2006	2007	2011	Level
22. Land Conservation Easement Credit	--	--	--	*	0.0	0.0	1
23. Biofuel Production Credit ⁵	--	--	--	0.0	0.0	0.0	1
24. Credit for Rehabilitation of Historic Properties ^{2,5}	--	--	--	--	0.3	4.0	1
25. Clean Heating Fuel Credit ⁵	--	--	--	*	0.0	0.0	1
26. Excelsior Jobs Program Tax Credit	--	--	--	--	--	25.0	5
Corporate Exemptions							
27. Exempt Companies	N/A	N/A	N/A	N/A	N/A	N/A	5
28. Companies Whose Income "Passes Through" to Shareholders							
a. Real Estate Investment Trusts (REITs) ³	N/A	N/A	N/A	N/A	N/A	N/A	5
b. Regulated Investment Companies (RICs) ³	N/A	N/A	N/A	N/A	N/A	N/A	5
29. Businesses Using Fulfillment Services	N/A	N/A	N/A	N/A	N/A	N/A	5
30. Corporate Parent with Bank and Insurance Subsidiaries or Gas and Electric Subsidiaries	5.1	7.8	5.3	10.7	14.2	14.0	1
31. Homeowners Association Exemption from Fixed Dollar Minimum Tax	N/A	N/A	N/A	N/A	N/A	N/A	5
Preferential Tax Rates							
32. Qualifying Small Business Corporations	0.0	1.5	9.4	10.3	6.8	6.0	1
33. Capital Base Liability Cap Reduction for Manufacturers and QETCs ⁴	--	--	2.0	3.3	4.4	4.0	1
34. Manufacturer and QETC Rate	--	--	--	--	4.9	5.0	2

1/ Prior to the 2008-09 report, EZ and QEZE data was reported in the aggregate for those two groups, respectively. Starting with the 2008-09 report, credit-specific amounts are available in the descriptions of each credit.

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

3/ The income of a REIT or RIC which is passed through to its shareholders is not subject to entity level taxes imposed by the Federal government. (The income of the REIT or RIC that is paid to its shareholders is subject to individual income taxes imposed on the shareholders). New York conforms to the Federal government's treatment of REIT or RIC income. As a result, the Federal taxable income, which is the starting point for determining the State tax liability, of a REIT or RIC is minimal or zero. Thus, the New York State tax returns filed by a REIT or RIC do not provide the data necessary to determine or estimate the value of this tax expenditure.

4/ In 2005, the liability cap only applied to manufacturers. For tax years beginning on or after January 1, 2008, the cap was extended to QETCs.

5/ For tax years 2010, 2011, and 2012, credits subject to deferral.

* Less than \$0.1 million

-- The tax expenditure was not applicable for these years

N/A No data available

d/ Tax Law provisions prohibit disclosure of data

New York Modifications to Federal Taxable Income

In computing New York entire net income (ENI), Article 9-A of the New York Tax Law allows modifications to Federal taxable income.

- 1. Exclusion of Interest, Dividends, and Capital Gains from Subsidiary Capital**
Citation: Section 208(9)(a)(1)
Effective Date: Effective for tax years beginning on or after January 1, 1944
Description: In computing New York entire net income, taxpayers may subtract dividends, interest, and gains derived from subsidiary corporations (other than DISCs) that are not part of the combined filing entity from Federal taxable income.
Estimates: 2007: \$1,796.1 million — 2011: \$1,797.0 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1
- 2. Deduction of Fifty Percent of Dividends from Non-Subsidiary Corporations**
Citation: Section 208(9)(a)(2)
Effective Date: Effective for tax years beginning on or after January 1, 1944
Description: A New York corporation may deduct 50 percent of dividend income received from non-subsidiary corporations (other than DISCs) from Federal taxable income. For tax years beginning on or after January 1, 1989, New York conforms to IRC Section 246(c); stock must be held for 45 days or more to qualify for the deduction.
Estimates: 2007: \$20.9 million — 2011: \$21.0 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1
- 3. New Small Business Exemption (Capital Base only)**
Citation: Section 210(1-c)
Effective Date: Effective for tax years beginning on or after January 1, 1981
Description: The law exempts new small businesses from the tax based on allocated business and investment capital. This exemption applies to the first two years of operation of a business which:

 - operates as a small business corporation as defined under the Internal Revenue Code;
 - has at least 90 percent of its assets and 80 percent of its employees located and employed within New York State;
 - is not a subsidiary of a taxable New York corporation; and
 - is not a corporation which is substantially similar in operation and in ownership to a business entity (or entities) previously taxable under Article 9-A.

Estimate: No data available
Reliability: Level 5
- 4. Deduction of Receipts from School Bus Operation**
Citation: Section 208(9)(a)(4)
Effective Date: Effective for tax years beginning on or after January 1, 1962
Description: A taxpayer may exclude income and deductions with respect to amounts received from school districts and nonprofit religious, charitable, or

CORPORATION FRANCHISE TAX

educational organizations for the operation of school buses in determining a corporation's taxable entire net income.

Estimate: No data available

Reliability: Level 5

5. Exclusion of Income for Foreign Airlines

Citation: Section 208(9)(c-1)

Effective Date: The law applies income provisions retroactive to January 1, 1989; the allocation of foreign airlines' business capital became effective for taxable years beginning on or after January 1, 1994

Description: Certain foreign airlines may exclude all income from international operations of aircraft effectively connected to the United States, foreign passive income, and income earned overseas from overseas operations of aircraft from entire net income. These foreign airlines may also exclude business and investment assets connected with such exempt income from the capital base tax. These tax benefits apply provided the "home country" provides similar treatment to United States airlines.

Estimates: No data available

Reliability: Level 5

Allocation Percentages

The law subjects business corporations to tax only on the portion of their income and capital attributable to New York activities. Consequently, formulas have been devised (called allocation percentages) for the purpose of determining the portion of a corporation's business income and capital, investment income and capital, and subsidiary capital taxable in New York. The tax provisions listed in this section are the consequence of preferences given through the calculation of the allocation percentages as described in New York Tax Law, Article 9-A.

6. Optional Treatment of Cash

Citation: Section 208(7)

Effective Date: Effective for tax years beginning on or after January 1, 1944

Description: Taxpayers with investment capital may elect to report cash as entirely investment or business capital. Taxpayers reporting cash as investment capital allocate using the generally lower investment allocation percentage.

Estimates: 2007: \$8.9 million — 2011: \$8.0 million

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

Credits

Credits include amounts, stipulated by Article 9-A, Section 210 of the New York State Tax Law, which the taxpayer may subtract in calculating New York tax liability. For tax years 2010, 2011, and 2012, taxpayers are required to defer the use and refund of certain tax credits if they exceed \$2 million in aggregate.

Description of Credits

The following summary table presents total credit amounts for Article 9-A tax credits and their various components.

- Credit earned — the amount of credit generated in the current tax year.
- Unused credit from the prior year — amounts carried forward from the previous tax year.
- Recaptured credit — amounts that taxpayers had to subtract from credit available because the basis for the credit was no longer qualified.
- Credit claimed — credit available less recaptured credit; the claimed amount also reflects the impact of any statutory credit limitations.
- Credit used — amounts of credit actually applied by the taxpayer to reduce liability.
- Refundable credit — the amount of excess credit, where applicable, requested as a refund by the taxpayer.
- Credit carried forward — unused, unrefunded amounts of credit allowed to offset tax liability in future years.

The amount of credit used plus refunded is the tax expenditure for the year. For additional detail on credits, see the Office of Tax Policy Analysis' publication, *Analysis of Article 9-A General Business Corporation Franchise Tax Credits for 2007*.

CORPORATION FRANCHISE TAX

Article 9-A Tax Credits in 2007

(\$ in millions)

	Unused		Total Credit Available	Recaptured Credit	Credit Claimed	Credit Used	Refundable Credit ¹	Credit Carried Forward
	Total Credit Earned	Credit from the Prior Year						
	Investment Tax Credit	\$163.8						
Investment Tax Credit for the Financial Services Industry	22.0	129.9	151.9	0.3	151.6	6.8	0.0	144.8
Special Additional Mortgage Recording Tax Credit	8.7	4.6	13.2	0.0	13.2	4.4	2.6	6.2
Empire Zone Credits	427.6	893.0	1,320.6	21.1	1,257.3	86.5	122.8	1,047.2
Alternative Minimum Tax Credit	1.9	14.1	16.0	0.0	16.0	0.9	0.0	15.1
Mortgage Servicing Tax Credit	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Farmers' School Tax Credit	1.1	d/	1.2	0.0	1.2	0.0	1.1	0.1
Credit for Employment of Persons with Disabilities	0.1	0.0	0.2	0.0	0.2	0.1	0.0	0.1
Alternative Fuels Credit ²	d/	2.9	3.2	0.0	3.2	1.2	0.0	2.0
QETC Capital Tax Credit	d/	0.3	0.3	0.0	0.3	0.0	0.0	d/
QETC Employment Credit	0.3	0.0	0.3	0.0	0.3	0.0	0.3	0.0
QETC Facilities, Operations, and Training Credit	13.5	0.0	13.5	0.0	11.7	0.2	11.5	0.0
IMB Credit	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Credit for Purchase of an Automated External Defibrillator	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Green Building Credit	d/	0.0	d/	0.0	d/	d/	0.0	0.0
Low-Income Housing Credit ³	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Long-Term Care Insurance Credit	0.2	0.2	0.5	0.0	0.5	0.1	0.0	0.3
Empire State Film Credit	81.3	14.6	95.9	0.0	95.9	12.3	49.1	34.5
Empire State Commercial Production Credit	1.2	0.0	1.2	0.0	1.2	0.0	0.6	0.6
Fuel Cell Electric Generating Equipment Credit	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Brownfield Tax Credits	128.0	0.0	128.0	0.0	127.9	5.4	122.5	0.0
Security Officer Training Tax Credit	0.4	0.0	0.4	0.0	0.4	0.0	0.4	0.0
Credit for Taxicabs & Livery Service Vehicles Accessible to Persons with Disabilities	0.1	d/	0.2	0.0	0.2	d/	0.0	0.1
Clean Heating Fuel Credit	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Conservation Easement Tax Credit	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Biofuel Production Credit ³	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Historic Properties Rehab Credit	d/	0.0	d/	0.0	d/	d/	0.0	d/
Total⁴	\$852.0	\$2,156.3	\$3,008.6	\$30.1	\$2,928.6	\$210.8	\$318.9	\$2,398.2

¹ Credit refunded includes amounts eligible for refund, but instead claimed as an overpayment applied against next year's tax liability at the discretion of the taxpayer.

² The provisions of this credit allow for the transfer of excess credit to affiliates of the taxpayer. However, in 2007, no corporations transferred credit to affiliates.

³ No credit was claimed in 2007.

⁴ Total row reflects the vertical summation of the individual credit components. Horizontal calculations within the column are not valid. Totals may not add due to rounding.

d/ Tax Law provisions prohibit disclosure of data.

7. Investment Tax Credit, Retail Enterprise Tax Credit, Rehabilitation Credit for Historic Barns, and Employment Incentive Credit

a. Investment Tax Credit (ITC)

Citation: Section 210(12)

Credit Type: Refundable to New Business Only

Effective Date: Effective for tax years beginning on or after January 1, 1969; the sections of this credit covering research and development (R&D) property and pollution control facilities represent a consolidation of previously separate tax benefits and are effective for tax years beginning on or after January 1, 1987

Description: The law allows a credit, based on the cost or other basis for Federal tax purposes, for depreciable tangible personal property acquired, constructed, reconstructed, or erected after December 31, 1968 having a useful life of four years or more, located within the State of New York, and used primarily for the production of goods by a variety of processes. The claiming of a depreciation or expense deduction for such property under certain other tax provisions, or the leasing of the property to another individual or corporation, unless explicitly allowed, disqualifies the taxpayer from exercising a claim under this provision. A taxpayer may carry forward any unused credit and apply it against the tax for subsequent years or, in the case of a qualified new business, claim it as a refund.

Taxpayers who provide three or more services, such as a studio lighting grid, lighting and grip equipment, or industrial scale electrical capacity to qualified film productions are eligible to claim the ITC on property used in the qualified film production facility.

The law allows a credit for expenditures paid or incurred during the tax year for the construction, reconstruction, erection, or improvement of pollution control, waste treatment, and acid rain control facilities. To qualify for the credit, facilities must be located within the State, used by the corporation as part of its regular business activities, and certified by the State Commissioner of Environmental Conservation.

The law allows a credit with respect to tangible property, including buildings and structural components of buildings, which: has been constructed, reconstructed, acquired, or erected after June 30, 1982, is depreciable under Federal tax law, has a useful life of four years or more, is located within New York State, and is used for the purpose of research and development in the laboratory or experimental sense. This credit is not allowed with respect to property which has been leased to another individual or corporation, or which has been the basis of a claim for an elective expense deduction or a regular ITC.

For credits generated on or after 1987, the allowable carryforward of the ITC is 15 years. The cut-off of pre-1987 ITC carryforwards was 2002. Companies who have lost ITC credits due to mergers or acquisitions could file amended returns

CORPORATION FRANCHISE TAX

beginning on April 1, 2001. Credits could be claimed retroactively to tax years beginning on or after January 1, 1997.

For taxable years beginning after 1990, the rate equals 5 percent of the first \$350 million of the investment credit base. A 4 percent rate applies to amounts above \$350 million. The taxpayer may take ITC credit on R&D property at an optional rate of 9 percent of the cost or other basis for Federal tax purposes of qualified property, but is not allowed to also claim the employment incentive credit.

Taxpayers earned \$108.2 million in ITC and \$37.3 million in ITC at the R&D rate in 2007.

NOTE: When qualified ITC property is disposed of or ceases to be in qualified use prior to the end of its useful life, a portion of the credit must be recaptured. Any ITC recapture may be added to the tax otherwise due in the year of disposition or disqualification.

b. Retail Enterprise Tax Credit

Citation: Section 210(12)(k)

Credit Type: Refundable to New Business Only

Effective Date: Effective for investments made on or after June 1, 1981

Description: A retail enterprise not eligible for the ITC may claim a credit based on expenditures incurred or paid with respect to a qualified rehabilitated building used in retail sales activities. The amount of the credit is the applicable ITC percentages for the amount of qualified rehabilitation expenditures. The qualified rehabilitated building must be located in New York State.

c. Rehabilitation Credit for Historic Barns

Citation: Section 210(12)(l)

Credit Type: Refundable to New Business Only

Effective Date: Effective for taxable years beginning on or after January 1, 1997

Description: Taxpayers may claim a corporate franchise tax credit for the rehabilitation of historic barns in New York State. The credit equals 25 percent of qualified rehabilitation expenditures. The definition of a qualified rehabilitated barn has the same meaning as a “qualified rehabilitated building” for purposes of the Federal rehabilitation credit under Section 47 of the Internal Revenue Code. In accordance with Federal law for rehabilitation of historic buildings, the barn must have been placed in service before 1936 and would only qualify for the credit based on substantial rehabilitation. Generally, a building will only have been considered substantially rehabilitated if the expenditures exceed the greater of the adjusted basis of the barn or \$5,000. A taxpayer may not claim both the regular ITC on manufacturing property and the ITC for rehabilitation of historic barns on the same property.

d. Employment Incentive Credit (EIC)

Citation: Section 210(12-D)

Credit Type: Nonrefundable/Carryforward

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

Description: Taxpayers who increase employment may be eligible for the employment incentive tax credit. This credit applies to property that is acquired or constructed on or after January 1, 1987 and is eligible for the investment tax credit.

The taxpayer is allowed a credit for each of the two years next succeeding the taxable year in which the ITC is earned. The credit may be carried forward 15 years. Where an ITC was allowed for a taxable year, the amount of the credit is as follows:

- 1.5 percent of the ITC base if employment is at least 101 percent but less than 102 percent of the employment base year;
- 2.0 percent of the ITC base if employment is at least 102 percent but less than 103 percent of the employment base year;
- 2.5 percent of the ITC base if employment is at least 103 percent of the employment base year.

Taxpayers earned \$18.3 million in EIC in 2007.

Estimates: 2007: \$99.0 million — 2011: \$97.0 million: Information on the ITC and EIC credits used and refunded in any year is not separately available.

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

*Article 9-A ITC and EIC in 2007
By Size of Entire Net Income*

Size of Entire Net Income	Number of Taxpayers	Amount Used & Refunded (millions \$)
Less than \$0	369	15.1
Zero	78	2.7
\$1 - \$49,999	313	0.4
\$50,000 - \$99,999	92	0.2
\$100,000 - \$499,999	182	1.2
\$500,000 - \$999,999	69	0.8
\$1,000,000 - \$4,999,999	130	3.2
\$5,000,000 - \$24,999,999	92	6.0
\$25,000,000 and over	138	69.4
Total:	1,463	99.0

8. Investment Tax Credit for the Financial Services Industry

Citation: Section 210(12)

Credit Type: Refundable to New Business Only

Effective Date: Effective for property placed in service on or after October 1, 1998 and before October 1, 2011

Description: An investment tax credit is allowed for qualified property used in the financial services industry. The rate of credit, carryforward provisions, and recapture rules are generally the same as for the regular ITC.

Qualified property includes property principally used in the ordinary course of the taxpayer's trade or business:

CORPORATION FRANCHISE TAX

- as a broker or dealer in connection with the purchase or sale of stocks, bonds, or other securities (as defined in Internal Revenue Code (IRC) Section 475(c)(2)), or of commodities (as defined in IRC Section 475(e)), or in providing lending, loan arrangement, or loan origination services to customers in connection with the purchase or sale of securities (as defined in IRC Section 475(c)(2));
- of providing investment advisory services for a regulated investment company (as described in IRC Section 851).

In addition, qualified property includes property principally used in the ordinary course of the taxpayer's business as an exchange registered as a national securities exchange (such as the New York stock exchange) or a board of trade defined under the New York Not-For-Profit Corporation Law, or an entity wholly owned by one or more national security exchanges or boards of trade that provides automation or technical services to the national security exchanges or boards of trade.

Property purchased by a taxpayer affiliated with a regulated broker, dealer, registered investment advisor, or national securities exchange or board of trade, or property leased by a taxpayer to an affiliated regulated broker, dealer, registered investment advisor, or national securities exchange or board of trade is eligible for this credit if the property is used by the affiliate in an activity described above.

To be eligible for the credit, a taxpayer must satisfy an annual employment test that measures the taxpayer's employment in New York State in the current tax year against one of three standards.

Estimates: 2007: \$6.8 million — 2011: \$7.0 million

**Article 9-A Financial Services ITC and EIC in 2007
By Size of Entire Net Income**

Size of Entire Net Income	Number of Taxpayers	Amount Used & Refunded (millions \$)
Less than \$0	10	2.9
Zero	d/	d/
\$1 - \$49,999	d/	d/
\$50,000 - \$99,999	0	0.0
\$100,000 - \$499,999	d/	d/
\$500,000 - \$999,999	0	0.0
\$1,000,000 - \$4,999,999	3	0.0
\$5,000,000 - \$24,999,999	5	1.3
\$25,000,000 and over	10	2.6
Total:	32	6.8

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

9. **Special Additional Mortgage Recording Tax Credit**

Citation: Section 210(17), (21)

Credit Type: Carryforward/Refundable for residential mortgages only

Effective Date: Effective for tax years beginning after December 31, 1978

Description: A corporation may claim a credit equal in amount to the special additional recording tax paid on mortgages recorded on or after January 1, 1979, on property located within New York.

Effective for special additional mortgage recording tax paid in tax years beginning after January 1, 1994, the S corporation, not the shareholder, may elect to treat the unused portion of the credit as either a refund or carryforward. S corporations may also elect to take a refund regardless of whether the credit is carried from a New York C year or a New York S year.

Certain mortgages on property in Erie County or the Metropolitan Commuter Transportation District recorded on or after May 1, 1987 are ineligible for the credit.

Estimates: 2007: \$7.0 million — 2011: \$5.0 million

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

10. **Empire Zone (EZ) and Qualified Empire Zone Enterprise (QEZE) Credits**

The Empire Zones Program expired on June 30, 2010. No new entrants will be admitted to the Program, but existing participants can continue to earn credits for several years. Taxpayers will be allowed to utilize the remainder of their five year period for the EZ wage tax credit and the remainder of their benefit period for the QEZE credits (15 or 10 years, depending on the date of first certification). Taxpayers will be allowed to earn additional EZ-ITC until April 1, 2014, but qualified investment projects (QUIPS) can earn EZ-ITC for their next nine tax years. The EZ-EIC will be fully available for the three years after an EZ-ITC is claimed if the taxpayer meets the requisite employment tests. Finally, taxpayers can continue to earn the EZ capital credit through March 31, 2014 for certified contributions in fulfillment of a pledge made to an EZ community development project.

a. **EZ Investment Tax Credit and Employment Incentive Credit**

Citation: Section 210(12-B), (12-C)

Credit Type: EZ-ITC 50 percent Refundable to New Business Only/EZ-EIC – Non-refundable/Carryforward

Effective Date: Effective for tax years beginning on or after January 1, 1986

Description: Taxpayers may qualify for an enhanced investment tax credit (EZ-ITC) of 10 percent of the cost or other Federal basis of tangible personal property, including buildings and structural components of buildings, located within a designated EZ. The provisions of the EZ-ITC are generally the same as those for the regular ITC. The EZ-ITC is also available to taxpayers in the financial services industry.

Taxpayers may also claim an EZ employment incentive credit (EZ-EIC) similar to the regular EIC, based upon EZ-ITC claimed and employment increases within an EZ. The amount of the EZ-EIC is 30 percent of the EZ-ITC for each of the three years following the year in which the original EZ-ITC was claimed. However, the credit is allowed only for those years during which the average number of employees (except general executive officers) in the EZ is at least 101 percent of the average number of employees (except general executive officers)

CORPORATION FRANCHISE TAX

in the EZ during the tax year immediately preceding the tax year in which the original EZ-ITC was claimed. Taxpayers may apply the EZ-EIC against the alternative minimum tax base. Taxpayers earned \$159.2 million in EZ-ITC and \$30.4 million in EZ-EIC in 2007.

Estimates*: 2007: \$30.9 million — 2011: \$30.0 million

Article 9-A EZ ITC and EIC in 2007
By Size of Entire Net Income*

Size of Entire Net Income	Number of Taxpayers	Amount Used & Refunded (millions \$)
Less than \$0	91	6.0
Zero	12	4.0
\$1 - \$49,999	32	0.2
\$50,000 - \$99,999	12	0.0
\$100,000 - \$499,999	43	0.5
\$500,000 - \$999,999	12	0.1
\$1,000,000 - \$4,999,999	32	1.4
\$5,000,000 - \$24,999,999	28	2.6
\$25,000,000 and over	32	16.1
Total:	294	30.9

*Includes amounts of EZ financial services ITC and EIC

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

b. **EZ and Zone Equivalent Area Wage Tax Credit**

Citation: Section 210(19)

Credit Type: 50 percent Refundable to New Business Only

Effective Date: Effective for tax years beginning on or after January 1, 1986

Description: A taxpayer may claim a wage tax credit for doing business and creating full-time jobs in Empire Zones (EZ-WTC). The wage tax credit has two components. The credit equals the product of the average number of targeted EZ employees receiving EZ wages multiplied by \$3,000. The corresponding credit amount for other employees is \$1,500. Taxpayers certified in Investment Zones may claim an additional \$500 for each employee paid over \$40,000 in wages. Taxpayers employing individuals in areas that met EZ eligibility criteria but were not so designated — Zone Equivalent Areas (ZEAs) — could claim a credit for ZEA wages paid for full-time employment in jobs created in the ZEA. The EZ-WTC is available to a taxpayer for five years. The ZEA credit expired in 2004, but taxpayers are still allowed to use credit earned prior to expiration. The total wage tax credit used in any tax year cannot exceed 50 percent of tax due before credits.

Estimates: 2007: \$28.9 million — 2011: \$26.0 million

CORPORATION FRANCHISE TAX

Article 9-A EZ/ZEA Wage Tax Credit in 2007 By Size of Entire Net Income

Size of Entire Net Income	Number of Taxpayers	Amount Used & Refunded (millions \$)
Less than \$0	167	6.0
Zero	30	0.8
\$1 - \$49,999	112	0.3
\$50,000 - \$99,999	49	0.1
\$100,000 - \$499,999	82	0.7
\$500,000 - \$999,999	22	0.4
\$1,000,000 - \$4,999,999	53	1.7
\$5,000,000 - \$24,999,999	23	2.9
\$25,000,000 and over	37	16.0
Total:	575	28.9

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

c. EZ Capital Credit

Citation: Section 210(20)

Credit Type: Non-refundable/Carryforward

Effective Date: Effective for tax years beginning on or after January 1, 1986

Description: Taxpayers may qualify for a credit for direct equity investments in certified zone businesses and contributions to community development projects. The credit equals 25 percent of the sum of each type of investment. The maximum credit per taxpayer is \$100,000 for each investment type for an aggregate limit of \$200,000 and cannot exceed one half of the taxpayer's pre-credit tax. Taxpayers who previously claimed the credit based on investments in zone capital corporations may continue to carry forward unused amounts.

Estimates: 2007: \$0.1 million — 2011: \$0.0 million

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

NOTE: "New business" taxpayers or taxpayers designated as owners of a qualified investment project (QUIP) or a significant capital investment project (SCIP) may elect to have 50 percent of their unused EZ-WTC or EZ-ITC for the tax year refunded, in lieu of carryover. Owners of QUIPs or SCIPs may also refund 50 percent of the EZ-EIC.

d. QEZE Real Property Tax Credit

Citation: Sections 14, 15, 210(27)

Credit Type: Refundable

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

Description: For taxpayers certified prior to April 1, 2005, the QEZE real property tax credit (RPTC) is the product of three factors. The benefit period factor is 1.0 in the first ten years of certification, declining by 0.2 each year thereafter. The employment increase factor is based upon the QEZE's job growth. The final factor is the QEZE's real property taxes for the current tax year.

CORPORATION FRANCHISE TAX

For taxpayers certified on or after April 1, 2005 and located in an Investment Zone (IZ), the credit equals 25 percent of the wages and health and retirement benefits of net new employees. Taxpayers located in a Development Zone (DZ) use the same formula but include an additional factor, the DZ employment increase factor (EIF), scaled to reward greater job increases. The credit can exceed these amounts if the capital investment limitation is greater, but the credit is capped at the amount of real property taxes. Taxpayers certified on or after April 1, 2009 must reduce the computed credit amount by 25 percent.

The QEZE RPTC may not be used against the AMT or fixed dollar minimum tax bases.

Estimates: 2007: \$118.6 million — 2011: \$180.0 million

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

*Article 9-A QEZE Real Property Tax Credit in 2007
By Size of Entire Net Income*

Size of Entire Net Income	Number of Taxpayers	Amount Used & Refunded (millions \$)
Less than \$0	162	41.1
Zero	23	8.4
\$1 - \$49,999	59	5.7
\$50,000 - \$99,999	28	0.5
\$100,000 - \$499,999	52	2.7
\$500,000 - \$999,999	22	1.1
\$1,000,000 - \$4,999,999	45	3.3
\$5,000,000 - \$24,999,999	27	28.9
\$25,000,000 and over	43	26.8
Total:	461	118.6

e. **QEZE Tax Reduction Credit**

Citation: Sections 14, 16, 210(28)

Credit Type: Non-refundable/Non-carryforward

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

Description: The QEZE tax reduction credit is the product of four factors: the benefit period factor, the employment increase factor, the zone allocation factor, and the tax factor. The first two factors are discussed above. The Zone allocation factor measures the QEZE's economic presence in the zone. The tax factor is the greater of the QEZE's tax on the ENI or AMT bases. For taxpayers located entirely within an EZ, the tax reduction credit can be applied against the AMT and fixed dollar minimum tax, potentially reducing a taxpayer's liability to zero.

Estimates: 2007: \$30.8 million — 2011: \$32.0 million

CORPORATION FRANCHISE TAX

Article 9-A QEZE Tax Reduction Credit in 2007 By Size of Entire Net Income

Size of Entire Net Income	Number of Taxpayers	Amount Used & Refunded (millions \$)
Less than \$0	22	0.2
Zero	9	0.0
\$1 - \$49,999	57	0.0
\$50,000 - \$99,999	37	0.1
\$100,000 - \$499,999	58	0.4
\$500,000 - \$999,999	24	0.5
\$1,000,000 - \$4,999,999	48	2.4
\$5,000,000 - \$24,999,999	25	5.3
\$25,000,000 and over	39	22.0
Total:	319	30.8

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

11. Credit for Servicing SONYMA Mortgages

Citation: Section 210(21-a)

Credit Type: Non-refundable/Non-carryforward

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

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

The credit may be applied against the mortgage banker's liability to reduce its liability to zero.

Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

12. Farmers' School Property Tax Credit

Citation: Section 210(22)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after January 1, 1997

Description: Taxpayers primarily engaged in farming may claim a credit equal to 100 percent of total school property taxes paid on qualified New York agricultural property up to 350 acres, and 50 percent of the school taxes paid on acres in excess of 350. To be eligible, taxpayers must earn two-thirds of their Federal income from farming, with three-year income averaging allowed in determining this threshold. The credit begins to phase out for taxpayers with New York entire net income in excess of \$200,000 and is phased out completely at \$300,000. Shareholders may

CORPORATION FRANCHISE TAX

elect to take their pro rata share of the corporation's income and principal payments on farm indebtedness when determining the farmers' school tax credit. In such instances, the corporation does not claim any credit. Recapture provisions apply if the taxpayer converts the property to a nonqualified use in the two years subsequent to first use of the credit.

Estimates: 2007: \$1.1 million — 2011: \$1.0 million

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

13. **Credit for Employment of Persons with Disabilities**

Citation: Section 210(23)

Credit Type: Non-refundable/Carryforward

Effective Date: Effective for tax years beginning on or after January 1, 1998, with respect to employees who begin work on or after January 1, 1997

Description: Employers who employ individuals with disabilities may claim a credit for a portion of wages paid to such individuals. 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's wages qualify for the Federal work opportunity tax credit, the New York credit will apply to second year wages.

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

Estimates: 2007: \$0.1 million — 2011: \$0.0 million

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

14. **Qualified Emerging Technology Company (QETC) Credits**

a. **QETC Capital Tax Credit**

Citation: Section 210(12-F)

Credit Type: Non-refundable/Carryforward

Effective Date: Effective for tax years beginning on or after January 1, 1999

Description: Taxpayers who make a qualified investment in a certified QETC can receive a credit that varies depending upon how long the investment is held. Taxpayers claim the credit in the year the investment is made and certify the duration of the holding period. Investments held for four years from the close of the tax year in which the credit is first claimed qualify for a 10 percent credit. Investments held for nine years qualify for a 20 percent credit. If the property is sold, transferred, or disposed of prior to the end of the holding period, the taxpayer must recapture a portion of the credit. The aggregate limits for all years are \$150,000 for the 10 percent credit and \$300,000 for the 20 percent credit. The amount of credit used may not exceed fifty percent of the tax due before any credits.

Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

b. **QETC Employment Credit**

Citation: Section 210(12-E)

Credit Type: Refundable

Effective Date: Effective for tax years beginning on or after January 1, 1999

Description: The credit equals \$1,000 for each individual employed over a base year level and is allowed for three years.

Estimates: 2007: \$0.3 million — 2011: \$1.0 million

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

c. **QETC Facilities, Operations, and Training Credit**

Citation: Section 210(12-G)

Credit Type: Refundable

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

Description: This credit consists of three components. The first is an 18 percent credit for qualified research and development property. The second is a 9 percent credit for qualified research expenses. The third is a 100 percent credit for employee training expenses, up to \$4,000 per employee per year. The credit is available for four consecutive years, although a taxpayer relocating from an academic incubator facility is entitled to an additional year. The credit is capped at \$250,000 per taxpayer per year. In the case of partnerships, limited liability companies, and S corporations, the cap is applied at the entity level. The aggregate amount of credit allowed to the partners, members, or shareholders cannot exceed \$250,000 for the year. The credit expires after December 31, 2011.

Estimates: 2007: \$11.7 million — 2011: \$22.0 million

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

15. **Low-Income Housing Credit**

Citation: Sections 18, 210(30)

Credit Type: Non-refundable/Carryforward

Effective Date: Effective for tax years beginning on or after January 1, 2000, with respect to commitments for construction of low-income housing agreed upon on or after May 15, 2000

Description: The “New York State Low-Income Housing Tax Credit Program,” based on the existing Federal program, requires an agreement between the taxpayer and the commissioner of the New York State Division of Housing and Community Renewal 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 10 tax years.

Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

CORPORATION FRANCHISE TAX

16. **Credit for Purchase of an Automated External Defibrillator**
Citation: Section 210(25)
Credit Type: Non-refundable/Non-carryforward
Effective Date: Effective for tax years beginning on or after January 1, 2001
Description: Taxpayers who purchase an automated external defibrillator can claim a credit equal to the cost of each unit, not to exceed \$500 per purchase.
Estimates: 2007: \$0.0 million — 2011: \$0.0 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1
17. **Green Building Credit**
Citation: Sections 19, 210(31)
Credit Type: Non-refundable/Carryforward
Effective Date: Effective for tax years beginning on or after January 1, 2001
Description: The green building credit consists of several incentives for the purchase of recyclable building materials and other environmentally preferable tangible personal property. It also contains tax credits for the purchase of fuel cells, photovoltaic modules, and environmentally sensitive non-ozone depleting refrigerants. Phase I of the credit applied to costs incurred on or after June 1, 1999, for property placed in service or that received a final certificate of occupancy in tax years from 2001 to 2004. Phase II of the program began in the 2005 tax year. An additional \$25 million in total credit can be issued, but the amount on any one credit certificate is limited to \$2 million.
Estimates: 2007: \$1.2 million — 2011: \$1.0 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1
18. **Long-Term Care Insurance Credit**
Citation: Section 210(25-a)
Credit Type: Non-refundable/Carryforward
Effective Date: Effective for tax years beginning on or after January 1, 2002
Description: A taxpayer may take a credit equal to a percentage of the premiums paid for the purchase of, or continuing coverage under, a long-term care insurance policy as defined in the Insurance Law. When enacted, the credit percentage was 10 percent. Subsequent legislation increased the credit to 20 percent for tax years beginning after 2003.
Estimates: 2007: \$0.1 million — 2011: \$0.0 million
Data Source: Corporation Franchise Tax Study File
Reliability: Level 1
19. **Brownfields Tax Credits**
Citation: Sections 21, 22, 23, 210 (33, 34, 35)
Credit Type: Refundable
Effective Date: Effective for tax years beginning on or after April 1, 2005
Description: Three tax credits are available to taxpayers who remediate a site under the Brownfield Cleanup Program.

CORPORATION FRANCHISE TAX

The brownfield redevelopment tax credit consists of three credit components relating to costs associated with: site preparation; tangible property; and on-site groundwater remediation. For sites accepted into the Brownfield Cleanup Program (BCP) prior to June 23, 2008, the credit equals 12 percent of costs associated with each component. The credit increases by two percent if the site is remediated to a Track 1 cleanup level (determined by the Department of Environmental Conservation), and by another eight percent if at least one half of the site is located in an Environmental Zone (En-Zone). An En-Zone is an area designated by the Commissioner of Economic Development, and as of the 2000 census, has a poverty rate of at least 20 percent and an unemployment rate of at least 1 1/4 times the statewide unemployment rate, or an area that has a poverty rate of at least two times the poverty rate for the county in which the site is located provided the site was subject to a cleanup agreement before September 1, 2010.

Sites accepted into the BCP after June 23, 2008 are subject to a different credit calculation for the redevelopment credit. The site preparation and groundwater remediation component rates are as follows:

Cleanup Standard	Rate	Track 4
Soil cleanup for unrestricted use; protection of groundwater/ecological resources	50%	n/a
Residential use	40%	28%
Commercial use	33%	25%
Industrial Use	27%	22%

The rates for the tangible property component remain the same with a new 2 percent bonus rate available for sites redeveloped in conformity with the goals and priorities of the brownfield opportunity area in which the site is located. Also, sites are subject to a cap on the amount of tangible property component they can generate. The cap is the lesser of:

- \$35 million or three times the site preparation and groundwater component costs; or
- \$45 million or six times the site preparation and groundwater component costs if the site is to be used for manufacturing.

The remediated brownfield credit for real property taxes equals 25 percent of the product of the taxpayer's employment factor (a percentage based on the number of persons employed by the taxpayer on a qualified site) and the taxpayer's eligible real property taxes. If the site is located in an En-Zone the credit increases to 100 percent. There is a credit limitation equal to the product of the number of full time employees at the qualified site multiplied by \$10,000.

The environmental remediation insurance credit is allowed for premiums paid for environmental remediation insurance up to the lesser of \$30,000 or 50 percent of the cost of the premiums.

Estimates: 2007: \$127.9 million — 2011: \$195.0 million

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

20. Empire State Film and Commercial Production Credits

a. Empire State Film Production Credit

Citation: Section 24 and Section 210(36)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after January 1, 2004

Description: Taxpayers satisfying a threshold level of film production activity in the State may claim the Empire State film production credit. The credit equals 30 percent of qualified production costs incurred in the production of films and certain television shows.

Credit is awarded on a first come, first served basis with applications made to the New York State Governor’s Office for Motion Picture and Television Development (MP/TV). The annual amount of credit that can be allocated by MP/TV is \$420 million in 2010 through 2014. However, up to \$7 million of the annual allocation is available for the Empire State film post production credit. MP/TV has the authority to redirect Empire State film post production credit funds to the film credit if there are insufficient claims for the post production credit and applications for the film production credit exceed the allotted total.

For tax years prior to January 1, 2008, the credit was refundable across two years. For tax years starting in 2008, the credit was fully refundable. For tax years beginning on or after January 1, 2009, the utilization of the credit is spread across several years, depending on the size of the credit:

If the amount of the credit is:	it is claimed:
under \$1 million	in the taxable year in which the film is completed
at least \$1 million but less than \$5 million	over a two year period, with half claimed each year
at least \$5 million	over a three year period, with one-third claimed each year

Taxpayers awarded credit from the 2010-2014 allocations can claim their credits in the later of the tax year the production of the qualified film is completed or the tax year immediately following the allocation year from which the taxpayer was awarded credit.

Estimates: 2007: \$61.4 million — 2011: \$276.0 million

Data Sources: Corporation Franchise Tax Study File

Reliability: Level 1

b. Empire State Film Post Production Credit

Citation: Section 31 and Section 210(41)

Credit Type: Refundable – Over 2 Years

Effective Date: Effective for taxable years beginning on or after August 11, 2010

Description: Companies that are ineligible for the film production credit may qualify for the film post production credit. The credit equals 10 percent of qualified post production costs paid in the production of a qualified film at a

qualified post production facility, generally a facility in New York State. To be eligible for the credit, the costs incurred at a qualified post production facility must equal or exceed 75 percent of the total post production costs at any post production facility. The credit is allowed for the taxable year in which the production of the qualified film is completed. The credit is administered by the Governor's Office for Motion Picture and Television Development and is capped at \$7 million per year (total allocation of \$35 million). MP/TV has the authority to redirect post production credit funds to the film credit if there are insufficient claims for the post production credit and applications for the film production credit exceed the allotted total.

Estimates: 2007: Not Applicable – 2011: \$7.0 million

Data Source: New York State Division of the Budget

Reliability: Level 5

c. **Empire State Commercial Production Credit**

Citation: Section 28 and Section 210(38)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after January 1, 2007 and before January 1, 2012

Description: A taxpayer satisfying a threshold level of commercial production activity may claim a tax credit for qualified commercial production in New York State. The credit equals 20 percent of qualified production costs in excess of the average of the three prior years' costs incurred in the production of commercials. In addition, the credit includes five percent of qualified production costs in excess of \$500,000 during the calendar year for work within the Metropolitan Commuter Transportation District (MCTD) and five percent of qualified production costs in excess of \$200,000 during the calendar year for work done outside the MCTD. All components are distributed on a pro-rata basis. The State credit is capped at \$7 million per year and is allocated by the Governor's Office for Motion Picture and Television Development.

Estimates: 2007: \$0.6 million — 2011: \$2.0 million

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

21. **Security Training Tax Credit**

Citation: Section 26, Section 210 (37)

Credit Type: Refundable

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

Description: Owners of commercial buildings over 500,000 square feet can receive a \$3,000 credit for each security guard employed who has undergone training certified by the New York State Office of Homeland Security (OHS) and is paid a certain minimum wage. The credit is administered by OHS.

Estimates: 2007: \$0.4 million — 2011: \$0.0 million

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

CORPORATION FRANCHISE TAX

22. **Land Conservation Easement Credit**

Citation: Section 210 (38)

Credit Type: Refundable

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

Description: Taxpayers may claim a tax credit equal to 25 percent of the school district, county, and city/town real property taxes paid on land that is under a conservation easement held by a public or private conservation agency. The term *conservation easement* means a perpetual and permanent conservation easement as defined in Article 49 of the Environmental Conservation Law that serves to protect open space, scenic, natural resources, biodiversity, agricultural, watershed, and/or historic preservation resources. Any conservation easement for which tax credit is claimed shall be filed with the Department of Environmental Conservation, as provided for in Article 49 of the Environmental Conservation Law and such conservation easement shall comply with the provisions of Title 3 of such article, and the provisions of subdivision (h) of section 170 of the Internal Revenue Code. The maximum allowable tax credit is \$5,000.

Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

23. **Biofuel Production Credit**

Citation: Sections 28, 210 (38)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after 2006 and before January 1, 2013

Description: Taxpayers may claim a tax credit for the production of biofuel. Biofuel is defined as fuel which includes biodiesel and ethanol. Biodiesel is fuel comprised exclusively of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100, which meets the specifications of American Society of Testing and Materials designated D 6751. The credit equals 15 cents per gallon after the production of the first 40,000 gallons per year presented to market. The credit is capped at \$2.5 million per taxpayer per year for up to four consecutive years per biofuel plant. The cap is applied at the entity level in the case of partnerships, limited liability companies, and S corporations. The aggregate amount of credit that flows through to all partners, members, or shareholders cannot exceed \$2.5 million for the year.

Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Data Source: New York State Division of the Budget

Reliability: Level 1

24. **Credit for Rehabilitation of Historic Properties**

Citation: Section 210(40)

Credit Type: Non-refundable/Carryforward

Effective Date: Effective for taxable years beginning on or after January 1, 2007/Amended credit effective for taxable years beginning on or after January 1, 2010 and before January 1, 2015.

Description: Taxpayers may claim a tax credit for the rehabilitation of depreciable historic properties located in New York State. The amount of the state credit is based on the credit amount allowed under subsection (a)(2) of section 47 of the Federal Internal Revenue Code (IRC) for the same taxable year. IRC §47(c)(3) defines a certified historic structure as a building and its structural components which are listed in the National Register of Historic Places or located in a registered historic district and certified to be of historic significance to the district. Any State credit taken must be recaptured if the Federal credit upon which it is based is recaptured by the taxpayer.

For taxable years beginning on or after January 1, 2010, the credit is increased from 30 percent to 100 percent of the amount of the federal historic properties credit claimed by the taxpayer. The credit is further amended to increase the maximum credit allowed from \$100,000 to \$5 million. In the case of partnerships and S corporations, the cap is applied at the entity level. The aggregate credit that flows through to all partners or shareholders cannot exceed the cap for the year. After December 31, 2014 the credit reverts back to the pre-2010 amount and limit.

Estimates: 2007: \$0.3 million — 2011: \$4.0 million

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

25. **Clean Heating Fuel Credit**

Citation: Section 210(39)

Credit Type: Refundable

Effective Date: Effective for purchases made on July 1, 2006 through June 30, 2007 and taxable years beginning on or after January 1, 2008 and before January 1, 2012.

Description: Taxpayers may claim a tax credit for bioheat used for space heating for hot water production for residential purposes within the state. The credit equals 1 cent per percent of biodiesel per gallon of bioheat purchased by the taxpayer and is capped at 20 cents per gallon. Biodiesel is defined as fuel comprised exclusively of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100, which meets the specifications of American Society of Testing and Materials designated D6751. In addition, bioheat means a fuel comprised of biodiesel blended with conventional home heating oil, which meets the specifications of the American Society of Testing and Materials designation D396 or D975. Prior to January 1, 2008, the credit was allowed for bioheat purchased by the taxpayer on or after July 1, 2006 and before July 1, 2007.

Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Data Source: Corporation Tax Study File

Reliability: Level 1

26. **Excelsior Jobs Program Tax Credits**

Chapter 59 of the Laws of 2010 created the Excelsior Jobs Program (EJP) Act. The new program is administered by Empire State Development (ESD) and offers four tax credits focused on certain strategic industries. To claim credits, taxpayers must first apply to and be approved by ESD. ESD can issue up to \$50 million in new credit annually, with a fully effective annual total program cost of \$250 million.

CORPORATION FRANCHISE TAX

ESD will calculate the amount of each credit annually and issue a certificate of tax credit to participants entitling them to the credits. Taxpayers are allowed to claim credits for five consecutive years.

a. **Excelsior Jobs Tax Credit**

Citation: Sections 31 and 210(41)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after January 1, 2011

Description: EJP participants may claim a credit for each net new job created in the State. The value of the credit cannot exceed \$5,000 per new job and is computed on marginal wages plus benefits basis as follows:

- 5 percent of wages plus benefits of \$50,000 or less;
- 4 percent of wages plus benefits between \$50,001 and \$75,000; and
- 1.33 percent of wages plus benefits over \$75,000.

b. **Excelsior Investment Tax Credit (EJP-ITC)**

Citation: Sections 31 and 210(41)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after January 1, 2011

Description: EJP participants may claim a credit equal to two percent of the cost of qualified investments in New York. Taxpayers cannot claim both the EJP-ITC and the regular ITC or both the EJP-ITC and the brownfield tangible property credit component for the same property in a given year.

c. **Excelsior Research and Development Tax Credit (EJP-R&D)**

Citation: Sections 31 and 210(41)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after January 1, 2011

Description: EJP participants may claim a credit for research and development expenditures in New York. The credit is equal to ten percent of the portion of the taxpayer's Federal research and development credit pertaining to expenditures attributable to New York. Eligible expenditures are defined in section 41 of the Internal Revenue Code.

d. **Excelsior Real Property Tax Credit (EJP-RPTC)**

Citation: Sections 31 and 210(41)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after January 1, 2011

Description: EJP participants located in areas formerly designated as Investment Zones under the Empire Zones Program or that qualify as regionally significant projects may claim a credit for real property taxes. The credit equals 50 percent of the property taxes assessed and paid in the year immediately prior to a taxpayer's application to the EJP and declines by 10 percent each year.

Estimates: 2007: Not Applicable – 2011: \$25.0 million

Data Source: New York State Division of the Budget

Reliability: Level 5

Corporate Exemptions

Certain entities are exempt from the Article 9-A corporate franchise tax.

27. Exempt Companies

Citation: Sections 3 and 209(4)(5)(6)(7) and (9)

Effective Date: Certain companies have been exempt from tax since Article 9-A was enacted in 1944. Other exemptions have been added over the years as new entities have been granted an exemption legislatively or in accordance with Federal exemption language. The approximate effective date of each of the following types of companies or organizations is noted in parentheses after each item.

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

- Limited Profit Housing Companies (6/7/74)
- Limited Dividend Housing Companies (1/1/74)
- Trust Companies organized under a law of New York, all of the stock of which is owned by not less than 20 savings banks organized under a law of New York (3/31/44)
- Urban Development Corporation and its subsidiaries (1/1/69)
- Domestic corporations exclusively engaged in the operation of one or more vessels in foreign commerce (3/31/44)
- Domestic International Sales Corporations (DISCs), to the extent a DISC is required to have its income imputed to its shareholders (1/1/71)
- Passive Trusts (3/31/44)
- Certain corporations organized other than for profit and those corporations which are generally exempt from Federal tax by the Internal Revenue Code (3/31/44)
- Corporations exempt pursuant to Federal Public Law 86-272 wherein a foreign corporation has limited its activities in New York to the mere solicitation of orders by its employees or representative (9/14/59)
- Real Estate Mortgage Investment Conduits (REMICs) (1/1/87)
- Industrial Development Agencies (1/1/69)
- Housing Development Fund Companies (7/24/86)
- Corporations exempt from tax under IRC Sections 501(c)(2) and (25) (1/1/87)
- Certain cooperative heating and cooling service companies that are organized without capital stock and that are exempt from tax pursuant to IRC Section 501(c)(12). Such corporations pay an annual fee of \$10 to the Commissioner of Taxation and Finance in lieu of all corporation franchise taxes. (1/1/95)

Estimate: No data available

Reliability: Level 5

28. Companies Whose Income “Passes Through” to Shareholders

Description: Article 9-A provides special treatment for the following companies:

a. Real Estate Investment Trusts (REITs)

Citation: Section 209(5)

Effective Date: Effective for tax years beginning after December 31, 1972

CORPORATION FRANCHISE TAX

Description: To the extent that the REIT passes through its income to the shareholders, the REIT is exempt from the franchise tax. The shareholders have their dividend or distributed gain taxed at their own rate of tax, usually under the Personal Income Tax. Any undistributed income by the REIT would be subject to the franchise tax. Effective for taxable years beginning on or after January 1, 2007, REITs that were subsidiaries of corporate franchise taxpayers were required to file combined with their parents and did not receive preferential tax treatment at the entity level. Effective for tax years beginning on or after January 1, 2008, the 2007 combined reporting rules were modified to require captive REITs to now file combined with their closest controlling stockholder.

Estimate: No data available

Reliability: Level 5

b. **Regulated Investment Companies (RICs)**

Citation: Section 209(7)

Effective Date: Effective for tax years beginning after December 31, 1980

Description: To the extent that the RIC passes through its income to the shareholders, the RIC is exempt from the franchise tax. The shareholders have their dividend or distributed gain taxed at their own rate of tax, usually under the Personal Income Tax. Any undistributed income by the RIC would be subject to the franchise tax. Effective for taxable years beginning on or after January 1, 2007, RICs that were subsidiaries of corporate franchise taxpayers were required to file combined with their parents and did not receive preferential tax treatment at the entity level. Effective for tax years beginning on or after January 1, 2008, the 2007 combined reporting rules were modified to require captive RICs to now file combined with their closest controlling stockholder.

Estimate: No data available

Reliability: Level 5

29. **Businesses Using Fulfillment Services**

Citation: Sections 208(19) and 209(2)

Effective Date: September 1, 1997

Description: A corporation shall not be deemed to be doing business, employing capital, owning or leasing property, or maintaining an office in the State for purposes of the Corporation Franchise Tax by reason of the use of fulfillment services of an entity other than an affiliated entity and the ownership of property stored on the premises of such entity in conjunction with such services. Fulfillment services are defined as the: acceptance of orders; responses to consumers inquiries; billing collection activities; and shipment of orders from an inventory of products regularly offered for sale by the purchaser of such services.

Estimate: No data available

Reliability: Level 5

30. **Corporate Parent with Bank and Insurance Subsidiaries or Gas and Electric Subsidiaries**

Citation: Section 210(2)

Effective Date: Effective for tax years beginning after December 31, 1999 for corporate parents with bank and insurance subsidiaries; for corporate parents with

gas and electric subsidiaries, the 30 percent exclusion is effective for tax years beginning on or after January 1, 2000; the 100 percent exclusion applies to tax years beginning on or after January 1, 2001.

Description: A corporate parent is allowed to exclude from its subsidiary capital tax base, capital attributable to subsidiaries taxable under Article 32 (bank) or 33 (insurance) taxes. The corporate parent is also allowed to exclude from its subsidiary capital tax base, capital attributable to gas and electric subsidiaries taxable under Section 186 of the Tax Law.

Estimate: 2007: \$14.2 million — 2011: \$14.0 million

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

31. **Homeowners Association Exemption from Fixed Dollar Minimum Tax**

Citation: Section 210(1)

Effective Date: Effective for tax years beginning on or after January 1, 2000

Description: Article 9-A exempts qualified homeowners associations that have no homeowner's taxable income from payment of the fixed dollar minimum tax. The associations would still be subject to the other taxable bases under Article 9-A, if applicable.

Estimates: No data available

Reliability: Level 5

Preferential Tax Rates

32. **Qualifying Small Business Corporations**

Citation: Section 210(1)(a)(iv)

Effective Date: Effective for taxable years beginning after December 31, 1986

Description: Special tax rates apply to corporations that qualify as small business taxpayers. The law defined a small business taxpayer as a taxpayer that meets the Federal definition of a small business (IRC Section 1244(c)(3)) and that has worldwide entire net income (ENI) of not more than \$290,000 for the taxable year. Prior to the 2005 tax year, small business taxpayers with an ENI base of \$200,000 or less paid a 6.85 percent rate. Taxpayers with an ENI base of more than \$200,000 but not more than \$290,000 paid \$13,700 plus 7.5 percent of the amount over \$200,000, plus 3.25 percent of the amount over \$250,000.

For taxable years beginning on or after January 1, 2005, the preferential small business rate was lowered and the ENI threshold was raised to \$390,000. Taxpayers with an ENI base of \$290,000 or less paid a 6.5 percent rate. Taxpayers with an ENI base of more than \$290,000 but not more than \$390,000 paid \$18,850 plus 7.5 percent of the amount over \$290,000 plus 7.25 percent of the amount over \$350,000. To account for changes in the Article 9-A rate, starting in tax years beginning on or after January 1, 2007, taxpayers with an ENI base of \$290,000 or less continued to pay a 6.5 percent rate. However, taxpayers with an ENI base of more than \$290,000 but not more than \$390,000 pay \$18,850 plus 7.1 percent of the amount over \$290,000, plus 4.35 percent of the amount over \$350,000.

Estimates: 2007: \$6.8 million — 2011: \$6.0 million

Data Source: Corporation Franchise Tax Study File

CORPORATION FRANCHISE TAX

Reliability: Level 1

33. **Capital Base Liability Cap Reduction for Manufacturers and QETCs**

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

Effective Date: Effective for taxable years beginning on or after January 1, 2005; QETCs added for taxable years beginning on or after January 1, 2008.

Description: The maximum liability under the capital base is \$1 million, except taxpayers that are manufacturers or qualified emerging technology companies (QETCs) are subject to a lower cap of \$350,000. For taxable years beginning on or after January 1, 2008 and before January 1, 2011, the non-manufacturer/non-QETC cap is temporarily raised to \$10 million.

Estimates: 2007: \$4.4 million — 2011: \$4.0 million

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

34. **Manufacturer and QETC Rate**

Citation: Section 210(1)(a)

Effective Date: Effective for taxable years beginning on or after January 31, 2007

Description: Taxpayers that are manufacturers or qualified emerging technology companies (QETCs) are subject to a reduced ENI rate of 6.5 percent.

A manufacturer is defined as “a taxpayer... principally engaged in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture, or commercial fishing.” The generation and distribution of electricity, the distribution of natural gas, and the production of steam associated with the generation of electricity is specially excluded.

To qualify for the special manufacturing rate, a taxpayer must meet two tests. First, the taxpayer, or the combined group, must be principally engaged in manufacturing. This test is satisfied if more than 50 percent of the taxpayer’s or group’s gross receipts are derived from the sale of goods produced by the activities listed above.

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

A taxpayer who meets the definition of a QETC in Section 3102-e of the Public Authorities Law is considered a manufacturer and is exempt from the two-part manufacturing test described above. To qualify as a QETC for the special manufacturing rate, a taxpayer is exempt from the QETC-specific \$10 million total annual product sales limitation, but must still satisfy one of two other QETC tests: the primary products or services test; or the research and development funds to net sales ratio test.

Estimates: 2007: \$4.9 million — 2011: \$5.0 million

Data Source: Corporation Franchise Tax Study File

Reliability: Level 1

BANK TAX

This section of the report provides tax expenditure estimates for 34 separate provisions of the franchise tax on banking corporations. The list of expenditures contained in Table 4 is based on the Tax Law as of January 1, 2011. The estimates are based on data from the 2007 tax year, the latest year for which Article 32 tax return data are available. They are also extrapolated to the 2011 tax year. Total bank tax liability has been included to provide a benchmark for the tax expenditure estimates. The tax years refer to both the 2007 and 2011 calendar tax years and fiscal tax years beginning in 2007 and 2011.

Description of Tax

Article 32 imposes a franchise tax on banking corporations for the privilege of doing business in New York. Under Article 32 a bank's tax liability equals the larger of:

- 7.1 percent of allocated entire net income; or
- 0.1 mill on each dollar of allocated assets (reduced rates of 1/25 or 1/50 of a mill apply to a bank that meets certain criteria based on its net worth to asset ratio and the percentage of mortgages included in its total assets); or
- 3 percent of allocated alternative entire net income; or
- a fixed dollar minimum tax of \$250.

Corporations doing business within and without the State use formula apportionment to determine the portion of the tax base (i.e., entire net income, alternative entire net income, or assets) attributable to New York. Taxpayers determine the base allocable to New York by multiplying the unallocated base by an allocation percentage based on the ratio of receipts, deposits, and payroll earned or paid in New York to those everywhere.

Calculation of the taxes on allocated entire net income or allocated alternative entire net income starts with Federal taxable income, which includes certain exclusions and deductions. Taxpayers then make several New York modifications and allocate the income to arrive at New York entire net income, which is multiplied by the tax rate. Alternative entire net income is the same as entire net income, except that the deductions for subsidiary interest, subsidiary dividends, and interest on government obligations are not allowed. In addition, the factors of the alternative income allocation percentage are single weighted. A three percent tax rate applies to allocated alternative income.

The tax on allocated taxable assets starts with the taxpayer's total assets. Taxable assets equal total assets minus assets attributable to the Federal Deposit Insurance Corporation (FDIC) and Federal Savings and Loan Insurance Corporation (FSLIC). Taxpayers multiply the total by their allocation percentage. The normal tax rate imposed on this amount (one tenth, one twenty-fifth, or one fiftieth of a mill), is determined by the taxpayer's net-worth-to-assets ratio and the percentage of its loans secured by mortgages.

Taxpayers apply certain credits against the highest tax liability to determine their after-credit tax liability.

BANK TAX

Many of the exclusions, deductions, modifications, allocation percentages, and credits discussed above give rise to the tax expenditures listed and estimated in this section.

Data Sources

The major data sources used to compute the tax expenditure estimates for the Article 32 Bank Tax include:

- 2007 Bank Tax Study File — This file, compiled by the Department of Taxation and Finance, includes all banks filing under Article 32. The file is used to simulate the tax expenditure items.
- Congressional Joint Committee on Taxation (JCT) Estimates of Federal Tax Expenditures — Since no data for Federal exclusion items are available at the State level, Federal tax expenditure items estimated by the JCT are prorated to New York.

Methodology

The projections of the tax expenditure from 2007 to 2011 use a variety of forecast variables. Projections of items under Federal exclusions from income in the Appendix were taken from JCT estimates of Federal tax expenditures and prorated to New York. Projections were computed using historical trends.

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

Table 4
2011 New York State Bank Tax Expenditure Estimates
(2007 Total Bank Tax Liability = \$710.2 Million)
(Millions of Dollars)

Tax Item	History					Forecast	Reliability
	2003	2004	2005	2006	2007	2011	Level
New York Modifications to Federal Taxable Income							
1. Deduction of Money Received from the FDIC and FSLIC	*	0.0	0.0	0.0	0.0	0.0	1
2. Deduction for Eligible Net Income of IBFs	1.9	2.6	0.1	1.9	1.8	2.0	1
3. Deduction of 17 Percent of Interest Income from Subsidiary Capital	5.7	6.1	6.3	29.7	11.9	12.0	1
4. Deduction of 60 Percent of Dividend Income and Excess Gains from Subsidiary Capital	52.6	55.1	95.9	143.1	84.7	84.0	1
5. Deduction of 22.5 Percent of Interest Income from Government Obligations	9.2	5.3	12.2	15.5	5.4	5.0	1
Alternative Bases							
6. Reduced Rate of Asset-Based Tax for Banks Meeting Net Worth and Mortgage Holdings Criteria	*	*	*	*	*	*	1
7. Exclusion of Money Received from FDIC and FSLIC from Asset Based Tax	0.0	0.0	0.0	0.0	0.0	0.0	1
Allocation Percentages							
8. Discounting of the Wage Factor in the Calculation of Entire Net Income and Taxable Assets Allocation Percentages	20.2	26.7	26.8	30.8	26.7	26.0	1
9. Exclusion of Wages of Executive Officers in the Calculation of Entire Net Income, Alternative Entire Net Income, and Taxable Assets Allocation Percentages	N/A	N/A	N/A	N/A	N/A	N/A	5
10. IBF Formula Allocation Election	3.9	24.9	28.9	37.2	30.3	30.0	1
Credits							
11. Mortgage Servicing Tax Credit	8.0	7.0	7.1	8.7	4.9	3.0	1
12. Special Additional Mortgage Recording Tax Credit ¹	28.0	25.9	19.9	14.3	15.4	12.0	1
13. Empire Zone (EZ) and Qualified Empire Zone Enterprise (QEZE) Credits ¹							
a. EZ and Zone Equivalent Area Wage Tax Credit	8.9	7.6	14.8	1.2	0.9	5.0	1
b. EZ Capital Credit	*	0.2	*	*	*	*	1
c. QEZE Real Property Tax Credit	1.2	2.9	2.7	2.2	1.1	0.0	1
d. QEZE Tax Reduction Credit	3.8	4.6	6.9	4.4	0.9	4.0	1
14. Credit for Employment of Persons with Disabilities ¹	*	*	0.0	0.0	0.0	*	1
15. Investment Credit for Financial Services Industry ¹	6.9	1.5	3.9	1.6	1.4	3.0	1
16. Low-Income Housing Credit ¹	*	0.2	0.4	0.5	0.3	0.3	1
17. Credit for Purchase of an Automated External Defibrillator ¹	0.0	*	0.0	*	*	*	1
18. Green Buildings Credit ¹	0.0	0.0	0.0	0.0	0.0	*	1
19. Long-Term Care Insurance Credit	*	*	*	*	*	*	1
20. Brownfields Tax Credits ¹	--	--	0.0	1.1	0.0	*	1
21. Security Training Tax Credit ¹	--	--	0.0	0.0	0.0	*	1
22. Credit for Rehabilitation of Historic Properties ¹	--	--	--	--	--	*	5

BANK TAX

Tax Item	History					Forecast	Reliability
	2003	2004	2005	2006	2007	2011	Level
23. Excelsior Jobs Program Tax Credits	--	--	--	--	--	*	5
Corporate Exemptions							
24. Exemption of Trust Companies Whose Capital Stock is Owned by Twenty or More New York Savings Banks	*	*	*	*	*	*	4
25. Exemption of Federal and State Chartered Credit Unions	22.1	24.1	28.1	34.1	32.1	34.0	4

1/ For tax years 2010, 2011, and 2012, credits subject to deferral.

* Less than \$0.1 million.

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

N/A No data available.

New York Modifications to Federal Taxable Income

In computing New York entire net income, Article 32 permits modifications to Federal taxable income.

1. **Deduction of Money Received from the Federal Deposit Insurance Corporation (FDIC) and Federal Savings and Loan Insurance Corporation (FSLIC)**

Citation: Section 1453(e)(9)-(10)

Effective Date: Effective for taxable years beginning on or after January 1, 1985

Description: A taxpayer may deduct certain money or other property received from the FDIC or FSLIC to the extent not deductible in determining Federal taxable income.

Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Data Source: Bank Tax Study File

Reliability: Level 1

2. **Deduction for Eligible Net Income of International Banking Facilities (IBF)**

Citation: Section 1453(f)

Effective Date: Effective for taxable years ending on or after December 3, 1981

Description: An International Banking Facility is a separate set of asset and liability accounts established for the purpose of receiving deposits from, and extending credit to, foreign individuals or businesses. IBFs are free from domestic reserve requirements and limitations on interest rates and may be established by United States banks as well as agencies of foreign banks. A financial institution which establishes an IBF within New York may deduct, in computing its entire net income, the adjusted eligible net income of the IBF.

Estimates: 2007: \$1.8 million — 2011: \$2.0 million

Data Source: Bank Tax Study File

Reliability: Level 1

3. **Deduction of 17 Percent of Interest Income from Subsidiary Capital**

Citation: Section 1453(e)(11)(i)

Effective Date: Effective for taxable years beginning on or after January 1, 1985

Description: In computing New York entire net income, banks may deduct 17 percent of interest income from subsidiary capital. For purposes of calculating the amount of the deduction, interest income from subsidiary capital is not reduced by expenses directly or indirectly attributable to subsidiary capital.

Estimates: 2007: \$11.9 million — 2011: \$12.0 million

Data Source: Bank Tax Study File

Reliability: Level 1

4. **Deduction of 60 Percent of Dividend Income and Excess Gains from Subsidiary Capital**

Citation: Section 1453(e)(11)(ii) and (iii)

Effective Date: Effective for taxable years beginning on or after January 1, 1985

Description: In computing New York entire net income, banks may deduct 60 percent of dividend income, gains, and losses from subsidiary capital. For purposes of calculating the amount of the deduction, dividend income from subsidiary capital

BANK TAX

is not reduced by expenses directly or indirectly attributable to subsidiary capital. Effective for taxable years beginning after January 1, 1994, taxpayers may deduct 60 percent of the excess of gains over losses from subsidiary capital. If losses exceed gains, taxpayers are not required to add back to entire net income 60 percent of net losses.

Estimates: 2007: \$84.7 million — 2011: \$84.0 million

Data Source: Bank Tax Study File

Reliability: Level 1

5. Deduction of 22.5 Percent of Interest Income from Government Obligations

Citation: Section 1453(e)(12)

Effective Date: Effective for taxable years beginning on or after January 1, 1985

Description: Taxpayers may deduct 22.5 percent of interest income on New York or U.S. obligations, other than obligations held for resale in connection with regular trading activities. For purposes of calculating the amount of the deduction, income from New York and U.S. obligations is not reduced by expenses directly or indirectly attributable to that capital.

Estimates: 2007: \$5.4 million — 2011: \$5.0 million

Data Source: Bank Tax Study File

Reliability: Level 1

Alternative Bases

Article 32 of the Tax Law provides that the franchise tax paid by a banking corporation is to be determined by an asset-based tax if it results in a tax that is greater than that determined under the income or alternative income bases or the \$250 minimum tax. Two tax expenditure items are provided for under the asset-based tax.

6. Reduced Rate of Asset-Based Tax for Banks Meeting Net Worth and Mortgage Holdings Criteria

Citation: Section 1455(b)(1)(i)-(iv)

Effective Date: Effective for taxable years beginning on or after January 1, 1985

Description: Under the asset-based alternative tax, banks with a net worth below 5 percent of total assets and whose assets are comprised of at least 33 percent mortgages are subject to reduced rates of 0.00002 or 0.00004. The regular rate of the asset based tax equals 0.0001.

Estimates: 2007: Minimal — 2011: Minimal

Data Source: Bank Tax Study File

Reliability: Level 1

7. Exclusion of Money Received from Federal Deposit Insurance Corporation (FDIC) and Federal Savings and Loan Insurance Corporation (FSLIC) from Asset Based Tax

Citation: Section 1455(b)(1)(v)(A)

Effective Date: Effective for tax years beginning on or after January 1, 1985

Description: Under the asset based alternative tax, taxable assets do not include certain monies or other property received from the FDIC or the FSLIC.

Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Data Source: Bank Tax Study File
Reliability: Level 1

Allocation Percentages

Banking corporations are taxed on the portion of their income and assets attributable to New York activities. Consequently, formulas have been devised (called allocation percentages) for the purpose of determining that portion of a banking corporation's income and assets which are taxable in New York. The tax expenditures listed result from preferences given through the calculation of the allocation percentages.

8. **Discounting of the Wage Factor in the Calculation of Entire Net Income and Taxable Assets Allocation Percentages**

Citation: Section 1454(a), (b) and (d)

Effective Date: Effective for taxable years beginning on or after January 1, 1985

Description: In computing both the entire net income and taxable assets allocation percentages, the numerator of the wage factor is discounted to 80 percent of the taxpayer's wages, salaries, and other personal service compensation during the taxable year. As a consequence of the discounting of the wage factor, it is possible that the proportion of entire net income or taxable assets which are allocated to New York State for tax purposes could be reduced, depending on the corporation's particular circumstances.

Estimates: 2007: \$26.7 million — 2011: \$26.0 million

Data Source: Bank Tax Study File

Reliability: Level 1

9. **Exclusion of Wages of Executive Officers in the Calculation of Entire Net Income, Alternative Entire Net Income, and Taxable Assets Allocation Percentages**

Citation: Section 1454(a), (b), (c) and (d)

Effective Date: Effective for taxable years beginning on or after January 1, 1985

Description: The wages, salaries, and other personal service compensation paid to general executive officers are not included in the computation of a banking corporation's entire net income, alternative entire net income, and taxable asset allocation percentages. As a consequence of this exclusion, it is possible that the proportion of such income or assets which are allocated to New York State for tax purposes could be reduced, depending on the corporation's particular circumstances.

Estimate: No data available

Reliability: Level 5

10. **International Banking Facility (IBF) Formula Allocation Election**

Citation: Section 1454(b)(2)(A)

Effective Date: Effective for taxable years beginning on or after January 1, 1985

Description: A banking corporation which establishes an IBF within New York may deduct, in computing its entire net income, the adjusted eligible net income of the IBF. In lieu of this deduction, such banking corporation may elect to modify its entire net income and alternative entire net income allocation percentages by reducing payroll, receipts, and deposits (from foreign persons) which are attributable

BANK TAX

to the gross income of an IBF. This change in allocation reduces the proportion of entire net income or total alternative income allocated to New York for State tax purposes.

Estimates: 2007: \$30.3 million — 2011: \$30.0 million

Data Source: Bank Tax Study File.

Reliability: Level 1

Credits

Credits are amounts stipulated by Article 32 that banking corporations may subtract from their calculated New York tax liability. For tax years 2010, 2011, and 2012, taxpayers are required to defer the use and refund of certain tax credits if they exceed \$2 million in aggregate.

11. Mortgage Servicing Tax Credit

Citation: Section 1456(a)

Credit Type: Non-refundable/Non-carryforward

Effective Date: Effective for taxable years beginning on or after April 25, 1972

Description: A corporation may claim a credit for servicing mortgages acquired by the New York State Mortgage Agency. The credit varies according to both dwelling size and size of the mortgage.

Estimates: 2007: \$4.9 million — 2011: \$3.0 million

Data Source: Bank Tax Study File

Reliability: Level 1

12. Special Additional Mortgage Recording Tax Credit

Citation: Section 1456(c)

Credit Type: Carryforward/Refundable for residential mortgages only

Effective Date: Effective for taxable years beginning after December 31, 1978

Description: A corporation may claim a credit which is equal in amount to the special additional recording tax paid on mortgages which have been recorded on or after January 1, 1979, on property which is located within New York. Certain mortgages on property in Erie County or the Metropolitan Commuter Transportation District recorded on or after May 1, 1987, are ineligible for the credit.

Estimates: 2007: \$15.4 million — 2011: \$12.0 million

Data Source: Bank Tax Study File

Reliability: Level 1

13. Empire Zone (EZ) and Qualified Empire Zone Enterprise (QEZE) Credits

The Empire Zones Program expired on June 30, 2010. No new entrants will be admitted to the Program, but existing participants can continue to earn credits for several years. Taxpayers will be allowed to utilize the remainder of their five year period for the EZ wage tax credit and the remainder of their benefit period for the QEZE credits (15 or 10 years, depending on the date of first certification). Taxpayers will be allowed to earn additional EZ-ITC until April 1, 2014, but qualified investment projects (QUIPS) can earn EZ-ITC for their next nine tax years. The EZ-EIC will be fully available for the three years after an EZ-ITC is claimed if the taxpayer meets the requisite employment tests. Finally, taxpayers can continue to

earn the EZ capital credit through March 31, 2014 for certified contributions in fulfillment of a pledge made to an EZ community development project.

a. **EZ and Zone Equivalent Area Wage Tax Credit**

Citation: Section 1456(e)

Credit Type: 50 percent Refundable for new businesses only

Effective Date: Effective for tax years beginning on or after January 1, 1986

Description: A taxpayer may claim a wage tax credit for doing business and creating full-time jobs in Empire Zones (EZ-WTC). The wage tax credit has two components. The credit equals the product of the average number of targeted EZ employees receiving EZ wages multiplied by \$3,000. The corresponding credit amount for other employees is \$1,500. Taxpayers certified in Investment Zones may claim an additional \$500 for each employee paid over \$40,000 in wages. Taxpayers employing individuals in areas that met EZ eligibility criteria but were not so designated — Zone Equivalent Areas (ZEAs) — could claim a credit for ZEA wages paid for full-time employment in jobs created in the ZEA. The ZEA credit expired in 2004, but taxpayers are still allowed to use credit earned prior to expiration. The total wage tax credit used in any tax year cannot exceed 50 percent of tax due before credits. The EZ-WTC is available to a taxpayer for five years.

Estimates: 2007: \$0.9 million — 2011: \$5.0 million

Data Source: Bank Tax Study File

Reliability: Level 1

b. **EZ Capital Credit**

Citation: Section 1456(d)

Credit Type: Non-refundable/Carryforward

Effective Date: Effective for tax years beginning on or after January 1, 1986

Description: Taxpayers may qualify for a credit for direct equity investments in certified zone businesses and contributions to community development projects. The credit equals 25 percent of the sum of each type of investment. The maximum credit per taxpayer is \$100,000 for each investment type for an aggregate limit of \$200,000 and cannot exceed one half of the taxpayer's pre-credit tax. Taxpayers may carry unused credits forward indefinitely. Taxpayers who previously claimed the credit based on investments in zone capital corporations may also continue to carry forward unused amounts.

Estimates: 2007: Minimal — 2011: Minimal

Data Source: Bank Tax Study File

Reliability: Level 1

c. **QEZE Real Property Tax Credit**

Citation: Sections 14, 15, and 1456(o)

Credit Type: Refundable

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

Description: For taxpayers certified prior to April 1, 2005, the QEZE real property tax credit (RPTC) is the product of three factors. The benefit period factor is 1.0 in the first ten years of certification, declining by 0.2 each year thereafter. The employment increase factor is based upon the QEZE's job

BANK TAX

growth. The final factor is the QEZE's real property taxes for the current tax year.

For taxpayers certified on or after April 1, 2005 and located in an Investment Zone (IZ), the credit equals 25 percent of the wages and health and retirement benefits of net new employees. Taxpayers located in a Development Zone (DZ) use the same formula but include an additional factor, the DZ employment increase factor (EIF), scaled to reward greater job increases. The credit can exceed these amounts if the capital investment limitation is greater, but the credit is capped at the amount of real property taxes. Taxpayers certified on or after April 1, 2009 must reduce the computed credit amount by 25 percent.

The QEZE RPTC may not be used against the fixed dollar minimum tax but is fully refundable.

Estimates: 2007: \$1.1 million — 2011: \$0.0 million

Data Source: Bank Tax Study File

Reliability: Level 1

d. QEZE Tax Reduction Credit

Citation: Sections 14, 16, and 1456(p)

Credit Type: Non-refundable/Non-Carryforward

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

Description: The QEZE tax reduction credit is the product of four factors: the benefit period factor, the employment increase factor, the zone allocation factor, and the tax factor. The first two factors are discussed above. The Zone allocation factor measures the QEZE's economic presence in the zone. The tax factor is the greater of the QEZE's tax on the ENI or AMT bases. The tax reduction credit cannot be applied against the fixed dollar minimum tax.

Estimates: 2007: \$0.9 million — 2011: \$4.0 million

Data Source: Bank Tax Study File

Reliability: Level 1

14. Credit for Employment of Persons with Disabilities

Citation: Section 1456(f)

Credit Type: Non-refundable/Carryforward

Effective Date: Effective for tax years beginning on or after January 1, 1998, with respect to employees who begin work on or after January 1, 1997

Description: Employers who employ individuals with disabilities may claim a credit for a portion of wages paid to such individuals. 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's wages qualify for the Federal work opportunity tax credit, the New York credit will apply to second year wages.

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

Estimates: 2007: \$0.0 million — 2011: Minimal

Data Source: Bank Tax Study File

Reliability: Level 1

15. **Investment Credit for Financial Services Industry**

Citation: Section 1456(i)

Credit Type: Refundable to new businesses only

Effective Date: Effective for property placed in service on or after October 1, 1998 and before October 1, 2011

Description: An investment credit is allowed for qualified property used in the financial services industry. The rate of credit, maximum amounts, carryforward provisions, and recapture rules are generally the same as for the regular investment credit allowed under the corporate franchise tax (Article 9-A).

Qualified property includes property principally used in the ordinary course of the taxpayer's trade or business:

- as a broker or dealer in connection with the purchase or sale of stocks, bonds, or other securities (as defined in Internal Revenue Code (IRC) Section 475(c)(2)), or of commodities (as defined in IRC Section 475(e)), or in providing lending, loan arrangement or loan origination services to customers in connection with the purchase or sale of securities (as defined in IRC Section 475(c)(2));
- of providing investment advisory services for a regulated investment company (as described in IRC Section 851).

In addition, qualified property includes property principally used in the ordinary course of the taxpayer's business as an exchange registered as a national securities exchange (such as the New York stock exchange) or a board of trade defined under the New York Not-For-Profit Corporation Law, or an entity wholly owned by one or more national security exchanges or boards of trade that provides automation or technical services to the national security exchanges or boards of trade.

Property purchased by a taxpayer affiliated with a regulated broker, dealer, regulation investment advisor, or national securities exchange or board of trade, or property leased by a taxpayer to an affiliated regulated broker, dealer, regulated investment advisor, or national securities exchange, or board of trade is eligible for this credit if the property is used by the affiliate in an activity described above.

To be eligible for the credit, a taxpayer must satisfy an annual employment test that measures the taxpayer's employment in New York State in the current tax year against one of three standards.

Estimates: 2007: \$1.4 million — 2011: \$3.0 million

Data Source: Bank Tax Study File

Reliability: Level 1

16. **Low-Income Housing Credit**

Citation: Section 1456(l)

Credit Type: Non-refundable/Carryforward

BANK TAX

- Effective Date:** Effective for tax years beginning on or after January 1, 2000, with respect to commitments for construction of low-income housing agreed upon on or after May 15, 2000
- Description:** The “New York State Low Income Housing Tax Credit Program,” based on the existing Federal program, requires an agreement between the taxpayer and the commissioner of the New York State Division of Housing and Community Renewal 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 10 tax years.
- Estimates:** 2007: \$0.3 million — 2011: \$0.3 million
- Data Source:** Bank Tax Study File
- Reliability:** Level 1
17. **Credit for Purchase of an Automated External Defibrillator**
Citation: Section 456(j)
Credit Type: Non-refundable/Non-Carryforward
Effective Date: Effective for tax years beginning on or after January 1, 2001
Description: Taxpayers who purchase an automated external defibrillator can receive a credit equal to the cost of each unit not exceeding \$500 for each purchase.
Estimates: 2007: Minimal — 2011: Minimal
Data Source: Bank Tax Study File
Reliability: Level 1
18. **Green Building Credit**
Citation: Section 1456(m)
Credit Type: Non-refundable/Carryforward
Effective Date: Effective for tax years beginning on or after January 1, 2001
Description: The credit consists of several components which provide incentives for the purchase of recyclable building materials and other environmentally preferable tangible personal property. Other components apply to the purchase of fuel cells, photovoltaic modules, and environmentally sensitive non-ozone depleting refrigerants. Phase I of the credit applied to costs incurred on or after June 1, 1999, for property placed in service or that received a final certificate of occupancy in tax years from January 1, 2001 to 2004. Phase II of the program began in the 2005 tax year. An additional \$25 million in total credit can be issued, but the amount on any one credit certificate is limited to \$2 million.
Estimates: 2007: \$0.0 million — 2011: Minimal
Data Source: Bank Tax Study File
Reliability: Level 1
19. **Long-Term Care Insurance Credit**
Citation: Section 1456(k)
Credit Type: Non-refundable/Carryforward
Effective Date: Effective for tax years beginning on or after January 1, 2002
Description: A taxpayer may take a credit equal to 20 percent of the premiums paid for a long-term care insurance policy, as defined in the Insurance Law. Any unused credit may be carried forward.

Estimates: 2007: Minimal — 2011: Minimal

Data Source: Bank Tax Study File

Reliability: Level 1

20. **Brownfields Tax Credits**

Citation: Sections 21, 22, 23, and 1456 (q)(r)(s)

Credit Type: Refundable

Effective Date: Effective for tax years beginning on or after April 1, 2005

Description: Three refundable tax credits are available to taxpayers who remediate a site under the Brownfield Cleanup Program.

The brownfield redevelopment tax credit consists of three credit components relating to costs associated with: site preparation; tangible property; and on-site groundwater remediation. For sites accepted into the Brownfield Cleanup Program (BCP) prior to June 23, 2008, the credit equals 12 percent of costs associated with each component. The credit increases by two percent if the site is remediated to a Track 1 cleanup level (determined by the Department of Environmental Conservation), and by another eight percent if at least one half of the site is located in an Environmental Zone (En-Zone). An En-Zone is an area designated by the Commissioner of Economic Development and, as of the 2000 census, has a poverty rate of at least 20 percent and an unemployment rate of at least 1 ¼ times the statewide unemployment rate, or areas that have a poverty rate of at least two times the poverty rate for the county in which the data relate provided the site was subject to a cleanup agreement before September 1, 2010.

Sites accepted into the BCP after June 23, 2008 are subject to a different credit calculation for the redevelopment credit. The site preparation and groundwater remediation component rates are as follows:

Cleanup Standard	Rate	Track 4
Soil cleanup for unrestricted use; protection of groundwater/ecological resources	50%	n/a
Residential use	40%	28%
Commercial use	33%	25%
Industrial Use	27%	22%

The rates for the tangible property component remain the same with a new 2 percent bonus rate available for sites redeveloped in conformity with the goals and priorities of the brownfield opportunity area in which the site is located. Also, sites are subject to a cap on the amount of tangible property component they can generate. The cap is the lesser of:

- \$35 million or three times the site preparation and groundwater component costs; or
- \$45 million or six times the site preparation and groundwater component costs if the site is to be used for manufacturing.

The remediated brownfield credit for real property taxes equals 25 percent of the product of the taxpayer’s employment factor (a percentage based on the number of

BANK TAX

persons employed by the taxpayer on a qualified site) and the taxpayer's eligible real property taxes. If the site is located in an En-Zone the credit increases to 100 percent. There is a credit limitation equal to the product of the number of full time employees at the qualified site multiplied by \$10,000.

The environmental remediation insurance credit is allowed for premiums paid for environmental remediation insurance up to the lesser of \$30,000 or 50 percent of the cost of the premiums.

Estimates: 2007: \$0.0 million — 2011: Minimal

Data Source: Bank Tax Study File

Reliability: Level 1

21. Security Training Tax Credit

Citation: Section 26 and Section 1456(t)

Credit Type: Refundable

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

Description: Owners of commercial buildings over 500,000 square feet can receive a \$3,000 credit for each security guard employed who has undergone training certified by the New York State Office of Homeland Security (OHS) and is paid a certain minimum wage. The credit is administered by OHS.

Estimates: 2007: \$0.0 million — 2011: Minimal

Data Sources: Bank Tax Study File

Reliability: Level 1

22. Credit for Rehabilitation of Historic Properties

Citation: Section 1456(u)

Credit Type: Non-refundable/Carryforward

Effective Date: Effective for taxable years beginning on or after January 1, 2010

Description: Taxpayers may claim a tax credit for the rehabilitation of depreciable historic properties located in New York State. The amount of the state credit is based on the credit amount allowed under subsection (a)(2) of section 47 of the Federal Internal Revenue Code (IRC) for the same taxable year. IRC §47(c)(3) defines a certified historic structure as a building and its structural components which are listed in the National Register of Historic Places or located in a registered historic district and certified to be of historic significance to the district. Any State credit taken must be recaptured if the Federal credit upon which it is based is recaptured by the taxpayer.

For taxable years beginning on or after January 1, 2010 and before January 1, 2015, the credit is equal to 100 percent of the amount of the Federal historic properties credit claimed by the taxpayer. However, the maximum amount of credit is \$5 million. For tax years beginning on or after January 1, 2015 the credit is equal to 30 percent of the amount of the Federal historic properties credit claimed by the taxpayer and capped at \$100,000. If the taxpayer is a partner in a partnership or shareholder of an S corporation, the credit caps are imposed at the entity level so that the aggregate credit allowed to all partners or shareholders of each entity does not exceed the cap for the year.

Estimates: 2007: Not Applicable — 2011: Minimal

Data Source: New York State Division of the Budget

Reliability: Level 5

23. **Excelsior Jobs Program Tax Credits**

Chapter 59 of the Laws of 2010 created the Excelsior Jobs Program (EJP) Act. The new program is administered by Empire State Development (ESD) and offers four tax credits focused on certain strategic industries. To claim credits, taxpayers must first apply to and be approved by ESD. ESD can issue up to \$50 million in new credit annually, with a fully effective annual total program cost of \$250 million. ESD will calculate the amount of each credit annually and issue a certificate of tax credit to participants entitling them to the credits. Taxpayers are allowed to claim credits for five consecutive years.

a. **Excelsior Jobs Tax Credit**

Citation: Sections 31 and 1456(u)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after January 1, 2011

Description: EJP participants may claim a credit for each net new job created in the State. The value of the credit cannot exceed \$5,000 per new job and is computed on marginal wages plus benefits basis as follows:

- 5 percent of wages plus benefits of \$50,000 or less;
- 4 percent of wages plus benefits between \$50,001 and \$75,000; and
- 1.33 percent of wages plus benefits over \$75,000.

b. **Excelsior Investment Tax Credit (EJP-ITC)**

Citation: Sections 31 and 1456(u)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after January 1, 2011

Description: EJP participants may claim a credit equal to two percent of the cost of qualified investments in New York. Taxpayers cannot claim both the EJP-ITC and the regular ITC or both the EJP-ITC and the brownfield tangible property credit component for the same property in a given year.

c. **Excelsior Research and Development Tax Credit (EJP-R&D)**

Citation: Sections 31 and 1456(u)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after January 1, 2011

Description: EJP participants may claim a credit for research and development expenditures in New York. The credit is equal to ten percent of the portion of the taxpayer's Federal research and development credit pertaining to expenditures attributable to New York. Eligible expenditures are defined in section 41 of the Internal Revenue Code.

d. **Excelsior Real Property Tax Credit (EJP-RPTC)**

Citation: Sections 31 and 1456(u)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after January 1, 2011

BANK TAX

Description: EJP participants located in areas formerly designated as Investment Zones under the Empire Zones Program or that qualify as regionally significant projects may claim a credit for real property taxes. The credit equals 50 percent of the property taxes assessed and paid in the year immediately prior to a taxpayer's application to the EJP and declines by 10 percent each year.

Estimates: 2007: Not Applicable — 2011: Minimal

Data Source: New York State Division of the Budget

Reliability: Level 5

Corporate Exemptions

Certain banks are exempt from taxation under Article 32 of the Tax Law.

24. **Exemption of Trust Companies Whose Capital Stock is Owned by Twenty or More New York Savings Banks**

Citation: Section 1452(c)

Effective Date: Effective for taxable years beginning on or after January 1, 1973

Description: Trust companies, all of whose capital stock is owned by 20 or more savings banks organized under New York law, are exempt from the corporation franchise tax on banking corporations.

Estimates: 2007: Minimal — 2011: Minimal

Data Source: Industry Data

Reliability: Level 4

25. **Exemption of Federal and State Chartered Credit Unions**

Citation: State Banking Law, Article 11 Section 474; 12 U.S. Code Section 474

Effective Date: Effective March 13, 1945

Description: Pursuant to Federal law and the State Banking Law, Federal and State chartered credit unions cannot be subject to tax under Article 32.

Estimates: 2007: \$32.1 million — 2011: \$34.0 million

Data Source: JCT estimates prorated to New York

Reliability: Level 4

INSURANCE TAX

This section of the report provides tax expenditure estimates for 36 separate provisions of the corporate franchise tax on insurance companies. The list of tax expenditures contained in Table 5 is based on the Tax Law as of January 1, 2011. The estimates are based on data from the 2007 tax year, the latest year for which Article 33 tax return data are available. They are also extrapolated to the 2011 tax year. The tax years refer to both the 2007 and 2011 calendar years and fiscal tax years beginning in 2007 and 2011. Total insurance tax liability for the 2007 tax year has been included to provide some perspective to the tax expenditure estimates.

Description of Tax

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

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

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

The second component of the Article 33 tax is a tax on gross premiums, less return premiums thereon, written on risks located or resident in New York. The rate of the tax on premiums varies according to the type of insurance risk covered by a premium. However, accident and health premiums are taxed at different rates dependent on the type of insurer. A 0.7 percent tax rate applies to premiums received by corporations licensed as life and health insurers, including premiums on accident and health contracts. A 2.0 percent tax rate applies to premiums written by corporations licensed as property and casualty insurers. However, a 1.75 percent tax rate applies to premiums on accident and health contracts written by property and casualty insurers.

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

In computing the Article 33 tax, life insurance corporations add the tax on gross premiums to the highest of the four alternative taxes. The total tax liability of the two

INSURANCE TAX

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

Many of the exclusions, deductions, modifications, allocation percentages, and credits discussed above give rise to the tax expenditures listed and estimated in this section.

Data Sources

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

- 2007 Article 33 Insurance Tax Study File — This file, compiled by the Department of Taxation and Finance, includes the tax returns of all insurance companies filing under Article 33. The file is used to simulate all tax expenditures with the exception of Federal exclusion items.
- Congressional Joint Committee on Taxation Estimates of Federal Tax Expenditures — No data are available for Federal items at the State level. Federal tax expenditure items estimated by the JCT are prorated to New York.
- New York State Insurance Department aggregate data.

Methodology

The projections of the tax expenditures from 2007 to 2011 use a variety of economic forecast variables. Projections of items under Federal exclusions from income in the Appendix were taken from JCT estimates of Federal tax expenditures and prorated to New York.

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

INSURANCE TAX

Table 5
2011 New York State Insurance Tax Expenditure Estimates
(2007 Total Insurance Tax Liability = \$940.6 Million)
(Millions of Dollars)

Tax Item	History					Forecast	Reliability
	2003	2004	2005	2006	2007	2011	Level
New York Modifications to Federal Taxable Income							
1. Exclusion of Interest, Dividends, and Capital Gains from Subsidiary Capital ¹	0.6	1.2	2.2	11.0	2.3	2.0	1
2. Deduction of 50 Percent of Dividends from Non-Subsidiary Corporations ¹	0.9	2.0	4.5	8.5	2.4	2.0	1
Alternative Bases							
3. Exclusion of Assets Held as Reserves Under NYS Insurance Law Sections 1303, 1304, and 1305 ¹	*	*	*	*	*	*	5
Exclusions from Premiums Based Tax							
4. Exclusion of Annuities from the Tax on Premiums ¹	22.2	11.1	6.1	8.2	11.9	12.0	1
5. Exclusion of Premiums Written on Certain Joint Underwriting Policies ¹	5.6	2.8	1.5	2.1	3.0	3.0	1
6. Exclusion of Premiums Written on Marine Vessels	8.5	8.5	7.9	8.7	7.4	7.0	1
7. Exclusion of Premiums Written on Certain Reinsurance Policies	218.0	240.8	231.6	244.4	228.2	227.0	1
8. Exclusion for Certain Non-New York Property or Individuals	N/A	N/A	N/A	N/A	N/A	N/A	5
Limitation on Tax							
9. Limitation on Tax Liability ¹	51.0	128.1	70.9	85.4	99.5	100.0	1
Credits							
10. Fire Insurance Premiums Tax Credit	40.4	40.2	42.3	44.6	47.0	55.0	1
11. Retaliatory Tax Credit	51.4	58.0	42.9	63.8	58.4	53.0	1
12. Special Additional Mortgage Recording Tax Credit ²	0.0	0.0	0.0	0.0	0.0	*	1
13. Credit for Assessments Paid to the Life Insurance Company Guaranty Corporation ¹	0.0	0.0	0.0	0.0	0.0	0.0	4
14. Empire Zone (EZ) and Qualified Empire Zone Enterprise (QEZE) Tax Credits ²							
a. EZ and Zone Equivalent Area Wage Tax Credit	0.8	2.1	2.4	3.4	3.1	4.0	1
b. EZ Capital Credit	0.0	0.0	0.0	*	0.0	*	1
c. QEZE Real Property Tax Credit	0.1	0.1	0.1	0.1	0.1	0.1	1
d. QEZE Tax Reduction Credit	0.1	14.9	18.1	20.1	21.7	26.0	1
15. Credit for Employment of Persons with Disabilities ²	0.0	0.0	0.0	0.0	0.0	*	1
16. Credit for Investment in Certified Capital Companies ²	25.6	20.0	25.7	30.6	35.3	40.0	1
17. Low-Income Housing Credit ²	0.0	0.0	0.0	*	0.1	*	1
18. Credit for Purchase of Automated External Defibrillator ²	*	*	0.0	0.0	0.0	*	1
19. Green Buildings Credit ²	0.0	0.0	0.0	0.4	0.4	0.4	1
20. Investment Tax Credit for the Financial Services Industry ²	0.0	0.0	0.0	0.0	0.0	*	1
21. Long-Term Care Insurance Credit	0.0	0.0	0.0	0.0	0.0	*	1
22. Brownfields Tax Credits ²	--	--	0.0	0.0	0.0	*	1
23. Security Training Tax Credit ²	--	--	0.0	0.0	0.0	*	5
24. Credit for Rehabilitation of Historic Properties ²	--	--	--	--	--	*	1

INSURANCE TAX

Tax Item	History					Forecast	Reliability
	2003	2004	2005	2006	2007	2011	Level
25. Excelsior Jobs Program (EJP) Tax Credit	--	--	--	--	--	*	5
Corporate Exemptions							
26. Exemption from Article 33 for Specific Types of Entities Engaged in an Insurance Business	221.3	224.5	239.4	257.8	271.3	374.0	4
Preferential Tax Rates							
27. Preferential Tax Treatment for Captive Insurance Companies	4.2	7.7	9.6	14.7	15.6	10.0	2

1/ Tax expenditure item applies only to life insurance corporations.

2/ For tax years 2010, 2011, and 2012, credits subject to deferral.

* Less than \$0.1 million.

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

N/A No data available.

New York Modifications to Federal Taxable Income

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

- 1. Exclusion of Interest, Dividends, and Capital Gains from Subsidiary Capital**
Citation: Section 1503(b)(1)(A)
Effective Date: Effective for taxable years beginning on or after January 1, 1974
Description: In computing New York entire net income, taxpayers may subtract from Federal taxable income dividends, interest, and gains derived from subsidiary corporations that are not part of the combined filing entity.
Estimates: 2007: \$2.3 million — 2011: \$2.0 million
Data Source: Insurance Tax Study File
Reliability: Level 1
- 2. Deduction of 50 Percent of Dividends from Non-Subsidiary Corporations**
Citation: Section 1503(b)(1)(B)
Effective Date: Effective for taxable years beginning on or after January 1, 1974
Description: Insurance corporations may deduct from Federal taxable income, before Federal exclusion, 50 percent of the company's share of dividend income received from non-subsidiary corporations.
Estimates: 2007: \$2.4 million — 2011: \$2.0 million
Data Source: Insurance Tax Study File
Reliability: Level 1

Alternative Bases

Under Section 1502 of Article 33 of the Tax Law, life insurance corporations must calculate the following alternative franchise taxes and the greatest one must be paid:

- 7.1 percent of allocated entire net income;
- 0.0016 of allocated business and investment capital;
- 9 percent on 30 percent of allocated entire net income plus salaries of certain and shareholders; and
- fixed dollar minimum tax of \$250.

One tax expenditure item is provided for under the alternative tax on business and investment capital.

3. **Exclusion of Assets Held as Reserves Under NYS Insurance Law Sections 1303, 1304 and 1305**

Citation: State Insurance Law Sections 1303, 1304, and 1305; Tax Law Section 1500(I)(j)

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

Description: Insurance corporations may deduct loss or claim reserves and unearned premium reserves (as specified in the Insurance Law) from the definition of business capital and investment capital for purposes of computing tax liability under the capital based tax.

Estimates: 2007: Minimal — 2011: Minimal

Data Source: Insurance Tax Study File, Industry Data

Reliability: Level 4

Exclusions from Premiums Based Tax

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

4. **Exclusion of Annuities from the Tax on Premiums**

Citation: Section 1510(c)(1)

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

Description: The premiums tax base excludes annuities.

Estimates: 2007: \$11.9 million — 2011: \$12.0 million

Data Source: Insurance Study File

Reliability: Level 1

5. **Exclusion of Premiums Written on Certain Joint Underwriting Policies**

Citation: Section 1510(c)(2)

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

Description: The premiums-based tax does not include premiums on joint underwriting of group health insurance for persons aged 65 and over.

Estimates: 2007: \$3.0 million — 2011: \$3.0 million

Data Source: Insurance Study File

Reliability: Level 1

6. **Exclusion of Premiums Written on Marine Vessels**

Citation: Section 1510(c)(2)

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

Description: The base of the premiums-based tax does not include premiums for insurance upon marine vessels, freights or disbursements or upon personal property therein.

Estimates: 2007: \$7.4 million — 2011: \$7.0 million

Data Source: Insurance Study File

Reliability: Level 1

7. Exclusion of Premiums Written on Certain Reinsurance Policies**Citation:** Section 1510(c)(3)(A-B)**Effective Date:** Effective for taxable years beginning on or after January 1, 1974**Description:** The premiums-based tax does not include premiums received by way of reinsurance from corporations or other insurers authorized to transact business in New York. It also excludes premiums received by way of reinsurance from corporations or other insurers not authorized to transact business in New York if such premiums are subject to the Excess Line Tax imposed under the Insurance Law.**Estimates:** 2007: \$228.2 million — 2011: \$227.0 million**Data Source:** Insurance Study File**Reliability:** Level 1**8. Exclusion for Certain Non-New York Property or Individuals****Citation:** Section 1512(b)(1)-(3)**Effective Date:** Effective for taxable years beginning on or after January 1, 1974 (Section 1512(b)(3) effective for taxable years beginning on or after January 1, 1978)**Description:** The tax imposed on premiums does not apply to premiums from:

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

Estimate: No data available**Reliability:** Level 5***Limitation on Tax***

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

9. Limitation on Tax Liability**Citation:** Section 1505**Effective Date:** Effective for taxable years beginning on or after January 1, 1977**Description:** Article 33 limits the total tax liability of a life insurance corporation. Effective for taxable years beginning on or after January 1, 1998, the limitation, or cap, equals 2.0 percent of gross premiums for life insurers. An insurance corporation's tax liability equals the lower of (1) the tax determined under the cap, or (2) the tax determined on the highest of four alternative bases, plus the taxes on subsidiary capital and premiums bases. Special rules apply to taxpayers claiming Empire Zone credits.**Estimates:** 2007: \$99.5 million — 2011: \$100.0 million**Data Source:** Insurance Tax Study File**Reliability:** Level 1

Credits

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

10. **Fire Insurance Premiums Tax Credit**

Citation: Section 1511(a)

Credit Type: Non-refundable/Non-Carryforward

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

Description: A credit is allowed for additional taxes on premiums written by foreign or alien corporations for any insurance against loss or damage by fire, paid by foreign and alien fire insurance companies and foreign mutual fire insurance companies. Such taxes are imposed under the Insurance Law and under the charters of the cities of Buffalo and New York. Taxpayers must have paid or accrued the taxes during the tax year covered by the return.

Estimates: 2007: \$47.0 million — 2011: \$55.0 million

Data Source: Insurance Tax Study File

Reliability: Level 1

11. **Retaliatory Tax Credit**

Citation: Section 1511(c)

Credit Type: Refundable

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

Description: Taxpayers may claim a credit for up to 90 percent of any retaliatory taxes paid to other states by New York domiciled or organized insurers as a result of New York State imposed taxes on insurers domiciled or organized in those other states.

Estimates: 2007: \$58.4 million — 2011: \$53.0 million

Data Source: Insurance Tax Study File

Reliability: Level 1

12. **Special Additional Mortgage Recording Tax Credit**

Citation: Section 1511(e)

Credit Type: Carryforward/Refundable for residential mortgages only

Effective Date: Effective for taxable years beginning after December 31, 1978

Description: An insurance corporation may claim a credit equal to the Special Additional Mortgage Recording Tax paid on mortgages recorded on or after January 1, 1979, on property located within New York. Certain mortgages on property in a Metropolitan Commuter Transportation District or Erie County are ineligible for the credit.

Estimates: 2007: \$0.0 million — 2011: Minimal

Data Source: Insurance Tax Study File

Reliability: Level 1

13. **Credit for Assessments Paid to the Life Insurance Company Guaranty Corporation**
Citation: Insurance Law Section 7712(a)(b); Tax Law Section 1511(f)
Credit Type: Non-refundable/Carryforward
Effective Date: Effective for taxable years beginning after December 31, 1986
Description: Life insurance corporations may claim a tax credit for a portion of the cost of assessments paid to the life insurance company guaranty corporation in prior years. The maximum credit allowed to all life insurance companies for a particular year is limited to \$40 million or 40 percent of the total tax liability of all such companies.
Estimates: 2007: \$0.0 million — 2011: \$0.0 million
Data Source: State Insurance Department
Reliability: Level 4
14. **Empire Zone (EZ) and Qualified Empire Zone Enterprise (QEZE) Tax Credits**
The Empire Zones Program expired on June 30, 2010. No new entrants will be admitted to the Program, but existing participants can continue to earn credits for several years. Taxpayers will be allowed to utilize the remainder of their five year period for the EZ wage tax credit and the remainder of their benefit period for the QEZE credits (15 or 10 years, depending on the date of first certification). Taxpayers will be allowed to earn additional EZ-ITC until April 1, 2014, but qualified investment projects (QUIPS) can earn EZ-ITC for their next nine tax years. The EZ-EIC will be fully available for the three years after an EZ-ITC is claimed if the taxpayer meets the requisite employment tests. Finally, taxpayers can continue to earn the EZ capital credit through March 31, 2014 for certified contributions in fulfillment of a pledge made to an EZ community development project.
- a. **EZ and Zone Equivalent Area Wage Tax Credit**
Citation: Section 1511(g)
Credit Type: 50 percent refundable to new businesses only
Effective Date: Effective for tax years beginning on or after January 1, 1986
Description: A taxpayer may claim a wage tax credit for doing business and creating full-time jobs in Empire Zones (EZ-WTC). The wage tax credit has two components. The credit equals the product of the average number of targeted EZ employees receiving EZ wages multiplied by \$3,000. The corresponding credit amount for other employees is \$1,500. Taxpayers certified in Investment Zones may claim an additional \$500 for each employee paid over \$40,000 in wages. Taxpayers employing individuals in areas that met EZ eligibility criteria but were not so designated — Zone Equivalent Areas (ZEAs) — could claim a credit for ZEA wages paid for full-time employment in jobs created in the ZEA. The ZEA credit expired in 2004, but taxpayers are still allowed to use credit earned prior to expiration. The total wage tax credit used in any tax year cannot exceed 50 percent of tax due before credits. The EZ-WTC is available to a taxpayer for five years.
Estimates: 2007: \$3.1 million — 2011: \$4.0 million
Data Source: Insurance Tax Study File
Reliability: Level 1

INSURANCE TAX

b. **EZ Capital Credit**

Citation: Section 1511(h)

Credit Type: Non-refundable/Carryforward

Effective Date: Effective for tax years beginning on or after January 1, 1986

Description: Taxpayers may qualify for a credit for direct equity investments in certified zone businesses and contributions to community development projects. The credit equals 25 percent of the sum of each type of investment. The maximum credit per taxpayer is \$100,000 for each investment type for an aggregate limit of \$200,000 and cannot exceed one half of the taxpayer's pre-credit tax. Taxpayers may carry unused credits forward indefinitely.

Estimates: 2007: \$0.0 million — 2011: Minimal

Data Source: Insurance Tax Study File

Reliability: Level 1

c. **QEZE Real Property Tax Credit**

Citation: Sections 14, 15, 1511(r)

Credit Type: Refundable

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

Description: For taxpayers certified prior to April 1, 2005, the QEZE real property tax credit (RPTC) is the product of three factors. The benefit period factor is 1.0 in the first ten years of certification, declining by 0.2 each year thereafter. The employment increase factor is based upon the QEZE's job growth. The final factor is the QEZE's real property taxes for the current tax year.

For taxpayers certified on or after April 1, 2005 and located in an Investment Zone (IZ), the credit equals 25 percent of the wages and health and retirement benefits of net new employees. Taxpayers located in a Development Zone (DZ) use the same formula but include an additional factor, the DZ employment increase factor (EIF), scaled to reward greater job increases. The credit can exceed these amounts if the capital investment limitation is greater, but the credit is capped at the amount of real property taxes. Taxpayers certified on or after April 1, 2009 must reduce the computed credit amount by 25 percent.

The QEZE RPTC may not be used against the fixed dollar minimum tax but is fully refundable.

Estimates: 2007: \$0.1 million — 2011: \$0.1 million

Data Source: Insurance Tax Study File

Reliability: Level 1

d. **QEZE Tax Reduction Credit**

Citation: Sections 14, 16, 1511(s)

Credit Type: Non-refundable/Non-carryforward

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

Description: The QEZE tax reduction credit is the product of four factors: the benefit period factor, the employment increase factor, the zone allocation factor, and the tax factor. The first two factors are discussed above. The Zone

allocation factor measures the QEZE's economic presence in the zone. The tax factor is the greater of the QEZE's tax on the ENI or ENI plus compensation bases. The tax reduction credit cannot be applied against the fixed dollar minimum tax.

Estimates: 2007: \$21.7 million — 2011: \$26.0 million

Data Source: Insurance Tax Study File

Reliability: Level 1

15. **Credit for Employment of Persons with Disabilities**

Citation: Section 1511(j)

Credit Type: Non-refundable/Carryforward

Effective Date: Effective for tax years beginning on or after January 1, 1998, with respect to employees who begin work on or after January 1, 1997

Description: Employers who employ individuals with disabilities may claim a credit for a portion of wages paid to such individuals. 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's wages qualify for the Federal work opportunity tax credit, the New York credit will apply to second year wages.

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

Estimates: 2007: \$0.0 million — 2011: Minimal

Data Source: Insurance Tax Study File

Reliability: Level 1

16. **Credit for Investment in Certified Capital Companies**

Citation: Section 1511(k)

Credit Type: Non-refundable/Carryforward

Effective Date: Effective for tax years beginning after 1998, although the credit may be earned before 1999; the credit has been expanded four times since its enactment, to a combined statewide cap for all four programs of \$400 million, effective January 1, 2007

Description: Under the four programs, taxpayers may claim a credit for 100 percent of the amount invested in certified capital companies (CAPCOs). The credit can be claimed over 10 years, at a rate of 10 percent per year. The combined statewide cap is \$400 million on the total amount of investments for which credits may be claimed. The total for all four programs may not exceed \$40 million in any year.

Estimates: 2007: \$35.3 million — 2011: \$40.0 million

Data Source: Insurance Tax Study File

Reliability: Level 1

INSURANCE TAX

17. **Low-Income Housing Credit**
Citation: Section 1511(n)
Credit Type: Non-refundable/Carryforward
Effective Date: Effective for tax years beginning on or after January 1, 2000, with respect to commitments for construction of low-income housing agreed upon on or after May 15, 2000
Description: The “New York State Low-Income Housing Tax Credit Program,” based on the existing Federal program, requires an agreement between the taxpayer and the commissioner of the New York State Division of Housing and Community Renewal 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 10 tax years. Unused credits may be carried forward indefinitely.
Estimates: 2007: \$0.1 million — 2011: Minimal
Data Source: Insurance Tax Study File
Reliability: Level 1
18. **Credit for Purchase of Automated External Defibrillator**
Citation: Section 1511(l)
Credit Type: Non-refundable/Non-carryforward
Effective Date: Effective for tax years beginning on or after January 1, 2001
Description: Taxpayers who purchase an automated external defibrillator can receive a credit equal to the cost of each unit, not exceeding \$500 for each purchase.
Estimates: 2007: \$0.0 million — 2011: Minimal
Data Source: Insurance Tax Study File
Reliability: Level 1
19. **Green Building Credit**
Citation: Section 1511(o)
Credit Type: Non-refundable/Carryforward
Effective Date: Effective for tax years beginning on or after January 1, 2001
Description: The credit consists of several components which provide incentives for the purchase of recyclable building materials and other environmentally preferable tangible personal property. Other components apply to the purchase of fuel cells, photovoltaic modules, and environmentally sensitive non-ozone depleting refrigerants. Phase I of the credit applied to costs incurred on or after June 1, 1999, for property placed in service or that received a final certificate of occupancy in tax years from January 1, 2001 to 2004. Phase II of the program began in 2005 tax year. An additional \$25 million in total credit may be issued, but the amount on any one credit certificate is limited to \$2 million.
Estimates: 2007: \$0.4 million — 2011: \$0.4 million
Data Source: Insurance Tax Study File
Reliability: Level 1
20. **Investment Tax Credit for the Financial Services Industry**
Citation: Section 1511(q)
Credit Type: Refundable to new businesses only

Effective Date: Available for property placed in service between January 1, 2002 and October 1, 2011

Description: An insurance company which is a securities and commodities broker or regulated investment advisor can claim an investment tax credit (ITC) for tangible personal property used in the course of its broker/dealer activities. The credit also extends to taxpayers that lease property to an affiliated broker/dealer. The property must be depreciable and have a useful life of four years or more. The taxpayer must have substantially all of the employees using the qualified property located in New York. The credit may be claimed at 5 percent for the first \$350 million of qualified investment expenditures, and 4 percent for expenditures over \$350 million. The credit applies to property placed in service between January 1, 2002 and October 1, 2011. To be eligible for the credit, a taxpayer must satisfy an annual employment test that measures the taxpayer's employment in New York State in the current tax year against one of three standards.

Estimates: 2007: \$0.0 million — 2011: Minimal

Data Source: Insurance Tax Study File

Reliability: Level 1

21. **Long-Term Care Insurance Credit**

Citation: Section 1511(m)

Credit Type: Non-refundable/Carryforward

Effective Date: Effective for taxable years beginning on or after January 1, 2002

Description: Taxpayers may claim a credit for 20 percent of the premiums paid for a long-term care insurance policy during the taxable year. To qualify for the credit, the long-term care insurance policy purchased by the taxpayer must be one approved by the Superintendent of Insurance. Amounts in excess of tax liability may be carried over to future tax years.

Estimates: 2007: \$0.0 million — 2011: Minimal

Data Source: Insurance Tax Study File

Reliability: Level 1

22. **Brownfields Tax Credits**

Citation: Sections 21, 22, 23, 1511 (u)(v)(w)

Credit Type: Refundable

Effective Date: Effective for tax years beginning on or after April 1, 2005

Description: Three refundable tax credits are available to taxpayers who remediate a site under the Brownfield Cleanup Program.

The brownfield redevelopment tax credit consists of three credit components relating to costs associated with: site preparation; tangible property; and on-site groundwater remediation. For sites accepted into the Brownfield Cleanup Program (BCP) prior to June 23, 2008, the credit equals 12 percent of costs associated with each component. The credit increases by two percent if the site is remediated to a Track 1 cleanup level (determined by the Department of Environmental Conservation), and by another eight percent if at least one half of the site is located in an Environmental Zone (En-Zone). An En-Zone is an area designated by the Commissioner of Economic Development and, as of the 2000 census, has a poverty rate of at least 20 percent and an unemployment rate of at least 1 ¼ times the statewide unemployment

INSURANCE TAX

rate, or areas that have a poverty rate of at least two times the poverty rate for the county in which the data relate, provided the site was subject to a cleanup agreement before September 1, 2010.

Sites accepted into the BCP after June 23, 2008 are subject to a different credit calculation for the redevelopment credit. The site preparation and groundwater remediation component rates are as follows:

Cleanup Standard	Rate	Track 4
Soil cleanup for unrestricted use; protection of groundwater/ecological resources	50%	n/a
Residential use	40%	28%
Commercial use	33%	25%
Industrial Use	27%	22%

The rates for the tangible property component remain the same with a new 2 percent bonus rate available for sites redeveloped in conformity with the goals and priorities of the brownfield opportunity area in which the site is located. Also, sites are subject to a cap on the amount of tangible property component they can generate. The cap is the lesser of:

- \$35 million or three times the site preparation and groundwater component costs; or
- \$45 million or six times the site preparation and groundwater component costs if the site is to be used for manufacturing.

The remediated brownfield credit for real property taxes equals 25 percent of the product of the taxpayer's employment factor (a percentage based on the number of persons employed by the taxpayer on a qualified site) and the taxpayer's eligible real property taxes. If the site is located in an En-Zone the credit increases to 100 percent. There is a credit limitation equal to the product of the number of full time employees at the qualified site multiplied by \$10,000.

The environmental remediation insurance credit is allowed for premiums paid for environmental remediation insurance up to the lesser of \$30,000 or 50 percent of the cost of the premiums.

Estimates: 2007: \$0.0 million — 2011: Minimal

Data Source: Insurance Tax Study File

Reliability: Level 1

23. **Security Training Tax Credit**

Citation: Section 26 and Section 1511(x)

Credit Type: Refundable

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

Description: Owners of commercial buildings over 500,000 square feet can receive a \$3,000 credit for each security guard employed who has undergone training certified by the New York State Office of Homeland Security (OHS) and is paid a certain minimum wage. The credit is administered by OHS and is refundable.

Estimates: 2007: \$0.0 million — 2011: Minimal

Data Sources: Insurance Tax Study File

Reliability: Level 1

24. **Credit for Rehabilitation of Historic Properties**

Citation: Section 1511(y)

Credit Type: Non-refundable/Carryforward

Effective Date: Effective for taxable years beginning on or after January 1, 2010

Description: Taxpayers may claim a tax credit for the rehabilitation of depreciable historic properties located in New York State. The amount of the State credit is based on the credit amount allowed under subsection (a)(2) of section 47 of the Federal Internal Revenue Code (IRC) for the same taxable year. IRC §47(c)(3) defines a certified historic structure as a building and its structural components which is listed in the National Register of Historic Places or located in a registered historic district and certified to be of historic significance to the district. Any State credit taken must be recaptured if the Federal credit upon which it is based is recaptured by the taxpayer.

For taxable years beginning on or after January 1, 2010 and before January 1, 2015, the credit is equal to 100 percent of the amount of the Federal historic properties credit claimed by the taxpayer. However, the maximum amount of credit is \$5 million per structure. For tax year beginning on or after January 1, 2015, the credit is equal to 30 percent of the amount of the Federal historic properties credit claimed by the taxpayer and capped at \$100,000. If the taxpayer is a partner in a partnership, the credit caps are imposed at the entity level so that the aggregate credit allowed to all partners of each entity does not exceed the cap for the year.

Estimates: 2007: Not Applicable — 2011: Minimal

Data Source: New York State Division of the Budget

Reliability: Level 5

25. **Excelsior Jobs Program Tax Credits**

Chapter 59 of the Laws of 2010 created the Excelsior Jobs Program (EJP) Act. The new program is administered by Empire State Development (ESD) and offers four tax credits focused on certain strategic industries. To claim credits, taxpayers must first apply to and be approved by ESD. ESD can issue up to \$50 million in new credit annually, with a fully effective annual total program cost of \$250 million. ESD will calculate the amount of each credit annually and issue a certificate of tax credit to participants entitling them to the credits. Taxpayers are allowed to claim credits for five consecutive years.

a. **Excelsior Jobs Tax Credit**

Citation: Sections 31 and 1511(y)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after January 1, 2011

Description: EJP participants may claim a credit for each net new job created in the State. The value of the credit cannot exceed \$5,000 per new job and is computed on marginal wages plus benefits basis as follows:

- 5 percent of wages plus benefits of \$50,000 or less;

INSURANCE TAX

- 4 percent of wages plus benefits between \$50,001 and \$75,000; and
- 1.33 percent of wages plus benefits over \$75,000.

b. Excelsior Investment Tax Credit (EJP-ITC)

Citation: Sections 31 and 1511(y)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after January 1, 2011

Description: EJP participants may claim a credit equal to two percent of the cost of qualified investments in New York. Taxpayers cannot claim both the EJP-ITC and the regular ITC or both the EJP-ITC and the brownfield tangible property credit component for the same property in a given year.

c. Excelsior Research and Development Tax Credit (EJP-R&D)

Citation: Sections 31 and 1511(y)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after January 1, 2011

Description: EJP participants may claim a credit for research and development expenditures in New York. The credit is equal to ten percent of the portion of the taxpayer's Federal research and development credit pertaining to expenditures attributable to New York. Eligible expenditures are defined in section 41 of the Internal Revenue Code.

d. Excelsior Real Property Tax Credit (EJP-RPTC)

Citation: Sections 31 and 1511(y)

Credit Type: Refundable

Effective Date: Effective for taxable years beginning on or after January 1, 2011

Description: EJP participants located in areas formerly designated as Investment Zones under the Empire Zones Program or that qualify as regionally significant projects may claim a credit for real property taxes. The credit equals 50 percent of the property taxes assessed and paid in the year immediately prior to a taxpayer's application to the EJP and declines by 10 percent each year.

Estimates: 2007 – Not Applicable – 2011: Minimal

Data Source: New York State Division of the Budget

Reliability: Level 5

Corporate Exemptions

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

26. Exemption from Article 33 for Specific Types of Entities Engaged in an Insurance Business

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

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

Description: The corporate franchise tax on insurance does not apply to several types of entities which may be engaged in an insurance business. Among the exempt entities are:

- Charitable, religious, missionary, educational, and philanthropic non-stock corporations. (1512(a)(2))
- Retirement systems or pension funds engaged solely in an annuity business. (1512(a)(3))
- Nonprofit medical expense indemnity or hospital service corporations. (1512(a)(4))
- Incorporated or unincorporated fraternal benefit societies. (1512(a)(5))
- Corporations for the insurance of domestic animals on a cooperative plan. (1512(a)(6))
- A town or county cooperative insurance corporation exempt from tax under Section 187 of the Tax Law as it existed prior to 1974. (1512(a)(7))
- Not-for-profit voluntary employees' beneficiary associations exempted from Federal income tax the members of which are employees (or beneficiaries or dependent of employees) of a single employer. (1512(a)(8))
- Any nonprofit property/casualty insurance company organized pursuant to Section 6703 of the Insurance Law. (1512(a)(9))
- Entities conducting insurance business as a member of the New York Insurance Exchange. (1512 (c))

Estimates: 2007: \$271.3 million — 2011: \$374.0 million

Data Source: New York State Insurance Department Aggregate Data.

Reliability: Level 4

Preferential Tax Rates

27. Preferential Tax Treatment for Captive Insurance Companies

Citation: Section 1502-b

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

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

INSURANCE TAX

amount of premiums subject to tax increases, with the highest rate equaling 0.4 percent.

For tax years beginning on or after January 1, 2009, an overcapitalized captive insurance company must be included in a combined return under either Article 9-A or 32 with the closest corporation that directly or indirectly owns or controls over 50 percent of the voting stock of the overcapitalized captive insurance company.

Estimates: 2007: \$15.6 million — 2011: \$10.0 million

Data Source: Captive Tax Return Data

Reliability: Level 2

CORPORATION TAX

This section of the report provides descriptions of 32 separate tax expenditure provisions of the Article 9 tax. It contains estimates of the tax expenditures for tax years 2003 through 2007 (2007 is the latest year for which Article 9 tax return data is available). The list of tax expenditures is based on the Tax Law as of January 1, 2011. The estimates are also extrapolated to the 2011 tax year. The tax year refers to both the 2011 calendar year and fiscal years beginning in 2011. Table 6 summarizes the tax expenditure estimates. It also includes total tax liability of Article 9 to provide perspective.

Description of Tax

Article 9 of the Tax Law imposes initial taxes and annual fees on domestic (in-state) and foreign (out-of-state) corporations. It also imposes gross receipts-based taxes on a variety of specialized businesses.

Section 180 imposes an organization tax, at a rate of 0.05 percent, on the total amount of the par value of stock authorized to be issued by domestic corporations. The tax rate on shares without par value is five cents per share. The minimum tax under this section is \$10. The tax also applies to any subsequent increases in authorized stock or other changes in capital structure.

Section 181.1 imposes a license fee on all foreign corporations, except certain banks and most insurance corporations. The rate is the same as for the organization tax but only applies to out-of-state corporations exercising a franchise or carrying on business in the State. The fee is payable only once, unless the capital share structure changed or the amount of capital employed in New York increases.

Section 181.2 imposes an additional annual maintenance fee of \$300 on all foreign corporations, except certain banks and most insurance corporations. Foreign corporations may credit the maintenance fee against any tax due under Article 9 (other than Sections 180 and 181), Article 9-A, and Article 32.

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

Section 184 imposes an additional franchise tax on transportation and transmission corporations and associations based on their gross earnings within the State. The tax is 3/8 percent of gross earnings received from business conducted in New York. Beginning in 1995, Section 184 no longer applies to inter-exchange carriers, but applies only to those

CORPORATION TAX

telecommunications corporations or associations principally engaged in a local telephone business. Companies principally engaged in long distance services are excluded from the tax. In addition, the law provided two exclusions to equalize the tax treatment of telecommunications services provided by local carriers, which remain subject to the Section 184 tax, and inter-exchange carriers. One hundred percent of receipts from sales for ultimate consumption from interLATA, interstate, or international services and 30 percent of intraLATA toll services, including interregion regional calling plan services are excluded in the computation of tax under Section 184. In January 1998, trucking and railroad companies formerly taxable under Section 184 became taxable under Article 9-A, unless they elected to remain taxable under Article 9. In January 2000, gas pipelines became taxable under Article 9-A.

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

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

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

For tax years in the History portion of the following Table 8, the tax rate was reduced to 2.5 percent effective January 1, 2000. The tax is now imposed on receipts from transportation, transmission, distribution, or delivery of energy for residential customers at a rate of 2.0 percent. For taxable years beginning on or after January 1, 2000 separate additional rate reduction schedules are applied to receipts from the sale of an energy commodity and to receipts from charges for the transportation, transmission, distribution, or delivery of energy, as follows:

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

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

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

Data Sources

The major source of data used to compute the tax expenditure estimates under Article 9 is the 2007 Corporation Tax Study File. This file, compiled by the Department of Taxation and Finance, includes all corporations filing under Article 9. It includes selected data items from the tax returns of each corporation. Simulations of the file generate the base case tax expenditures.

Methodology

The projections of the tax expenditures from 2007 to 2011 use a variety of economic forecast variables.

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

CORPORATION TAX

Table 6
2011 New York State Corporation and Utilities (Article 9) Tax Expenditure Estimates
(2007 Corporation and Utilities Tax Liability = \$723.1 Million)
(Millions of Dollars)

Tax Item ¹	History					Forecast	Reliability
	2003	2004	2005	2006	2007	2011	Level
New York Modifications to Gross Income							
1. Exclusion of Interstate and Foreign Income	N/A	N/A	N/A	N/A	N/A	N/A	5
2. Exclusion of Receipts from InterLATA, Interstate, and International Telephone Services	3.5	2.9	3.8	4.5	4.3	3.0	1
3. Exclusion of Thirty Percent of Receipts from IntraLATA Toll Telephone Services	3.2	2.4	3.6	4.3	4.0	3.0	1
4. Exclusion of Cable Television Service	91.3	95.5	99.8	103.0	121.0	135.0	3
5. Exclusion of Receipts from Certain Telecommunications Services for Air Safety and Navigation Purposes	N/A	N/A	N/A	N/A	N/A	N/A	5
Credits							
6. Special Additional Mortgage Recording Tax Credit ²	0.0	0.0	0.0	0.0	0.0	0.0	1
7. Credit for Tax Paid in Another Jurisdiction	0.0	0.0	0.0	0.0	*	*	1
8. Power for Jobs Tax Credit ^{2,3}	52.8	49.0	25.3	21.0	25.5	0.0	1
9. Credit for Employment of Persons with Disabilities ²	0.0	0.0	0.0	0.0	0.0	0.0	1
10. Green Building Credit ²	0.0	0.0	0.0	0.0	0.0	0.0	1
11. Long-Term Care Insurance Credit	0.0	0.0	0.0	0.0	0.0	0.0	1
12. Empire Zone (EZ) and Qualified Empire Zone Enterprise (QEZE) Credits ²							
a. EZ Investment Tax Credit and Employment Incentive Credit	--	0.0	*	*	*	*	1
b. EZ Wage Tax Credit	--	0.0	*	*	*	*	1
c. QEZE Real Property Tax Credit	--	0.0	*	0.3	0.3	*	
13. Brownfields Tax Credits ²	--	--	0.0	0.0	0.0	0.0	1
14. Security Training Tax Credit ²	--	--	0.0	0.0	0.0	0.0	1
15. Biofuel Production Credit ²	--	--	--	0.0	0.0	0.0	1
Corporate Exemptions							
16. Certain Banking and Insurance Companies	N/A	N/A	N/A	N/A	N/A	N/A	5
17. Ferry Companies	N/A	N/A	N/A	N/A	N/A	N/A	5
18. Taxicabs and Omnibuses	N/A	N/A	N/A	N/A	N/A	N/A	5
19. Railroads and Vessels Engaged in Interstate or Foreign Commerce	N/A	N/A	N/A	N/A	N/A	N/A	5
20. Corporations Principally Engaged in Providing Telecommunications for Air Safety and Navigation Purposes	N/A	N/A	N/A	N/A	N/A	N/A	5
21. Foreign Commerce	N/A	N/A	N/A	N/A	N/A	N/A	5
22. Railroad Leasing	N/A	N/A	N/A	N/A	N/A	N/A	5
23. Foreign Taxicabs and Omnibuses	N/A	N/A	N/A	N/A	N/A	N/A	5
24. Exempt Companies	N/A	N/A	N/A	N/A	N/A	N/A	5
25. Exempt Organizations – Section 186-a	N/A	N/A	N/A	N/A	N/A	N/A	5
26. Water Pollution Facilities	N/A	N/A	N/A	N/A	N/A	N/A	5
27. Commercial, Industrial, and Not-For-Profit Relief	N/A	N/A	N/A	N/A	N/A	N/A	5
28. Exempt Organizations – Section 186-e	N/A	N/A	N/A	N/A	N/A	N/A	5

CORPORATION TAX

Tax Item¹	History					Forecast	Reliability
	2003	2004	2005	2006	2007	2011	Level

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

2/ For tax years 2010, 2011, and 2012, credits subject to deferral.

3/ Although the program was extended by Chapter 311 of the Laws of 2010, the sunset date of the credit was not extended. As such, the credit expires after the 2010 tax year.

* Less than \$0.1 million.

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

N/A No data available.

CORPORATION TAX

New York Modifications to Gross Income

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

1. **Exclusion of Interstate and Foreign Income**
Citation: Section 184(1)
Effective Date: June 15, 1896
Description: Corporations, joint stock corporations, or associations formed for or principally engaged in canal, steamboat, ferry, navigation, or corporations formed for or principally engaged in the operation of vessels may exclude earnings derived from business of an interstate or foreign character.
Section 184 Estimate: No data available
Reliability: Level 5

2. **Exclusion of Receipts from InterLATA, Interstate, and International Telephone Services**
Citation: Section 184(1)
Effective Date: January 1, 1995
Description: Telephone companies subject to the tax may exclude 100 percent of receipts (other than those from the provision of carrier access services) from sales for ultimate consumption of interLATA, interstate, and international services.
Section 184 Estimates: 2007: \$4.3 million — 2011: \$3.0 million
Data Source: Corporation Tax Study File
Reliability: Level 1

3. **Exclusion of Thirty Percent of Receipts from IntraLATA Toll Telephone Services**
Citation: Section 184.1
Effective Date: Effective for tax years beginning on or after January 1, 1996
Description: Telephone companies subject to the tax may exclude 30 percent of receipts (other than those from the provision of carrier access services) from sales for ultimate consumption of intra-LATA toll services, including inter-region regional calling plan services.
Section 184 Estimates: 2007: \$4.0 million — 2011: \$3.0 million
Data Source: Corporation Tax Study File
Reliability: Level 1

4. **Exclusion of Cable Television Service**
Citation: Section 186-e(2)(b)(2)
Effective Date: January 1, 1995
Description: Cable television service is specifically excluded from the definition of telecommunications services and receipts from the sale of such service are not subject to tax.
Section 186-e Estimates: 2007: \$121.0 million — 2011: \$135.0 million
Data Source: Annual Reports to the New York State Public Service Commission
Reliability: Level 3

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

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

Effective Date: January 1, 1995

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

Section 186-e Estimate: No data available

Reliability: Level 5

Credits

Credits include amounts, stipulated by the New York State Tax Law, which the taxpayer may subtract in calculating New York tax liability. Since the same credit may be available under multiple sections of Article 9, the descriptions below provide general information about the credit as well as specific estimates for each section where the credit applies. For tax years 2010, 2011, and 2012, taxpayers are required to defer the use and refund of certain tax credits if they exceed \$2 million in aggregate.

6. **Special Additional Mortgage Recording Tax Credit**

Citation: Section 187

Credit Type: Nonrefundable/Carryforward for Residential Mortgages Only

Effective Date: Effective for tax years beginning after December 31, 1978

Description: The credit is based on the amount of special additional mortgage recording taxes paid by the taxpayer, with certain restrictions. No credit is allowed for special additional mortgage recording taxes paid on certain mortgages recorded in the Metropolitan Community Transportation District or Erie County.

Section 183 Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Section 184 Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Section 185 Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Section 186 Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Data Source: Corporation Tax Study File

Reliability: Level 1

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

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

Credit Type: Non-refundable/Non-Carryforward

Effective Date: January 1, 1995

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

CORPORATION TAX

Section 186-e Estimates: 2007: Minimal — 2011: Minimal

Data Source: Corporation Tax Study File

Reliability: Level 1

8. **Power for Jobs Tax Credit**

Citation: Section 186-a(9)

Credit Type: Non-refundable

Effective Date: July 29, 1997

Description: The credit is associated with the Power for Jobs Program established to make low-cost power available to business, small businesses, and not-for-profit corporations for job retention and creation. It is provided to utilities delivering power to retail customers participating in the program. The credit is based upon the net loss revenue of the utility associated with the sale of the low cost power. The credit is limited by the baseline energy use of all of the utility's customers participating in the program. Although the program was extended by Chapter 311 of the Laws of 2010, the sunset date of the credit was not extended. As such, the credit expires after the 2010 tax year.

Section 186-a Estimates: 2007: \$25.5 million — 2011: \$0.0 million

Data Source: Corporation Tax Study File

Reliability: Level 1

9. **Credit for Employment of Persons with Disabilities**

Citation: Section 187-a

Credit Type: Non-refundable/carryforward

Effective Date: Effective for taxable years beginning on or after January 1, 1998, applicable to individuals who begin work on or after January 1, 1997

Description: Employers who employ individuals with disabilities may claim a credit for a portion of wages paid to such individuals. 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's wages qualify for the Federal work opportunity tax credit, the New York credit will apply to second year wages.

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

Section 183 Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Section 184 Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Section 185 Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Section 186 Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Data Source: Corporation Tax Study File

Reliability: Level 1

10. **Green Building Credit**

Citation: Sections 19 and 187-d

Credit Type: Non-refundable/Carryforward

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

Description: The green building credit consists of several incentives for the purchase of recyclable building materials and other environmentally preferable tangible personal property. It also contains tax credits for the purchase of fuel cells, photovoltaic modules, and environmentally sensitive non-ozone depleting refrigerants. Phase I of the credit applied to costs incurred on or after June 1, 1999, for property placed in service or that had received a final certificate of occupancy in tax years from 2001 to 2004. Phase II of the program began in the 2005 tax year. An additional \$25 million in total credit may be issued, but the amount on any one credit certificate is limited to \$2 million.

Section 183 Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Section 184 Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Section 185 Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Section 186 Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Data Source: Corporation Tax Study File

Reliability: Level 1

11. **Long-Term Care Insurance Credit**

Citation: Section 190

Credit Type: Non-refundable/Carryforward

Effective Date: Effective for tax years beginning on or after January 1, 2002

Description: A taxpayer may take a credit equal to a percentage of the cost of purchasing, or continuing coverage under, long-term care insurance, as defined in the Insurance Law. When enacted, the credit percentage was 10 percent. Subsequent legislation increased the credit to 20 percent for tax years beginning after 2003.

Section 183 Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Section 184 Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Section 185 Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Section 186 Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Section 186-a Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Section 186-e Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Data Source: Corporation Tax Study File

Reliability: Level 1

12. **Empire Zone (EZ) and Qualified Empire Zone Enterprise (QEZE) Credits**

The Empire Zones Program expired on June 30, 2010. No new entrants will be admitted to the Program, but existing participants can continue to earn credits for several years. Taxpayers will be allowed to utilize the remainder of their five year period for the EZ wage tax credit and the remainder of their benefit period for the QEZE credits (15 or 10 years, depending on the date of first certification). Taxpayers will be allowed to earn additional EZ-ITC until April 1, 2014, but qualified investment projects (QUIPS) can earn EZ-ITC for their next nine tax years. The EZ-EIC will be fully available for the three years after an EZ-ITC is claimed if the taxpayer meets the requisite employment tests.

a. **Empire Zone Investment Tax Credit and Employment Incentive Credit**

Citation: Sections 187-k and 187-l

Credit Type: EZ-ITC 50 percent Refundable to New Business Only/EZ-EIC
Non-Refundable/Carryforward

CORPORATION TAX

Effective Date: Effective for tax years beginning on or after January 1, 2004
Description: Taxpayers may qualify for an enhanced investment tax credit (EZ-ITC) equal to 10 percent of the cost or other Federal basis of tangible personal property, including buildings and structural components of buildings, located within a designated EZ. The provisions of the EZ-ITC are generally the same as those for the regular ITC.

Taxpayers may also claim an EZ employment incentive credit (EZ-EIC) similar to the regular EIC, based upon EZ-ITC claimed and employment increased within an EZ. The amount of the EZ-EIC allowed is 30 percent of the EZ-ITC for each of the three years following the year for which the original EZ-ITC was allowed. However, the credit is allowed only for those years during which the average number of employees (except general executive officers) in the EZ is at least 101 percent of the average number of employees (except general executive officers) in the EZ during the tax year immediately preceding the tax year for which the original EZ-ITC was allowed.

Section 185 Estimates: 2007: Minimal — 2011: Minimal

Data Source: Corporation Tax Study File

Reliability: Level 1

b. **EZ Wage Tax Credit**

Citation: Section 187-m

Credit Type: 50 percent Refundable to New Business Only

Effective Date: Effective for tax years beginning on or after January 1, 2004

Description: A taxpayer may claim a wage tax credit for doing business and creating jobs in Empire Zones (EZ-WTC). The wage tax credit has two components. The credit equals the product of the average number of targeted EZ employees receiving EZ wages multiplied by \$3,000. The corresponding credit amount for other employees is \$1,500. Taxpayers certified in Investment Zones may claim an additional \$500 for each employee paid over \$40,000 in wages. The total wage tax credit in any tax year cannot exceed 50 percent of tax due before credits. The EZ-WTC is available to the taxpayer for five years.

Section 185 Estimates: 2007: Minimal — 2011: Minimal

Data Source: Corporation Tax Study File

Reliability: Level 1

c. **QEZE Real Property Tax Credit**

Citation: Sections 14, 15, and 187-j

Credit Type: Refundable

Effective Date: Effective for tax years beginning on or after January 1, 2004

Description: For taxpayers certified prior to April 1, 2005, the QEZE real property tax credit (RPTC) is the product of three factors. The benefit period factor is 1.0 in the first ten years of certification, declining by 0.02 each year thereafter. The employment increase factor is based upon the QEZE's job growth. The final factor is the QEZE's real property taxes for the current tax year.

For taxpayers certified on or after April 1, 2005 and located in an Investment Zone (IZ), the credit equals 25 percent of the wages and health and retirement benefits of net new employees. Provided, that the total amount of credit cannot exceed \$10,000 for each such employee. Taxpayers located in a Development Zone (DZ) use the same formula but include an additional factor, the DZ employment increase factor (EIF), scaled to reward greater job increases. The credit can exceed these amounts if the capital investment limitation is greater, but the credit is capped at the amount of real property taxes. Taxpayers certified on or after January 1, 2009 must reduce the computed credit amount by 25 percent.

Section 185 Estimates: 2007: \$0.3 million — 2011: Minimal

Data Source: Corporation Tax Study File

Reliability: Level 1

13. Brownfields Tax Credits

Citation: Sections 21, 22, 23, 187-g, 187-h, and 187-i

Credit Type: Refundable

Effective Date: Effective for tax years beginning on or after April 1, 2005

Description: Three refundable tax credits are available to taxpayers who remediate a site under the Brownfield Cleanup Program (BCP).

For sites accepted into the Brownfield Cleanup Program prior to June 23, 2008, the brownfield redevelopment tax credit consists of three credit components relating to costs associated with: site preparation; tangible property; and on-site ground water remediation. The credit equals 12 percent of costs associated with each component. The credit increases by two percent if the site is remediated to a Track 1 cleanup level (determined by the Department of Environmental Conservation), and by another eight percent if at least one half of the site is located in an Environmental Zone (En-Zone). An En-Zone is an area designated by the Commissioner of Economic Development and, as of the 2000 census, has a poverty rate of at least 20 percent and an unemployment rate of at least 1 1/4 times the statewide unemployment rate, or areas that have a poverty rate of at least two times the poverty rate for the county in which the data relate provided the site was subject to a cleanup agreement before September 1, 2010.

Sites accepted into the BCP after June 23, 2008 are subject to a different credit calculation for the redevelopment credit. The site preparation and groundwater remediation component rates are as follows:

Cleanup Standard	Rate	Track 4
Soil cleanup for unrestricted use; protection of groundwater/ecological resources	50%	n/a
Residential use	40%	28%
Commercial use	33%	25%
Industrial Use	27%	22%

The rates for the tangible property component remain the same with a new 2 percent bonus rate available for sites redeveloped in conformity with the goals and priorities of the brownfield opportunity area in which the site is located. Also, sites are subject

CORPORATION TAX

to a cap on the amount of tangible property component they can generate. The cap is the lesser of:

- \$35 million or three times the site preparation and groundwater component costs; or
- \$45 million or six times the site preparation and groundwater component costs if the site is to be used for manufacturing.

The remediated brownfield credit for real property taxes equals 25 percent of the product of the taxpayer's employment factor (a percentage based on the number of persons employed by the taxpayer on a qualified site) and the taxpayer's eligible real property taxes. If the site is located in an En-Zone the credit increases to 100 percent. There is a credit limitation equal to the product of the number of full time employees at the qualified site multiplied by \$10,000.

The environmental remediation insurance credit is allowed for premiums paid for environmental remediation insurance up to the lesser of \$30,000 or 50 percent of the cost of the premiums.

Section 183 Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Section 184 Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Section 185 Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Data Source: Corporation Tax Study File

Reliability: Level 1

14. **Security Training Tax Credit**

Citation: Sections 26 and 187-n

Credit Type: Refundable

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

Description: Owners of commercial buildings over 500,000 square feet can receive a \$3,000 credit for each security guard employed who has undergone training certified by the New York State Office of Homeland Security (OHS) and is paid a certain minimum wage. The credit is administered by OHS.

Section 183 Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Section 184 Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Section 185 Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Section 186 Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Section 186-a Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Section 186-e Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Data Source: Corporation Tax Study File

Reliability: Level 1

15. **Biofuel Production Credit**

Citation: Sections 28, 187-c

Credit Type: Refundable

Effective Date: Effective for tax years beginning on or after 2006 and before January 1, 2013

Description: Taxpayers may claim a tax credit for the production of biofuel. Biofuel is defined as fuel which includes biodiesel and ethanol. Biodiesel is fuel

comprised exclusively of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100, which meets the specifications of American Society of Testing and Materials designated D 6751. The credit equals 15 cents per gallon after the production of the first 40,000 gallons per year presented to market. The credit is capped at \$2.5 million per taxpayer per year for up to four consecutive years per biofuel plant. The cap is applied at the entity level in the case of partnerships, limited liability companies, and S corporations so that the aggregate amount of credit that flows through to all partners, members, or shareholders does not exceed \$2.5 million. For taxpayers subject to tax under both Section 183 and 184, the credit must first be deducted from the taxes imposed under Section 183. Any credit remaining must then be deducted from the taxes imposed under Section 184.

Section 183 Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Section 184 Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Section 185 Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Section 186 Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Section 186-a Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Section 186-e Estimates: 2007: \$0.0 million — 2011: \$0.0 million

Data Source: Corporation Tax Study File

Reliability: Level 1

Corporate Exemptions

16. **Banking and Insurance Companies**

Citation: Section 181(1) (license fee); 181(2) (annual maintenance fee)

Effective Date: April 4, 1895; September 1, 1976

Description: Certain banking corporations, fire, marine, casualty and life insurance companies, cooperative fraternal insurance companies, and building and loan associations are exempt from the license fee or the annual maintenance fee imposed on foreign corporations.

Section 181 Estimate: No data available

Reliability: Level 5

17. **Ferry Companies**

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

Effective Date: April 14, 1914

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

Section 183 Estimate: No data available

Section 184 Estimate: No data available

Reliability: Level 5

18. **Taxicabs and Omnibuses**

Citation: Section 183(1)(c)

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

Description: With certain exceptions, and so long as the State tax on motor fuel exceeds two cents per gallon, corporations classified as taxicabs and omnibuses are

CORPORATION TAX

taxable under Article 9-A and therefore are exempt from the tax imposed by Section 183.

Section 183 Estimate: No data available

Reliability: Level 5

19. **Railroads and Vessels Engaged in Interstate or Foreign Commerce**

Citation: Section 183(7)

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

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

Section 183 Estimate: No data available

Reliability: Level 5

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

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

Effective Date: January 1, 1995

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

Section 183 Estimate: No data available

Section 184 Estimate: No data available

Reliability: Level 5

21. **Foreign Commerce**

Citation: Section 3

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

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

Section 184 Estimate: No data available

Reliability: Level 5

22. **Railroad Leasing**
Citation: Section 184(3)
Effective Date: June 1, 1917
Description: In lieu of the tax on gross earnings, a railroad corporation involved in leasing railroad property to another railroad is subject to an excess income tax measured at the rate of 4 ½ percent on that portion of dividends paid in a calendar year in excess of 4 percent on the capital stock of the company.
Section 184 Estimate: No data available
Reliability: Level 5
23. **Foreign Taxicabs and Omnibuses**
Citation: Section 184(2)(b)(1)(iv)
Effective Date: January 1, 1988
Description: A foreign taxicab or omnibus company doing business in New York by making fewer than 12 trips into New York State on an annual basis, but not otherwise owning or leasing property, maintaining an office, or otherwise doing business in the State so as to become subject to tax, pays a tax equal to \$15 per trip.
Section 184 Estimate: No data available
Reliability: Level 5
24. **Exempt Companies**
Citation: Section 186-a(2)(a)
Effective Date: January 1, 1960 (omnibuses)
Description: Persons engaged in operating omnibuses having a seating capacity of more than seven persons; or, street surface, rapid transit, subway, and elevated railroads are not subject to the Section 186-a tax.
Section 186-a Estimate: No data available
Reliability: Level 5
25. **Exempt Organizations**
Citation: Section 186-a(2)(b)
Effective Date: 1937
Description: The furnishing of utilities services by the State is exempt from tax. Utility services furnished by municipalities, political and civil subdivisions of the State or a municipality, public districts, and certain corporations and associations organized and operated exclusively for religious, charitable, or educational purposes are exempt from tax under certain circumstances.
Section 186-a Estimate: No data available
Reliability: Level 5
26. **Water Pollution Facilities**
Citation: Section 186-a(2)(b)
Effective Date: January 1, 1969
Description: Section 186-a does not apply to a corporation organized and operated exclusively for the purpose of leasing from a city a water works system designed to alleviate water pollution within the city.
Section 186-a Estimate: No data available

CORPORATION TAX

Reliability: Level 5

27. **Commercial, Industrial, and Not-For-Profit Relief**

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

Effective Date: January 1, 2000

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

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

Section 186-a Estimate: No data available

Data Source: No data available

Reliability: Level 5

28. **Exempt Organizations**

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

Effective Date: January 1, 1995

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

Section 186-e Estimate: No data available

Reliability: Level 5

SALES AND USE TAX

This section of the report provides tax expenditure descriptions and estimates for 146 provisions of the Sales and Use Tax Law. The list of expenditures is based on the Tax Law in effect as of January 1, 2011. The tax expenditure estimates only pertain to the State portion of the tax and do not include any estimates of the revenue foregone by local governments levying sales and use taxes.

The report presents historical estimates for calendar years 2004 through 2008. Table 7 lists the tax expenditures and provides historical year and projected 2011 estimates. It also lists the years for which data are available. For recently added tax expenditures, the report displays historical estimates only for years the item existed as a tax expenditure. The effective dates recorded in the report refer to the date the applicable provision took effect.

Description of Tax

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

The Tax Law provides manufacturers with exemptions for the purchase, repair, and maintenance of machinery and equipment used in production. Other exempt items include food, medicine, residential energy, and sales to exempt entities. Although most services are not subject to sales or use tax, this report examines only services which are specifically exempted by New York State law. Thus, this report does not list unenumerated services (e.g., accounting services, engineering services) as tax expenditures.

The Department of Taxation and Finance administers the Sales and Use Tax for the State and its constituent jurisdictions that also impose the tax. The State rate equals 4 percent. Local rates range from 3.0 percent to 4.75 percent. Communities within the Metropolitan Commuter Transportation District are subject to an additional 3/8 of 1 percent tax rate. In State fiscal year 2009-10, the Department collected about \$9.9 billion for the State and approximately \$12.1 billion for local governments from sales and use taxes.

Data Sources

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

SALES AND USE TAX

The major non-tax data sources used to compute the tax expenditure estimates include:

- Government publications and surveys such as the U.S. Census Bureau's *Economic Census*;
- Data compiled by individual New York State agencies; and
- Industry surveys and information, such as the information provided by General Aviation Manufacturers Association.

Methodology

The report bases the historical estimates on the most recent data available. If data are not available for a particular year covered by the report, the tax expenditure is estimated from the most recent data. For example, where 2004 represents the latest year for which relevant data are available, the 2004 data are used to derive the historical estimates. Historical estimates may vary from prior year reports due to the availability of more recent data. From the most recent data, tax expenditure estimates are projected to 2011 levels. Historical estimates are projected to 2011 levels using the New York State Division of the Budget's 2010 forecast of the U.S. and New York economies. Where applicable, such measures as price, employment, and productivity were used to extrapolate to the expenditure value.

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

SALES AND USE TAX

Table 7
2011 New York State Sales and Use Tax Expenditure Estimates
(2009-10 Total NY Sales and Use Tax Liability = \$9,904.0 Million)
(Millions of Dollars)

Tax Item	Data Source Year(s)	History				Forecast		Reliability
		2004 ³	2005 ⁴	2006	2007	2008	2011	Level
Services								
1. Certain Information Services		N/A	N/A	N/A	N/A	N/A	N/A	5
2. Certain Information Services Provided Over the Telephone		N/A	N/A	N/A	N/A	N/A	N/A	5
3. Services Performed on a Non-Trade Basis		N/A	N/A	N/A	N/A	N/A	N/A	5
4. Laundering, Tailoring, Shoe Repair, and Similar Services	2007	66.0	68.0	70.0	73.0	75.0	83.0	4B
5. Capital Improvement Installation Services	2004-2007	524.0	535.0	603.0	588.0	582.0	558.0	4C
6. Services Related to Railroad Rolling Stock	2004-2006	2.0	2.0	2.0	2.0	2.0	2.0	4B
7. Services to Property Delivered Outside New York		N/A	N/A	N/A	N/A	N/A	NA	5
8. Municipal Parking Services	2004-2007	7.0	7.0	7.0	7.0	7.0	8.0	4A
9. Parking and Garaging at a Private Residence	2009	*	*	*	*	*	*	4A
10. Certain Protective and Detective Services	2004-2007	*	*	*	*	*	*	4A
11. Medical Emergency Alarm Call Services	2005	*	*	*	*	*	*	4C
12. Coin-Operated Car Wash Services	2002, 2007	2.0	5.0	5.0	5.0	3.0	3.0	4C
13. Trash Removal from a Waste Transfer Facility ²	2005-2007	--	1.0	4.0	4.0	4.0	4.0	4B
14. Transportation Services in Connection with Funerals ¹	2004-2007	--	--	--	--	--	1.0	4C
15. Transportation Services Provided by Affiliated Livery Vehicles ¹	2008	--	--	--	--	--	3.0	4C
Food								
16. Certain Food Products	2004-2007	1,093.0	1,078.0	1,033.0	1,048.0	1,093.0	1,190.0	4B
17. Food Sold to Airlines	2004-2007	6.0	6.0	5.0	6.0	5.0	5.0	4A
18. Food Sold at School Cafeterias	2004, 2007	82.0	88.0	94.0	100.0	109.0	126.0	4A
19. Food Purchased with Food Stamps	2004-2007	80.0	88.0	91.0	95.0	99.0	115.0	4A
20. Water Delivered Through Mains or Pipes	2004-2007	65.0	65.0	64.0	67.0	68.0	69.0	4B
21. Mandatory Gratuity Charges	2004-2007	24.0	24.0	25.0	27.0	28.0	29.0	4A
22. Wine Used for Wine Tastings	2004-2007	*	*	*	*	*	*	4A
23. Vending Machine Sales of Hot Drinks and Certain Foods	2004-2005	20.0	21.0	21.0	22.0	23.0	25.0	4C
24. Vending Machine Sales of Candy, Juice and Soft Drinks	2004-2005	14.0	13.0	12.0	11.0	11.0	7.0	4C
25. Food Sold at Senior Citizen Housing Communities	2000	*	*	*	*	*	*	4B
Medical								
26. Drugs, Medicine, and Medical Supplies	2004-2007	743.0	761.0	798.0	830.0	860.0	1,015.0	4C
27. Eyeglasses, Hearing Aids and Prosthetic Aids	2004-2007	97.0	98.0	100.0	111.0	114.0	122.0	4C
28. Veterinarian Services	2004-2007	21.0	20.0	20.0	21.0	21.0	22.0	4B
29. Service Dogs	2006	*	*	*	*	*	*	4B

SALES AND USE TAX

Tax Item	Data Source	History				Forecast		Reliability
	Year(s)	2004 ³	2005 ⁴	2006	2007	2008	2011	Level
Energy								
30. Residential Energy	2004-2007	599.0	695.0	695.0	712.0	765.0	747.0	4A
31. Fuel, Gas, Electricity, Refrigeration, and Steam Used in Research and Development and Production	2004-2007	204.0	289.0	259.0	274.0	290.0	276.0	4C
32. Fuel, Gas, Electricity, Refrigeration, and Steam Used in Farming and Commercial Horse Boarding	2004-2005	9.0	12.0	13.0	13.0	13.0	15.0	4B
33. Reduced Rate on Gas and Electric Delivery	2004-2007	20.0	26.0	34.0	46.0	49.0	58.0	4B
34. Gas and Electricity Used in Transmission, Distribution and Storage	2004-2007	4.0	5.0	6.0	6.0	6.0	7.0	4C
35. Residential Solar Energy Systems ²	2006	--	*	*	*	*	*	4B
36. Electricity, Refrigeration, and Steam Sold by Certain Cooperative Corporations		--	--	N/A	N/A	N/A	N/A	5
37. Automotive Fuel Receipts Exceeding Two Dollars Per Gallon ²	2006-2007	--	--	80.0	176.0	204.0	199.0	4A
38. Alternative Fuels ²	2006-2007	--	--	*	*	*	*	4A
39. B20 Bio-Diesel Fuel ²	2006-2007	--	--	*	*	*	*	4A
Transportation								
40. Commercial Vessels		N/A	N/A	N/A	N/A	N/A	N/A	5
41. Barge Repairs	2002	*	*	*	*	*	*	4C
42. Commercial Aircraft	2004-2007	14.0	13.0	12.0	19.0	19.0	20.0	4C
43. Fuel Sold to Airlines	2004-2007	82.0	117.0	130.0	135.0	153.0	151.0	4A
44. Parts for Foreign Aircraft		N/A	N/A	N/A	N/A	N/A	N/A	5
45. Services to Private Aircraft ²	2007	*	2.0	2.0	2.0	2.0	2.0	4C
46. Intra-family Sales of Motor Vehicles		N/A	N/A	N/A	N/A	N/A	N/A	5
47. Motor Vehicles and Vessels Sold to Nonresidents		N/A	N/A	N/A	N/A	N/A	N/A	5
48. Rental of Trucks in Certain Cases		N/A	N/A	N/A	N/A	N/A	N/A	5
49. Tractor-Trailer Combinations	2007	7.0	7.0	7.0	8.0	7.0	7.0	4A
50. Sales of Property by Railroads in Reorganization	2004-2007	0.0	0.0	0.0	0.0	0.0	0.0	4A
51. Commercial Buses	2005	5.0	5.0	5.0	5.0	5.0	5.0	4A
52. Marine Terminal Facility Equipment ²	2005	--	*	*	*	*	*	4B
53. Ferry Boats ²	2007	--	--	--	--	*	*	4A
Communication and Media								
54. Interstate or International Telephone and Telegraph Service	2004-2007	273.0	261.0	238.0	230.0	223.0	231.0	4A
55. Internet Access Service ¹	2005-2008	117.0	122.0	128.0	148.0	165.0	199.0	4C
56. Cable Television Service	2004-2007	195.0	185.0	192.0	209.0	228.0	294.0	4C
57. Newspapers and Periodicals	2004-2008	66.0	66.0	67.0	67.0	68.0	63.0	4B
58. Shopping Papers	2005-2007	1.0	1.0	1.0	1.0	1.0	1.0	4C
59. Telephone Service Used by the Media		N/A	N/A	N/A	N/A	N/A	N/A	5
60. Certain Coin-Operated Telephone Charges	2004-2007	1.0	1.0	1.0	1.0	1.0	1.0	4C
61. Telecommunications and Internet Equipment	2004-2008	69.0	76.0	75.0	78.0	74.0	85.0	4B
62. Internet Data Centers	2007	10.0	10.0	10.0	10.0	11.0	12.0	4C
63. Radio and Television Broadcasting	2004-2008	5.0	4.0	4.0	4.0	4.0	4.0	4C
64. Film Production		N/A	N/A	N/A	N/A	N/A	N/A	5

SALES AND USE TAX

Tax Item	Data Source	History				Forecast		Reliability
	Year(s)	2004 ³	2005 ⁴	2006	2007	2008	2011	Level
65. Certain Mobile Telecommunication Services	2004-2008	9.0	6.0	5.0	5.0	5.0	5.0	4B
Industry								
66. Tools and Supplies Used in Production		N/A	N/A	N/A	N/A	N/A	N/A	5
67. Farm Production and Commercial Horse Boarding	2004-2005	62.0	52.0	51.0	59.0	66.0	78.0	4B
68. Research and Development Property	2004-2005	49.0	56.0	57.0	57.0	58.0	59.0	4B
69. Machinery and Equipment Used in Production	2002, 2007	265.0	268.0	271.0	286.0	302.0	286.0	4B
70. Services to Machinery and Equipment Used in Production	2002, 2007	16.0	15.0	15.0	15.0	16.0	15.0	4B
71. Wrapping and Packaging Materials		N/A	N/A	N/A	N/A	N/A	N/A	5
72. Milk Crates ²		--	--	--	*	*	*	4C
73. Commercial Fishing Vessels	2006-2008	*	*	*	*	*	*	4B
74. Certain Services Used in Gas or Oil Production	2004-2008	3.0	3.0	3.0	4.0	4.0	4.0	4C
75. Pollution Control Equipment	2004-2008	5.0	5.0	6.0	5.0	9.0	9.0	4C
76. Property Manufactured by the User	2004,2005	*	*	*	*	*	*	4B
Miscellaneous								
77. Certain Property Sold Through Vending Machines	2005-2009	*	*	*	*	*	*	4C
78. Trade-in Allowance	2004-2008	641.0	548.0	525.0	545.0	470.0	523.0	4A
79. Certain Hotel Room Rent		N/A	N/A	N/A	N/A	N/A	N/A	5
80. Dues for Fraternal Societies	2004-2008	15.0	16.0	16.0	17.0	17.0	18.0	4C
81. Homeowner Association Dues		N/A	N/A	N/A	N/A	N/A	N/A	5
82. Homeowner Association Parking Services		N/A	N/A	N/A	N/A	N/A	N/A	5
83. Excise Taxes Imposed on the Consumer	2004-2006	23.0	22.0	8.0	0.0	0.0	0.0	4A
84. Property Sold by Morticians	2004-2008	10.0	10.0	10.0	10.0	10.0	10.0	4C
85. Flags		N/A	N/A	N/A	N/A	N/A	N/A	5
86. Military Decorations ²	2006	--	--	*	*	*	*	4C
87. Garage Sales		N/A	N/A	N/A	N/A	N/A	N/A	5
88. New Mobile Homes	2004-2008	2.0	2.0	2.0	2.0	2.0	2.0	4A
89. Used Mobile Homes		N/A	N/A	N/A	N/A	N/A	N/A	5
90. Modular Homes ¹	2008	--	--	--	--	--	*	4B
91. Registered Race Horses		N/A	N/A	N/A	N/A	N/A	N/A	5
92. Race Horses Purchased Through Claiming Races		N/A	N/A	N/A	N/A	N/A	N/A	5
93. Race Horses Purchased Out of State		N/A	N/A	N/A	N/A	N/A	N/A	5
94. Training and Maintaining Race Horses	2003	3.0	3.0	3.0	3.0	3.0	3.0	4C
95. Property Sold to Contractors for Capital Improvements or Repairs for Exempt Organizations	2004-2008	61.0	70.0	81.0	92.0	97.0	77.0	4C
96. Property Donated by a Manufacturer to an Exempt Organization		N/A	N/A	N/A	N/A	N/A	N/A	5
97. Sales and Use Tax Paid to Other States		N/A	N/A	N/A	N/A	N/A	N/A	5
98. Precious Metal Bullion and Coins	2008	187.0	198.0	267.0	308.0	382.0	395.0	4C
99. Computer Software Transferred to Affiliated Corporations		N/A	N/A	N/A	N/A	N/A	N/A	5

SALES AND USE TAX

Tax Item	Data Source	History					Forecast		Reliability
	Year(s)	2004 ³	2005 ⁴	2006	2007	2008	2011	Level	
100. Services to Computer Software		N/A	N/A	N/A	N/A	N/A	N/A	5	
101. Self-use of Prewritten Software by its Author		N/A	N/A	N/A	N/A	N/A	N/A	5	
102. Computer System Hardware	2004-2008	26.0	24.0	27.0	26.0	24.0	28.0	4C	
103. Promotional Materials Mailed Out of State		N/A	N/A	N/A	N/A	N/A	N/A	5	
104. Printed Promotional Materials	2002	27.0	27.0	26.0	27.0	26.0	25.0	4C	
105. U.S. Postage Used in the Distribution of Promotional Materials		N/A	N/A	N/A	N/A	N/A	N/A	5	
106. Clothing and Footwear	2000, 2008	0.0	0.0	572.0	727.0	740.0	359.0	4B	
107. Coin-Operated Photocopying Machines	2004-2006	*	*	*	*	*	*	4C	
108. Luggage Carts	2008	*	*	*	*	*	*	4C	
109. Emissions Testing Equipment	2002	*	*	*	*	*	*	4A	
110. College Textbooks	2006	27.0	27.0	26.0	27.0	25.0	20.0	4B	
111. Live Dramatic or Musical Arts Production	2005	3.0	3.0	3.0	4.0	3.0	4.0	4A	
112. Lower Manhattan Commercial Office Space ²	2005	--	5.0	15.0	13.0	13.0	23.0	4B	
Exempt Organizations									
113. New York State Agencies and Political Subdivisions	2004-2005	1,156.0	1,194.0	1,205.0	1,216.0	1,228.0	1,206.0	4C	
114. Industrial Development Agencies	2004-2006	56.0	70.0	81.0	84.0	86.0	94.0	4A	
115. Federal Agencies	2004-2006	227.0	238.0	285.0	291.0	297.0	299.0	4B	
116. United Nations		N/A	N/A	N/A	N/A	N/A	N/A	5	
117. Diplomats and Foreign Missions		N/A	N/A	N/A	N/A	N/A	N/A	5	
118. Charitable Organizations	2004-2006	401.0	411.0	426.0	437.0	446.0	464.0	4C	
119. Veterans Posts or Organizations	2000	*	*	*	*	*	*	4C	
120. Veterans Home Gift Shops ²	2006	--	--	*	*	*	*	4C	
121. Indian Nations and Members of Such Indian Nations	2003	2.0	2.0	2.0	2.0	2.0	2.0	4C	
122. U.S. Military Base Post Exchanges	2004-2006	7.0	7.0	7.0	7.0	8.0	8.0	4A	
123. Nonprofit Health Maintenance Organizations	2004-2006	10.0	10.0	11.0	11.0	11.0	12.0	4A	
124. Nonprofit Medical Expense Indemnity or Hospital Service Corporations	2004-2006	7.0	6.0	6.0	6.0	6.0	6.0	4A	
125. Nonprofit Property/Casualty Insurance Companies		N/A	N/A	N/A	N/A	N/A	N/A	5	
126. Certain State Credit Unions ²	2007	--	--	0.0	0.0	2.0	2.0	4A	
127. Rural Electric Cooperatives	2004-2006	*	*	*	*	*	*	4A	
128. Municipal Trash Removal Services	2004-2006	40.0	40.0	41.0	41.0	42.0	43.0	4B	
Exempt Admission Charges									
129. Certain Admission Charges	2002	65.0	67.0	68.0	70.0	73.0	80.0	4B	
130. Amusement Park Admissions ²	2002	*	2.0	2.0	2.0	2.0	2.0	4A	
131. Events Given for the Benefit of Charitable Organizations, Veterans Posts, and Indian Nations		N/A	N/A	N/A	N/A	N/A	N/A	5	
132. Events Given for the Benefit of Certain Orchestras and Opera Companies		N/A	N/A	N/A	N/A	N/A	N/A	5	

SALES AND USE TAX

Tax Item	Data Source	History				Forecast		Reliability
	Year(s)	2004 ³	2005 ⁴	2006	2007	2008	2011	Level
133. National Guard Organization Events		N/A	N/A	N/A	N/A	N/A	N/A	5
134. Municipal Police and Fire Department Events		N/A	N/A	N/A	N/A	N/A	N/A	5
135. Certain Athletic Games		N/A	N/A	N/A	N/A	N/A	N/A	5
136. Carnivals or Rodeos for Certain Charitable Organizations	2002	*	*	*	*	*	*	4B
137. Agricultural Fairs	2004-2006	*	*	*	*	*	*	4A
138. Historical Homes, Gardens, Sites, and Museums		N/A	N/A	N/A	N/A	N/A	N/A	5
139. Performances at a Roof Garden or Cabaret ²	2006	--	--	*	*	*	*	4C
Credits								
140. Sales Tax Vendor Credit	2004-2008	49.0	49.0	60.0	94.0	95.0	102.0	3
141. Tangible Property Sold by Contractors in Certain Situations		N/A	N/A	N/A	N/A	N/A	N/A	5
142. Veterinary Drugs		N/A	N/A	N/A	N/A	N/A	N/A	5
143. Construction Materials Used in Empire Zones		N/A	N/A	N/A	N/A	N/A	N/A	5
144. Bus Companies Providing Local Transit Service	2004-2006	*	*	*	*	*	*	4A
145. Vessel Operators Providing Local Transit Service ²	2005,2006	*	*	*	*	*	*	4B
146. Qualified Empire Zone Enterprises ¹	2008	--	--	--	--	--	80.0	4C

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

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

3/ The 2004 estimate reflects the temporary sales tax rate of 4.25%.

4/ The 2005 estimates are computed at a blended State sales tax rate of 4.125% reflecting a rate of 4.25% in effect until June 1, 2005. The State's sales tax rate reverted to 4% on June 1, 2005.

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

* Less than \$1 million.

N/A No data available.

SALES AND USE TAX

Services

1. **Certain Information Services**

Citation: Section 1105(c)(1)

Effective Date: August 1, 1965; September 1, 1995 for meteorological services.

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

Estimate: No data available

Reliability: Level 5

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

Citation: Section 1105(c)(9)

Effective Date: September 1, 1990

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

Estimate: No data available

Reliability: Level 5

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

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

Effective Date: August 1, 1965

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

Estimate: No data available

Reliability: Level 5

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

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

Effective Date: August 1, 1965

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

Estimates: 2008: \$75.0 million — 2011: \$83.0 million

Data Source: U.S. Census Bureau

Reliability: Level 4B

5. **Capital Improvement Installation Services**

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

Effective Date: August 1, 1965

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

Estimates: 2008: \$582.0 million — 2011: \$558.0 million

Data Source: U.S. Census Bureau

Reliability: Level 4C

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

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

Effective Date: September 1, 1985

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

Estimates: 2008: \$2.0 million — 2011: \$2.0 million

Data Source: New York State Department of Transportation

Reliability: Level 4B

7. **Services to Property Delivered Outside New York**

Citation: Section 1115(d)

Effective Date: August 1, 1965

Description: Services to tangible personal property are exempt when the property is delivered outside New York State for use outside the State.

Estimate: No data available

Reliability: Level 5

8. **Municipal Parking Services**

Citation: Section 1105(c)(6)

Effective Date: December 1, 1996

Description: Charges for parking, garaging, or storing motor vehicles are exempt at facilities owned and operated by local governments and local public parking authorities.

Estimates: 2008: \$7.0 million — 2011: \$8.0 million

Data Source: New York State Office of the Comptroller; City of New York Office of Management and Budget

Reliability: Level 4A

9. **Parking and Garaging at a Private Residence**

Citation: Section 1105(c)(6)

Effective Date: June 1, 1990

Description: Charges for parking, garaging or storing vehicles at a garage which constitutes part of the premises occupied solely as a private one- or two-family dwelling are exempt.

Estimates: 2008: Minimal — 2011: Minimal

Data Source: U.S. Census Bureau

Reliability: Level 4A

10. **Certain Protective and Detective Services**

Citation: Section 1105(c)(8)

Effective Date: June 1, 1990

Description: Protective and detective services provided by a port watchman licensed by the Waterfront Commission of New York Harbor are exempt from tax.

Estimates: 2008: Minimal — 2011: Minimal

Data Source: New York Shipping Association, Inc.

SALES AND USE TAX

Reliability: Level 4A

11. **Medical Emergency Alarm Call Services**

Citation: Section 1115(r)

Effective Date: September 1, 1994

Description: Exempt from tax are medical emergency alarm services.

Estimates: 2008: Minimal — 2011: Minimal

Data Source: U.S. Census Bureau; Philips Lifeline, Inc.

Reliability: Level 4C

12. **Coin-Operated Car Wash Services**

Citation: Section 1115(t)

Effective Date: December 1, 1997; December 1, 2004 for certain vacuuming services; December 1, 2005 for additional automated services.

Description: The sales tax exempts the service of washing, waxing, or vacuuming a motor vehicle or other property by means of coin-operated equipment.

Estimates: 2008: \$3.0 million — 2011: \$3.0 million

Data Source: U.S. Census Bureau; Professional Carwashing & Detailing Magazine

Reliability: Level 4C

13. **Trash Removal from a Waste Transfer Facility**

Citation: Section 1105(c)(5)(iv)

Effective Date: December 1, 2005

Description: Excluded from tax is the removal of waste material from a waste transfer station or construction and demolition debris processing facility, where the waste to be removed was not originally generated by the facility.

Estimate: 2008: \$4.0 million — 2011: \$4.0 million

Data Source: New York State Department of Environmental Conservation; New York State Department of Taxation and Finance

Reliability: Level 4B

14. **Transportation Services in Connection with Funerals**

Citation: Sections 1101(b)(34), 1105(c)(13)

Effective Date: June 1, 2009

Description: Excluded from tax is the transportation service of transporting persons in connection with funerals.

Estimates: 2008: Not Applicable — 2011: \$1.0 million

Data Source: New York State Department of Health; National Funeral Directors Association

Reliability: Level 4B

15. **Transportation Services Provided by Affiliated Livery Vehicles**

Citation: Sections 1101(b)(34)

Effective Date: June 1, 2009

Description: Charges for transportation services provided by affiliated livery vehicles wholly within New York City are excluded from the sales tax on certain transportation services.

Estimates: 2008: Not Applicable — 2011: \$3.0 million
Data Source: New York State Division of the Budget
Reliability: 4C

Food

16. **Certain Food Products**

Citation: Sections 1115(a)(1), 1105(d)(i)(3)

Effective Date: August 1, 1965

Description: Exempt from tax are food, food products, beverages, dietary foods, and health supplements sold for human consumption. The exemption does not include candy and confectionery, fruit drinks which contain less than 70 percent of natural fruit juice, soft drinks, sodas, beer, wine, or other alcoholic beverages. In addition, sales of food (other than sandwiches) or drink of a type commonly sold in food stores (other than food stores principally engaged in selling prepared foods) are exempt when sold by a restaurant or other establishment in an unheated state, for off-premises consumption.

Estimates: 2008: \$1,093.0 million — 2011: \$1,190.0 million

Data Source: U.S. Department of Labor, U.S. Census Bureau

Reliability: Level 4B

17. **Food Sold to Airlines**

Citation: Section 1105(d)(ii)(A)

Effective Date: August 1, 1965

Description: The sales tax does not apply to food or drink that is sold to an airline for consumption by passengers while in flight.

Estimates: 2008: \$5.0 million — 2011: \$5.0 million

Data Source: Air Transport Association

Reliability: Level 4A

18. **Food Sold at School Cafeterias**

Citation: Section 1105(d)(ii)(B)

Effective Date: September 1, 1968

Description: Food or drink sold to nursery school, kindergarten, elementary, or secondary school students at a restaurant or cafeteria located at the school is excluded from tax. Also excluded are food and nonalcoholic beverages sold at a restaurant, tavern, or other establishment located on the premises of a college or university when sold to enrolled students under a contractual arrangement whereby the students do not pay cash at the time they are served.

Estimates: 2008: \$109.0 million— 2011: \$126.0 million

Data Source: New York State Department of Education

Reliability: Level 4A

19. **Food Purchased with Food Stamps**

Citation: Section 1115(k)

Effective Date: October 1, 1987

Description: Receipts from the sale of food eligible to be purchased with Food Stamps are exempt from tax when such food is purchased with Food Stamps.

SALES AND USE TAX

- Estimates:** 2008: \$99.0 million — 2011: \$115.0 million
Data Source: U.S. Department of Agriculture
Reliability: Level 4A
20. **Water Delivered Through Mains or Pipes**
Citation: Section 1115(a)(2)
Effective Date: August 1, 1965
Description: Water delivered to consumers through mains or pipes is exempt.
Estimates: 2008: \$68.0 million — 2011: \$69.0 million
Data Source: New York State Department of Public Service; New York State Office of the State Comptroller; New York City Water and Sewer System
Reliability: Level 4B
21. **Mandatory Gratuity Charges**
Citation: Section 1105(d) and Regulation Section 527.8(1)
Effective Date: August 1, 1965
Description: A separately stated charge specifically designated as a gratuity is exempt where all such monies received are paid over to employees.
Estimates: 2008: \$28.0 million — 2011: \$29.0 million
Data Source: New York State Department of Taxation and Finance; Cornell University School of Hotel and Food Service Management
Reliability: Level 4A
22. **Wine Used for Wine Tastings**
Citation: Section 1115(a)(33)
Effective Date: December 1, 1997
Description: Exempt from tax is the wine that a winery, wine wholesaler, or wine importer furnishes to customers or prospective customers at a wine tasting.
Estimates: 2008: Minimal — 2011: Minimal
Data Source: New York State Department of Taxation and Finance
Reliability: Level 4A
23. **Vending Machine Sales of Hot Drinks and Certain Foods**
Citation: Section 1105(d)(i)(3)
Effective Date: December 1, 1997; December 1, 1999 for credit/debit card-operated machines.
Description: Exempt from tax are hot drinks sold through coin-operated vending machines and vending machines accepting credit cards or debit cards. In addition, vending machine sales of other food and beverage, including food and beverage sold for on-premises consumption, are exempt if the food or beverage would be exempt when sold at a grocery store.
Estimates: 2008: \$23.0 million — 2011: \$25.0 million
Data Source: Vending Times; U.S. Census Bureau
Reliability: Level 4C

24. **Vending Machine Sales of Candy, Juice and Soft Drinks**

Citation: Section 1115(a)(1)

Effective Date: September 1, 2000

Description: Candy, fruit drinks, and soft drinks sold for 75 cents or less through a vending machine are exempt from tax.

Estimates: 2008: \$11.0 million — 2011: \$7.0 million

Data Source: Vending Times; U.S. Census Bureau

Reliability: Level 4C

25. **Food Sold at Senior Citizen Housing Communities**

Citation: Section 1115(w)

Effective Date: December 1, 2000

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

Estimates: 2008: Minimal — 2011: Minimal

Data Source: New York State Department of Taxation and Finance

Reliability: Level 4B

Medical

26. **Drugs, Medicine, and Medical Supplies**

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

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

Description: Exempt from tax are drugs and medicines intended for use, internally or externally, in the cure, mitigation, treatment, or prevention of illnesses or diseases in human beings. The exemption extends to medical equipment and supplies required for such use or to correct or alleviate physical incapacity, services to medical equipment, and products consumed by humans for the preservation of health. This exemption does not include cosmetics or toilet articles and does not include purchases of medical equipment and supplies by a person who provides medical or dental services for compensation.

Estimates: 2008: \$860.0 million — 2011: \$1,015.0 million

Data Source: U.S. Department of Commerce, U.S. Census Bureau

Reliability: Level 4C

27. **Eyeglasses, Hearing Aids, and Prosthetic Aids**

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

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

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

Estimates: 2008: \$114.0 million — 2011: \$122.0 million

Data Source: U.S. Department of Commerce; U.S. Census Bureau

Reliability: Level 4C

SALES AND USE TAX

28. **Veterinarian Services**

Citation: Section 1115(f)

Effective Date: June 1, 1967

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

Estimates: 2008: \$21.0 million — 2011: \$22.0 million

Data Source: American Veterinary Medical Association; The Nelson A. Rockefeller Institute of Government

Reliability: Level 4B

29. **Service Dogs**

Citation: Section 1115(s)

Effective Date: September 24, 1995

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

Estimates: 2008: Minimal — 2011: Minimal

Data Source: New York State Department of Agriculture and Markets; Guide Dog Foundation; Guiding Eyes for the Blind; Canine Companions for Independence

Reliability: Level 4B

Energy

30. **Residential Energy**

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

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

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

Estimates: 2008: \$765.0 million — 2011: \$747.0 million

Data Source: New York State Department of Taxation and Finance; New York State Energy Research and Development Authority; U.S. Census Bureau

Reliability: Level 4A

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

Citation: Section 1115(a)(10), (b)(ii), (c)(1)

Effective Date: August 1, 1965

- Description:** Fuel oil, gas, electricity, refrigeration, and steam; and gas, electric, refrigeration, and steam service used directly and exclusively in research and development in the experimental or laboratory sense, or used directly and exclusively in the production of tangible personal property, gas, electricity, refrigeration, or steam, for sale, by manufacturing, processing, assembling, generating, refining, mining, or extracting are exempt from the sales tax.
Estimates: 2008: \$290.0 million — 2011: \$276.0 million
Data Source: New York State Energy Research and Development Authority; U.S. Department of Energy
Reliability: Level 4C
32. **Fuel, Gas, Electricity, Refrigeration, and Steam Used in Farming and Commercial Horse Boarding**
Citation: Section 1115(c)(2)
Effective Date: September 1, 2000
Description: Fuel, gas, electricity, refrigeration, and steam; and gas, electric, refrigeration, and steam service used in the production of tangible personal property, for sale, by farming or in a commercial horse boarding operation are exempt from tax.
Estimates: 2008: \$13.0 million — 2011: \$15.0 million
Data Source: U.S. Department of Agriculture; New York State Department of Agriculture and Markets
Reliability: Level 4B
33. **Reduced Rate on Gas and Electric Delivery**
Citation: Section 1105-C
Effective Date: September 1, 2000
Description: On September 1, 2000, and on September 1 of each year following, the sales and use tax rate on transportation, transmission, or distribution of gas or electricity when sold by someone other than the vendor of the gas or electricity was reduced by 25 percent of the rate in effect on September 1, 2000. Beginning September 1, 2003, the State tax rate was reduced to zero.
Estimates: 2008: \$49.0 million — 2011: \$58.0 million
Data Source: New York State Public Service Commission
Reliability: Level 4B
34. **Gas and Electricity Used in Transmission, Distribution and Storage**
Citation: Section 1115(w)
Effective Date: June 1, 2000
Description: Gas or electricity or gas or electric service used directly and exclusively to provide gas or electric service consisting of operating a gas pipeline or gas distribution line or an electric transmission or distribution line and ensuring the necessary working pressure in an underground gas storage facility is exempt.
Estimates: 2008: \$6.0 million — 2011: \$7.0 million
Data Source: New York State Energy Research and Development Authority; New York State Public Service Commission; U.S. Department of Energy, Energy Information Administration
Reliability: Level 4C

SALES AND USE TAX

35. **Residential Solar Energy Systems**
Citation: Section 1115(a)(33)
Effective Date: September 1, 2005
Description: Residential solar energy systems equipment and the service of installing such systems is exempt from tax.
Estimate: 2008: Minimal — 2011: Minimal
Data Source: New York State Energy Research and Development Authority; U.S. Department of Energy, Energy Information Administration
Reliability: Level 4B
36. **Electricity, Refrigeration, and Steam Sold by Certain Cooperative Corporations**
Citation: Section 1115(b)(iii)
Effective Date: March 1, 2006
Description: Exempt from tax are electricity, steam, and refrigeration produced by a cogeneration facility owned and operated by certain cooperative corporations and distributed to tenants.
Estimate: No data available
Reliability: Level 5
37. **Automotive Fuel Receipts Exceeding Two Dollars Per Gallon**
Citation: Section 1111(m)
Effective Date: June 1, 2006
Description: Certain motor fuel and diesel motor fuel sales are subject to tax at the rate of 8 cents per gallon. This effectively exempts the portion of the taxable receipt exceeding two dollars per gallon.
Estimate: 2008: \$204.0 million — 2011: \$199.0 million
Data Source: New York State Department of Taxation and Finance
Reliability: Level 4A
38. **Alternative Fuels**
Citation: Section 1115(a)(42)
Effective Date: September 1, 2006
Description: E85, CNG, or hydrogen is exempt from sales tax when used directly and exclusively in the engine of a motor vehicle.
Termination Date: Expires August 31, 2011
Estimate: 2008: Minimal — 2011: Minimal
Data Source: New York State Department of Taxation and Finance
Reliability: Level 4A
39. **B20 Bio-Diesel Fuel**
Citation: Section 1111(n)
Effective Date: September 1, 2006
Description: Bio-diesel fuel that is B20 is exempt from 20 percent of the cents-per-gallon sales tax rate imposed on certain sales of diesel motor fuel.
Termination Date: Expires August 31, 2011
Estimate: 2008: Minimal — 2011: Minimal

Data Source: New York State Department of Taxation and Finance

Reliability: Level 4A

Transportation

40. **Commercial Vessels**

Citation: Sections 1101(b)(16), 1105(c)(3)(iv), 1115(a)(8)

Effective Date: August 1, 1965 (Sections 1105(c)(3)(iv), 1115(a)(8));
December 1, 1996 (Section 1101(b)(16))

Description: Sales of commercial vessels primarily engaged in interstate or foreign commerce and property used by or purchased for the use of such vessels for fuel, provisions, supplies, maintenance, and repairs are exempt. Services rendered with respect to commercial vessels are also exempt.

Estimates: No data available.

Reliability: Level 5

41. **Barge Repairs**

Citation: Section 1115(q)

Effective Date: December 1, 1993

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

Estimates: 2008: Minimal — 2011: Minimal

Data Source: U.S. Department of Commerce; U.S. Army Corps of Engineers

Reliability: Level 4C

42. **Commercial Aircraft**

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

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

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

Estimates: 2008: \$19.0 million — 2011: \$20.0 million

Data Source: U.S. Census Bureau

Reliability: Level 4C

43. **Fuel Sold to Airlines**

Citation: Section 1115(a)(9)

Effective Date: August 1, 1965

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

Estimates: 2008: \$153.0 million — 2011: \$151.0 million

Data Source: New York State Energy Research and Development Authority

Reliability: Level 4A

SALES AND USE TAX

44. **Parts for Foreign Aircraft**

Citation: Section 1118(8)

Effective Date: September 1, 1977

Description: Parts, engines, consumable technical supplies, and maintenance and ground equipment used exclusively in the operation, handling, or maintenance of aircraft are exempt from use tax if it is a foreign airline which brings such items into New York from a foreign country. These items must be used on aircraft owned by the foreign airline, and are exempt only if similar items would not be subject to tax in the airline's home country if taken into such country by a U.S. airline.

Estimate: No data available

Reliability: Level 5

45. **Services to Private Aircraft**

Citation: Section 1115(dd)

Effective Date: December 1, 2004

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

Estimate: 2008: \$2.0 million — 2011: \$2.0 million

Data Source: General Aviation Manufacturers Association

Reliability: Level 4C

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

Citation: Section 1115(a)(14)

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

Description: Motor vehicles sold between husband and wife, or by a parent to a child or child to parent are exempt from tax.

Estimate: No data available

Reliability: Level 5

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

Citation: Section 1117(a)

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

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

Estimate: No data available

Reliability: Level 5

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

Citation: Section 1115(a)(22)

Effective Date: May 15, 1981

Description: Certain rentals or leases of trucks, tractors, or tractor-trailer combinations to an authorized carrier, pursuant to a written contractual agreement are exempt. To qualify for exemption the equipment must be for use as augmenting equipment in the transportation, for hire, of tangible personal property, provided the owner of the vehicle, or an employee of the owner, operates the vehicle.

Estimate: No data available

Reliability: Level 5

49. **Tractor-Trailer Combinations**

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

Effective Date: January 1, 1988

Description: Exempt from tax are tractors, trailers or semitrailers, and property installed on such vehicles for their equipping, maintenance, or repair, provided the vehicle is used in combination where the gross weight of such combination exceeds 26,000 pounds. Related services performed on these vehicles are also exempt.

Estimates: 2008: \$7.0 million — 2011: \$7.0 million

Data Source: New York State Department of Motor Vehicles; U.S. Census Bureau

Reliability: Level 4A

50. **Sales of Property by Railroads in Reorganization**

Citation: Section 1115(h)

Effective Date: August 1, 1975

Description: Sales of tangible personal property by a railroad in reorganization to a profitable railroad are exempt if the transactions are part of a reorganization plan.

Estimates: 2008: \$0.0 million — 2011: \$0.0 million

Data Source: New York State Department of Transportation

Reliability: Level 4A

51. **Commercial Buses**

Citation: Section 1115(a)(32), (u)

Effective Date: December 1, 1997

Description: Exempt from tax are buses and parts, equipment, and lubricants used in operating the bus, provided the vehicle weighs at least 26,000 pounds and measures 40 feet and is used to transport persons for hire. Related services performed on these vehicles are also exempt.

Estimates: 2008: \$5.0 million — 2011: \$5.0 million

Data Source: New York State Department of Motor Vehicles; The Bus Association of New York State

Reliability: Level 4A

52. **Marine Terminal Facility Equipment**

Citation: 1115(a)(41)

Effective Date: December 1, 2005

Description: Exempt from tax are machinery and equipment for use directly and predominantly in loading, unloading, and handling cargo at a marine terminal

SALES AND USE TAX

facility located in a city with a population of one million or more which in 2003, handled more than 350,000 twenty-foot equivalent units (TEUs).

Estimate: 2008: Minimal — 2011: Minimal

Data Source: New York State Division of the Budget

Reliability: Level 4B

53. Ferry Boats

Citation: Section 1115(a)(43)

Effective Date: September 1, 2008

Description: Exempt from tax are ferry boats and property used in conjunction with exempt boats for fuel, provisions, supplies, maintenance and repairs.

Estimates: 2008: Minimal — 2011: Minimal

Data Source: New York State Division of the Budget

Reliability: 4A

Communication and Media

54. Interstate or International Telephone and Telegraph Service

Citation: Section 1105(b)

Effective Date: August 1, 1965

Description: Charges for interstate and international telephone and telegraph services are exempt.

Estimates: 2008: \$223.0 million — 2011: \$231.0 million

Data Source: New York State Department of Taxation and Finance

Reliability: Level 4A

55. Internet Access Service

Citation: Section 1115(v)

Effective Date: February 1, 1997

Description: The sales tax exempts Internet access service. Incidental services such as Internet communications or navigation software, an email address, and news headlines when offered in conjunction with Internet access are considered part of the exempt service.

Estimates: 2008: \$165.0 million — 2011: \$199.0 million

Data Source: U.S. Census Bureau

Reliability: Level 4C

56. Cable Television Service

Citation: Section 1105(c)(9)

Effective Date: September 1, 1990

Description: Cable television service is exempt from tax.

Estimates: 2008: \$228.0 million — 2011: \$294.0 million

Data Source: U.S. Census Bureau

Reliability: Level 4C

57. **Newspapers and Periodicals**

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

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

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

Estimates: 2008: \$68.0 million — 2011: \$63.0 million

Data Source: U.S. Census Bureau

Reliability: Level 4B

58. **Shopping Papers**

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

Effective Date: September 1, 1977

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

Estimates: 2008: \$1.0 million— 2011: \$1.0 million

Data Source: U.S. Census Bureau

Reliability: Level 4C

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

Citation: Section 1115(b)(i)

Effective Date: August 1, 1965

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

Estimates: No data available

Data Source: New York State Department of Taxation and Finance

Reliability: Level 5

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

Citation: Section 1115(e)

Effective Date: September 1, 1998

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

Estimates: 2008: \$1.0 million — 2011: \$1.0 million

Data Source: U.S. Federal Communications Commission; New York State Public Service Commission

Reliability: Level 4C

61. **Telecommunications and Internet Equipment**

Citation: Sections 1115(a)(12-a), 1105(c)(3)(x)

Effective Date: September 1, 2000

Description: Exempt from tax is tangible personal property used directly and predominantly in the receiving, initiating, amplifying, processing, transmitting,

SALES AND USE TAX

re-transmitting, switching, or monitoring or switching of telecommunications services for sale or Internet access services for sale.

Estimates: 2008: \$74.0 million — 2011: \$85.0 million

Data Source: New York State Public Service Commission; CTIA – The Wireless Association

Reliability: Level 4B

62. Internet Data Centers

Citation: Section 1115(a)(37), (y)

Effective Date: September 1, 2000

Description: Machinery, equipment, and certain other tangible personal property sold to a person operating an Internet data center that is required for and directly related to the provision of Internet Web site hosting and other Web site services at the data center are exempt. Also exempt are certain services to the exempt tangible personal property and building security services.

Estimates: 2008: \$11.0 million — 2011: \$12.0 million

Data Source: The Uptime Institute

Reliability: Level 4C

63. Radio and Television Broadcasting

Citation: Section 1115(a)(38), (aa)

Effective Date: September 1, 2000

Description: Exempt from tax are purchases by radio and television broadcasters of machinery, equipment, parts, tools, and supplies used in the production and transmission of live or recorded programs. Installing, maintaining, servicing, or repairing the exempt items is also exempt. Moreover, the services of producing, fabricating, processing, printing, or imprinting tangible personal property furnished to the service provider by the broadcaster and performed in connection with the production, post-production, or the transmission of live or recorded programs are exempt. A broadcaster includes Federal Communications Commission licensed radio and television stations, radio and television networks, and cable television networks.

Estimates: 2008: \$4.0 million — 2011: \$4.0 million

Data Source: U.S. Census Bureau

Reliability: Level 4C

64. Film Production

Citation: Section 1115(a)(39) and Section 1115(bb)

Effective Date: December 1, 2002

Description: Tangible personal property used or consumed directly and predominantly in the production of a film for sale is exempt, regardless of the medium by which the film is conveyed to the purchaser. For purposes of this exemption, *film* means feature films, documentary films, shorts, television films, television commercials, and similar productions. The exemption also extends to services rendered to the exempt property and to fuel and utility services used directly and exclusively in production.

Estimate: No data available

Reliability: Level 5

65. **Certain Mobile Telecommunication Services**

Citation: Section 1115(cc)

Effective Date: August 1, 2002

Description: The sale of mobile telecommunication services by a home service provider is exempt from tax if the mobile telecommunications customer's place of primary use is outside of New York State.

Estimate: 2008: \$5.0 million — 2011: \$5.0 million

Data Source: U.S. Census Bureau

Reliability: Level 4B

Industry

66. **Tools and Supplies Used in Production**

Citation: Sections 1105-B(a), 1115(a)(36)

Effective Date: March 1, 1981, December 1, 1998

Description: Receipts from the retail sale of parts with a useful life of one year or less, tools and supplies for use or consumption directly and predominantly in the production of tangible personal property, gas, electricity, refrigeration, or steam for sale by manufacturing, processing, generating, assembling, refining, mining, or extracting are exempt from sales tax.

Estimate: No data available

Reliability: Level 5

67. **Farm Production and Commercial Horse Boarding**

Citation: Sections 1115(a)(6), 1105(c)(3)(vi), 1105(c)(5)(iii)

Effective Date: August 1, 1965 (Section 1115(a)(6)); September 1, 1982 (Section 1105(c)(3)(vi)), September 1, 2000 (Section 1105(c)(5)(iii))

Description: Exempt from tax is tangible personal property for use or consumption predominantly in the production, for sale, of tangible personal property by farming or in a commercial horse boarding operation. Also exempt are the services of installing, repairing, maintaining, and servicing tangible personal property and real property used predominantly in farming or in a commercial horse boarding operation.

Estimates: 2008: \$66.0 million — 2011: \$78.0 million

Data Source: U.S. Department of Agriculture, Economic Research Service; New York State Department of Agriculture and Markets, U.S. Agriculture Statistics Service

Reliability: Level 4B

68. **Research and Development Property**

Citation: Section 1115(a)(10)

Effective Date: August 1, 1965

Description: Tangible personal property purchased for use or consumption directly and predominantly in research and development in the experimental or laboratory sense is exempt from tax.

Estimates: 2008: \$58.0 million — 2011: \$59.0 million

Data Source: National Science Foundation

SALES AND USE TAX

Reliability: Level 4B

69. **Machinery and Equipment Used in Production**
Citation: Section 1115(a)(12)
Effective Date: August 1, 1965
Description: Exempt from sales tax are machinery and equipment for use or consumption directly or predominantly in the production of tangible personal property, gas, electricity, refrigeration, or steam for sale by manufacturing, processing, generating, assembling, refining, mining, or extracting.
Estimates: 2008: \$302.0 million — 2011: \$286.0 million
Data Source: U.S. Census Bureau
Reliability: Level 4B
70. **Services to Machinery and Equipment Used in Production**
Citation: Section 1105-B(b)
Effective Date: March 1, 1981
Description: The services of installing, repairing, maintaining, or servicing exempt production machinery and equipment or exempt parts, tools, and supplies are exempt.
Estimates: 2008: \$16.0 million — 2011: \$15.0 million
Data Source: U.S. Census Bureau
Reliability: Level 4B
71. **Wrapping and Packaging Materials**
Citation: Section 1115(a)(19)
Effective Date: July 1, 1974
Description: Cartons, containers, wrapping, and packaging materials and supplies are nontaxable when used by a vendor in packaging or packing tangible personal property for sale and actually transferred by the vendor to the purchaser.
Estimate: No data available
Reliability: Level 5
72. **Milk Crates**
Citation: Section 1115(a)(19-a)
Effective Date: September 1, 2007
Description: Exempt from tax are milk crates purchased by a dairy farmer or licensed milk distributor used exclusively and directly for packaging and delivering milk and milk products to customers.
Estimates: 2008: Minimal — 2011: Minimal
Data Source: New York State Division of the Budget
Reliability: Level 4C
73. **Commercial Fishing Vessels**
Citation: Sections 1115(a)(24), 1105(c)(3)(vii)
Effective Date: August 1, 1985
Description: Exempt from tax are the sales of commercial fishing vessels used directly and predominantly in the harvesting of fish for sale, and property used by

or purchased for the use of such vessels for fuel, provisions, supplies, maintenance, and repairs. Related services are also exempt.

Estimates: 2008: Minimal — 2011: Minimal

Data Source: National Marine Fisheries Services

Reliability: Level 4B

74. Certain Services Used in Gas or Oil Production

Citation: Section 1105(c)(3)(ix), (c)(5)

Effective Date: December 1, 1998

Description: Exempt from tax are the services of installing, maintaining, repairing, or servicing tangible personal property used directly and predominately in producing gas or oil for sale. Also exempt are maintenance and repair services rendered to real property or land used directly and predominately in producing gas or oil for sale.

Estimates: 2008: \$4.0 million — 2011: \$4.0 million

Data Source: U.S. Department of Commerce, Bureau of Economic Analysis

Reliability: Level 4C

75. Pollution Control Equipment

Citation: Section 1115(a)(40)

Effective Date: March 1, 2001

Description: Machinery or equipment used directly and predominantly in the control, prevention, or abatement of pollution or contaminants from manufacturing or industrial facilities is exempt to the extent not exempted under expenditure Item number 69.

Estimates: 2008: \$9.0 million — 2011: \$9.0 million

Data Source: U.S. Census Bureau

Reliability: Level 4C

76. Property Manufactured by the User

Citation: Section 1110(c)

Effective Date: March 1, 2001

Description: The Compensating Use Tax imposed on certain self-produced items used by a manufacturer on its own premises is computed on the cost of materials rather than on the manufacturer's normal selling price.

Estimates: 2008: Minimal — 2011: Minimal

Data Source: New York State Department of Taxation and Finance

Reliability: Level 4B

Miscellaneous

77. Certain Property Sold Through Vending Machines

Citation: Section 1115(a)(13), (13-a)

Effective Date: August 1, 1965 (Section 1115(a)(13)); 50-cent exemption effective Department 1, 1997 (Section 1115(a)(13-a))

Description: Tangible personal property sold through coin-operated vending machines at 10 cents or less is exempt, provided the retailer is primarily engaged in making such sales. Also exempt is tangible personal property sold through

SALES AND USE TAX

coin-operated bulk vending machines at 50 cents or less, provided the retailer is primarily engaged in making such sales.

Estimates: 2008: Minimal — 2011: Minimal

Data Source: Vending Times; U.S. Census Bureau

Reliability: Level 4C

78. **Trade-in Allowance**

Citation: Section 1101(b)(3)

Effective Date: August 1, 1965

Description: A credit for a trade-in on an automobile and/or other item qualifies as a reduction of the taxable receipts, provided the item traded in is intended for resale by the vendor.

Estimates: 2008: \$470.0 million — 2011: \$523.0 million

Data Source: National Automobile Dealers Association

Reliability: Level 4B

79. **Certain Hotel Room Rent**

Citation: Section 1105(e)(1),(2)

Effective Date: August 1, 1965

Description: The rent for occupancy of a hotel room by a permanent resident or where the rent is not more than two dollars per day is exempt from tax.

Estimates: No data available

Reliability: Level 5

80. **Dues for Fraternal Societies**

Citation: Section 1105(f)(2)(ii)(a), (b)

Effective Date: August 1, 1965

Description: Dues and initiation fees paid to a fraternal society, order, or association operating under the lodge system or any fraternal association of students of a college or university are excluded from tax. Also excluded are dues paid to any social or athletic club which are ten dollars or less a year.

Estimates: 2008: \$17.0 million — 2011: \$18.0 million

Data Source: U.S. Department of Commerce

Reliability: Level 4C

81. **Homeowner Association Dues**

Citation: Section 1105(f)(ii)(c)

Effective Date: September 1, 1995

Description: The Tax Law exempts the dues paid to a homeowner association operating social or athletic facilities for its members.

Estimate: No data available

Reliability: Level 5

82. **Homeowner Association Parking Services**

Citation: Section 1105(c)(6)

Effective Date: December 1, 1997

Description: Charges paid by a homeowner association member for parking, garaging, or storing motor vehicles at a facility owned or operated by the association are exempt.

Estimates: No data available

Reliability: Level 5

83. **Excise Taxes Imposed on the Consumer**

Citation: Regulation Section 526.5(b)

Effective Date: August 26, 1976

Description: Most consumer excise taxes are excluded from the receipt subject to sales tax. For example, the State tax on motor fuels is excluded from the sales tax base.

Estimates: 2008: \$0.0 million — 2011: \$0.0 million

Data Source: New York State Department of Taxation and Finance

Reliability: Level 4A

84. **Property Sold by Morticians**

Citation: Section 1115(a)(7)

Effective Date: August 1, 1965

Description: Exempt from tax is tangible personal property sold by a mortician, undertaker, or funeral director. However, sales to them for use in conducting funerals do not qualify as a sale for resale and are taxable.

Estimates: 2008: \$10.0 million — 2011: \$10.0 million

Data Source: National Funeral Directors' Association; Cremation Association of North America

Reliability: Level 4C

85. **Flags**

Citation: Section 1115(a)(11)

Effective Date: August 1, 1965

Description: Flags of the United States of America and the State of New York are exempt.

Estimate: No data available

Reliability: Level 5

86. **Military Decorations**

Citation: Section 1115(a)(11-a)

Effective Date: December 1, 2006

Description: Purchases of military decorations (e.g., ribbons, medals, and lapel pins) by a veteran or active member of the United States military are exempt from tax.

Estimate: 2008: Minimal — 2011: Minimal

Data Source: New York State Division of the Budget

Reliability: Level 4C

87. **Garage Sales**

Citation: Section 1115(a)(18)

Effective Date: September 1, 1973

SALES AND USE TAX

Description: Certain sales of property at private residences are not taxable if the sales do not take place more than three days in a calendar year, are reasonably expected not to exceed \$600, if no member of the household conducts a trade or business selling similar products, and the sale is not held to liquidate an estate.

Estimate: No data available

Reliability: Level 5

88. **New Mobile Homes**

Citation: Section 1111(f)

Effective Date: September 1, 1983

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

Estimates: 2008: \$2.0 million — 2011: \$2.0 million

Data Source: U.S. Census Bureau

Reliability: Level 4A

89. **Used Mobile Homes**

Citation: Section 1115(a)(23)

Effective Date: January 1, 1982

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

Estimate: No data available

Reliability: Level 5

90. **Modular Homes**

Citation: Section 1111(p)

Effective Date: December 1, 2009

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

Estimates: 2008: Not Applicable — 2011: Minimal

Data Source: New York Housing Association Inc.; Modular Building Systems Association; Manufactured Housing Institute

Reliability: Level 4B

91. **Registered Race Horses**

Citation: Section 1115(a)(29)

Effective Date: June 1, 1994

Description: The Sales Tax exempts racehorses registered with the Jockey Club, the United States Trotting Association, or the National Steeplechase and Hunt Association (or such a horse during the first 24 months of its life if eligible to be so registered) purchased or used for entry in events on which pari-mutuel wagering is authorized by law. The exemption, however, does not apply to a horse which had never raced in such an event during the first four years of its life.

Estimate: No data available

Reliability: Level 5

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

Citation: Section 1111(g)

Effective Date: July 1, 1985

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

Estimate: No data available

Reliability: Level 5

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

Citation: Section 1118(9), (10)

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

Description: Race horses purchased by New York residents outside New York and brought into the State for the purpose of entering racing events on five or less days in any one calendar year for which pari-mutuel racing is authorized, if not otherwise exempt, are exempt from use tax. For those race horses not otherwise exempt and entered in racing events in New York on more than five days and subject to use tax, the tax does not apply to the extent that the value of the race horse exceeds \$100,000.

Estimate: No data available

Reliability: Level 5

94. **Training and Maintaining Race Horses**

Citation: Section 1115(m)

Effective Date: July 19, 1988

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

Estimates: 2008: \$3.0 million — 2011: \$3.0 million

Data Source: American Horse Council Foundation; New York State Agricultural Statistics Service

Reliability: Level 4C

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

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

Effective Date: September 1, 1969

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

Estimates: 2008: \$97.0 million — 2011: \$77.0 million

Data Source: U.S. Census Bureau

Reliability: Level 4C

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

Citation: Section 1115(l)

Effective Date: September 1, 1986

SALES AND USE TAX

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

Estimate: No data available

Reliability: Level 5

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

Citation: Section 1118(7)

Effective Date: August 1, 1965

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

Estimate: No data available

Reliability: Level 5

98. **Precious Metal Bullion and Coins**

Citation: Section 1115(a)(27)

Effective Date: September 1, 1989

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

Estimates: 2008: \$382.0 million — 2011: \$395.0 million

Data Source: New York Mercantile Exchange

Reliability: Level 4C

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

Citation: Section 1115(a)(28)

Effective Date: September 1, 1991

Description: Computer software that was originally purchased as a nontaxable custom computer program, and which is subsequently sold by the original purchaser to a corporation which is a member of an affiliated group to which the original purchaser also belongs, is exempt from tax.

Estimate: No data available

Reliability: Level 5

100. **Services to Computer Software**

Citation: Section 1115(o)

Effective Date: September 1, 1991

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

Estimate: No data available

Reliability: Level 5

101. **Self-use of Prewritten Software by its Author**
Citation: Section 1110(g)
Effective Date: September 1, 1991
Description: The Use Tax on prewritten computer software used by its author or creator is calculated on the cost of the blank medium, such as the disks or tapes, and not at the price at which the software is normally offered for sale.
Estimate: No data available
Reliability: Level 5
102. **Computer System Hardware**
Citation: Section 1115(a)(35)
Effective Date: June 1, 1998; March 1, 2001 for Internet Web sites
Description: Exempt from tax are purchases, leases, or rentals of computer system hardware used or consumed directly and predominantly in designing and developing computer software for sale or in providing the service, for sale, of designing and developing Internet Web sites.
Estimates: 2008: \$24.0 million — 2011: \$28.0 million
Data Source: U.S. Census Bureau
Reliability: Level 4C
103. **Promotional Materials Mailed Out of State**
Citation: Section 1115(n)(1), (2)
Effective Date: September 1, 1989
Description: Exempt from tax are promotional materials mailed out of state, envelopes, and cheshire labels used in mailing promotional materials from points in New York State to customers outside New York State. A pro rata exemption is also allowed for charges for the use of a mailing list, in connection with mailing such promotional materials.
Estimates: No data available
Reliability: Level 5
104. **Printed Promotional Materials**
Citation: Section 1115(n)(4), (5) and (6)
Effective Date: March 1, 1997
Description: Exempt from tax are printed promotional materials distributed by U.S. mail or common carrier. Also exempt are certain services purchased in connection with the exempt promotional materials, such as mailing list services and a printer's storage service.
Estimates: 2008: \$26.0 million — 2011: \$25.0 million
Data Source: U.S. Census Bureau
Reliability: Level 4C
105. **U.S. Postage Used in the Distribution of Promotional Materials**
Citation: Section 1115(n)(3)
Effective Date: September 1, 1991
Description: Separately stated charges by a vendor to the purchaser of promotional materials, or of taxable services to such promotional material, for the

SALES AND USE TAX

- cost of mailing such promotional materials by means of the United States Postal Service to the purchaser's customers or prospective customers are exempt from tax where such charges do not exceed the vendor's United States Postal Service costs.
Estimate: No data available
Reliability: Level 5
106. **Clothing and Footwear**
Citation: Section 1115(a)(30)
Effective Date: March 1, 2000; Suspended June 1, 2003 through March 31, 2006; Eliminated for the period October 1, 2010 through March 31, 2011; Reimposed at a \$55 exemption threshold for the April 1, 2011 through March 31, 2012 period; Exemption threshold reinstated at \$110 on April 1, 2012.
Description: Exempt from tax are items of clothing and footwear costing less than \$110. The exemption applies to most clothing and footwear worn by human beings. It also applies to most fabric, thread, yarn, buttons, snaps, hooks, zippers, and like items which become a physical component part of exempt clothing or are used to make or repair the exempt clothing.
Estimates: 2008: \$740.0 million — 2011: \$359.0 million
Data Source: New York State Division of the Budget; New York State Department of Taxation and Finance
Reliability: Level 4B
107. **Coin-Operated Photocopying Machines**
Citation: Section 1115(a)(31)
Effective Date: December 1, 1997
Description: Copies made using a coin-operated photocopy machine where the charge is 50 cents or less per copy are exempt from tax.
Estimates: 2008: Minimal — 2011: Minimal
Data Source: Vending Times
Reliability: Level 4C
108. **Luggage Carts**
Citation: Section 1115(a)(13-b)
Effective Date: December 1, 1997
Description: Exempt from tax are temporary transportation devices (e.g., luggage carts) sold through coin operated equipment, provided the retailer is primarily engaged in making such sales.
Estimates: 2008: Minimal — 2011: Minimal
Data Source: New York State Department of Taxation and Finance
Reliability: Level 4C
109. **Emissions Testing Equipment**
Citation: Section 1115(a)(31)
Effective Date: September 1, 1997
Description: Exempt from tax is enhanced emissions inspection equipment certified by the Department of Environmental Conservation for use in an enhanced emissions inspection and maintenance program as required by the Federal Clean

Air Act of 1990, where such equipment is purchased and used by an official inspection station authorized to conduct the enhanced emissions inspections.

Estimates: 2008: Minimal — 2011: Minimal

Data Source: New York State Department of Environmental Conservation

Reliability: Level 4A

110. **College Textbooks**

Citation: Section 1115(a)(34)

Effective Date: June 1, 1998

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

Estimates: 2008: \$25.0 million — 2011: \$20.0 million

Data Source: New York State Department of Education

Reliability: Level 4B

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

Citation: Section 1115(x)

Effective Date: March 1, 2001

Description: Exempt from sales and use taxes are certain items of tangible personal property and certain services that are used directly and predominantly in producing live dramatic or musical arts performances. The performances must take place in a theater or other similar place of assembly with a fixed seating capacity of at least 100.

Estimates: 2008: \$3.0 million — 2011: \$4.0 million

Data Source: Alliance for the Arts

Reliability: Level 4A

112. **Lower Manhattan Commercial Office Space**

Citation: Section 1115(ee)

Effective Date: September 1, 2005

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

Estimate: 2008: \$13.0 million — 2011: \$23.0 million

Data Source: New York State Division of the Budget

Reliability: Level 4B

Exempt Organizations

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

Citation: Section 1116(a)(1)

Effective Date: August 1, 1965

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

Estimates: 2008: \$1,228.0 million — 2011: \$1,206.0 million

SALES AND USE TAX

Data Source: New York State Division of the Budget; U.S. Department of Commerce

Reliability: Level 4C

114. **Industrial Development Agencies**

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

Effective Date: May 26, 1969

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

Estimates: 2008: \$86.0 million — 2011: \$94.0 million

Data Source: New York State Department of Taxation and Finance

Reliability: Level 4A

115. **Federal Agencies**

Citation: Section 1116(a)(2)

Effective Date: August 1, 1965

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

Estimates: 2008: \$297.0 million — 2011: \$299.0 million

Data Source: U.S. Census Bureau

Reliability: Level 4B

116. **United Nations**

Citation: Section 1116(a)(3)

Effective Date: August 1, 1965

Description: Exempt from tax is the United Nations, or any international organization of which the United States is a member, where it is the purchaser, user, or consumer, or where it sells services or property of a kind not ordinarily sold by private persons.

Estimate: No data available

Reliability: Level 5

117. **Diplomats and Foreign Missions**

Citation: Federal treaties with diplomat's country

Effective Date: Effective dates vary by Federal treaties

Description: Diplomats of foreign countries and foreign missions are exempt from all national, state, and local taxes if the treaty with the foreign nation provides a reciprocal exemption for U.S. diplomats abroad.

Estimate: No data available

Reliability: Level 5

118. **Charitable Organizations**

Citation: Section 1116(a)(4)

Effective Date: August 1, 1965

Description: Exempt from tax are purchases by nonprofit organizations organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, fostering national or international amateur sports competition, or for the prevention of cruelty to children or animals. These organizations may not be engaged substantially in political activities and no part of net earnings may inure to the benefit of a private shareholder or individual.

Estimates: 2008: \$446.0 million — 2011: \$464.0 million

Data Source: U.S. Department of Commerce

Reliability: Level 4C

119. **Veterans Posts or Organizations**

Citation: Section 1116(a)(5), (g)

Effective Date: September 1, 1974 (Section 1116(a)(5)); December 1, 1993 (Section 1116(g))

Description: Exempt from tax are purchases by posts or organizations of past or present members of the Armed Forces of the United States, provided that such post or organization is organized in New York and at least 75 percent of its members are past or present members of the U.S. Armed Forces, and no part of net earnings inures to the benefit of a private shareholder or individual. Purchases of hotel accommodations by individual members acting as duly authorized representatives of the post or organization are also exempt from tax.

Estimates: 2008: Minimal — 2011: Minimal

Data Source: New York State Department of Taxation and Finance; Food Institute

Reliability: Level 4C

120. **Veterans Homes Gift Shops**

Citation: Section 1115(ff)

Effective Date: December 1, 2006

Description: Sales of tangible personal property by any gift shop located in a veterans home are exempt.

Estimate: 2008: Minimal — 2011: Minimal

Data Source: New York State Division of the Budget

Reliability: Level 4C

121. **Indian Nations and Members of Such Indian Nations**

Citation: Section 1116(a)(6); Federal restrictions

Effective Date: September 1, 1976

Description: The following Indian Nations residing in New York are exempt where they are the purchaser, user, or consumer: Cayuga, Oneida, Onondaga, Poospatuck, Saint Regis Mohawk, Seneca, Shinnecock, Tonawanda, and Tuscarora. In addition, members of these Nations are excluded from tax for purchases made by them on the reservation in New York State.

Estimates: 2008: \$2.0 million — 2011: \$2.0 million

Data Source: U.S. Census Bureau; U.S. Bureau of Indian Affairs

Reliability: Level 4C

SALES AND USE TAX

122. **U.S. Military Base Post Exchanges**
Citation: 4 U.S. Code, Sections 104-110
Effective Date: August 1, 1965
Description: Sales, except sales of motor fuel, made on a military base at a post exchange or commissary are exempt.
Estimates: 2008: \$8.0 million — 2011: \$8.0 million
Data Source: Regional sales offices of U.S. Armed Services
Reliability: Level 4A
123. **Nonprofit Health Maintenance Organizations**
Citation: Section 1116(a)(7)
Effective Date: April 1, 1980
Description: Purchases by a nonprofit health maintenance organization subject to the provisions of Article 44 of the Public Health Law are tax exempt.
Estimates: 2008: \$11.0 million — 2011: \$12.0 million
Data Source: New York State Department of Health
Reliability: Level 4A
124. **Nonprofit Medical Expense Indemnity or Hospital Service Corporations**
Citation: Insurance Law Article 43, Section 4310(j)
Effective Date: June 15, 1939
Description: The Insurance Law provides for an exemption from all State and local taxes (including State and local sales taxes) for certain entities. These entities include nonprofit corporations organized for the purpose of family medical expense indemnity, dental expense indemnity, hospital services, or health services.
Estimates: 2008: \$6.0 million — 2011: \$6.0 million
Data Source: New York State Insurance Department
Reliability: Level 4A
125. **Nonprofit Property/Casualty Insurance Companies**
Citation: Insurance Law, Article 67, Section 6707
Effective Date: December 20, 2000
Description: The Insurance Law provides for an exemption from Sales and Use Tax for a nonprofit property/casualty insurance company subject to the provisions of Article 67 with respect to any property owned by it or under its jurisdiction, control, or supervision.
Estimate: No data available
Reliability: Level 5
126. **Certain State Credit Unions**
Citation: Section 1116(a)(9)
Effective Date: March 1, 2006
Description: New York State chartered credit unions are exempt from tax if they had converted to a State charter from a federal charter on or after January 1, 2006.
Estimate: 2008: \$2.0 million — 2011: \$2.0 million
Data Source: New York State Credit Union League
Reliability: Level 4A

127. **Rural Electric Cooperatives**

Citation: Section 1116(a)(8)

Effective Date: September 1, 1983

Description: Exempt from tax on their purchases are cooperatives and foreign corporations doing business in this State pursuant to the Rural Electric Cooperative Law.

Estimates: 2008: Minimal — 2011: Minimal

Data Source: Rural Electric Cooperatives Association; U.S. Department of Agriculture

Reliability: Level 4A

128. **Municipal Trash Removal Services**

Citation: Section 1116(e)

Effective Date: June 30, 1980

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

Estimates: 2008: \$42.0 million — 2011: \$43.0 million

Data Source: New York State Office of the State Comptroller

Reliability: Level 4B

Admission Charges

129. **Certain Admission Charges**

Citation: Section 1105(f)(1)

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

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

Estimates: 2008: \$73.0 million — 2011: \$80.0 million

Data Source: U.S. Census Bureau

Reliability: Level 4B

130. **Amusement Park Admissions**

Citation: Section 1122

Effective Date: July 27, 2004

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

Estimate: 2008: \$2.0 million — 2011: \$2.0 million

Data Source: New York State Department of Taxation and Finance

Reliability: 4A

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

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

SALES AND USE TAX

Effective Date: August 1, 1965

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

Estimate: No data available

Reliability: Level 5

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

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

Effective Date: August 1, 1965

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

Estimate: No data available

Reliability: Level 5

133. **National Guard Organization Events**

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

Effective Date: August 1, 1965

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

Estimate: No data available

Reliability: Level 5

134. **Municipal Police and Fire Department Events**

Citation: Section 1116(d)(1)(D)

Effective Date: August 1, 1965

Description: Admissions are exempt if all of the proceeds go exclusively to the benefit of a police or fire department of a political subdivision of the State, including its pension or disability funds, or to volunteer fire and ambulance companies.

Estimate: No data available

Reliability: Level 5

135. **Certain Athletic Games**

Citation: Section 1116(d)(2)(A)

Effective Date: August 1, 1965

Description: Admissions to any athletic game or exhibition are exempt where the proceeds go exclusively to the benefit of elementary or secondary schools.

Estimate: No data available

Reliability: Level 5

136. **Carnivals or Rodeos for Certain Charitable Organizations**

Citation: Section 1116(d)(2)(B)

Effective Date: July 30, 1983

Description: Admissions to carnivals or rodeos in which any professional performer or operator participates for compensation are exempt when the entire net

profit inures exclusively to the benefit of a tax-exempt charitable organization having as its charitable purpose the operation of a school.

Estimates: 2008: Minimal — 2011: Minimal

Data Source: U.S. Census Bureau

Reliability: Level 4B

137. **Agricultural Fairs**

Citation: Section 1116(d)(3)(A)

Effective Date: August 1, 1965

Description: Admissions to agricultural fairs are exempt if no part of net earnings inures to the benefit of any stockholders or members of the association conducting the fair, and if the proceeds from the fair are used exclusively for the improvement, maintenance, and operation of such agricultural fairs.

Estimates: 2008: Minimal — 2011: Minimal

Data Source: New York State Department of Agriculture

Reliability: Level 4A

138. **Historical Homes, Gardens, Sites, and Museums**

Citation: Section 1116(d)(3)(B), (c)

Effective Date: August 1, 1965

Description: Admissions to an historical home or garden, historic sites, houses and shrines, or museums which are maintained and operated by a society or organization devoted to the preservation and maintenance of such historic places are exempt, provided that no part of net earnings goes to the benefit of any private stockholder or individual.

Estimate: No data available

Reliability: Level 5

139. **Performances at a Roof Garden or Cabaret**

Citation: Section 1123

Effective Date: December 1, 2006

Description: The admission charge to a roof garden, cabaret, or similar place to attend a dramatic or musical arts performance is exempt from tax when separate from other charges such as charges for food or drink.

Estimate: 2008: Minimal — 2011: Minimal

Data Source: New York State Division of the Budget

Reliability: Level 4C

Credits

140. **Sales Tax Vendor Credit**

Citation: Section 1137(f)

Effective Date: September 1, 1994; September 1, 2006 for increased rates; September 1, 2010 for elimination of the credit for monthly and EFT vendors.

Description: A vendor allowance is provided to vendors that are not required to file part-quarterly (monthly) returns or pay by electronic funds transfer (EFT) who collect sales tax and remit the tax with their timely filed and fully paid quarterly or annual returns. The credit is equal to five percent of State and local taxes remitted

SALES AND USE TAX

up to \$200 per return. Effective September 1, 2006 through March 1, 2007, the cap was \$175. Prior to September 1, 2006, the credit equaled three and one-half percent of the State sales tax collected, up to a maximum credit of \$150 per return.

Estimates: 2008: \$95.0 million — 2011: \$102.0 million

Data Source: New York State Department of Taxation and Finance

Reliability: Level 3

141. Tangible Property Sold by Contractors in Certain Situations

Citation: Section 1119(a)

Effective Date: August 1, 1965

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

Estimate: No data available

Reliability: Level 5

142. Veterinary Drugs

Citation: Section 1119(a)

Effective Date: September 1, 1978

Description: A credit for taxes paid is allowed on the sale to, or use by, a veterinarian of drugs or medicine if they are used by the veterinarian in rendering exempt services to livestock or poultry used in the production for sale of tangible personal property by farming. The credit also extends to farmers, who qualify for the farming exemption, for use by such persons on livestock or poultry.

Estimate: No data available

Reliability: Level 5

143. Construction Materials Used in Empire Zones

Citation: Section 1119(a)

Effective Date: September 1, 1986

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

Estimate: No data available

Reliability: Level 5

144. Bus Companies Providing Local Transit Service

Citation: Section 1119(b)

Effective Date: March 1, 1974

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

Estimates: 2008: Minimal — 2011: Minimal

Data Source: New York State Department of Taxation and Finance

Reliability: Level 4A

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

Citation: Section 1119(b)

Effective Date: December 1, 2004

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

Estimate: 2008: Minimal — 2011: Minimal

Data Source: New York State Department of Taxation and Finance

Reliability: 4B

146. **Qualified Empire Zone Enterprises**

Citation: Section 1119(d)

Effective Date: September 1, 2009

Description: A credit or refund is available for tax paid on tangible personal property and certain services purchased by a Qualified Empire Zone Enterprise (QEZE) and used directly and predominantly in an Empire Zone in which the QEZE has qualified for benefits. A refund or credit is also allowed for tax paid on tangible personal property sold to a contractor, subcontractor or repairman if the property is used in erecting a structure or building of a QEZE, or used in adding to, altering, improving, maintaining, servicing, or repairing the real property of a QEZE. (Prior to September 1, 2009, the QEZE sales tax benefit was available as a sales tax exemption instead of a credit or refund.)

Estimates: 2008: Not Applicable — 2011: \$80.0 million

Data Source: New York State Division of the Budget

Reliability: Level 4C

SALES AND USE TAX

PETROLEUM BUSINESS TAX

This section provides tax expenditure estimates for 33 provisions of the Petroleum Business Tax. Table 8 provides a list of expenditures based on the Tax Law as of January 1, 2011. The estimates are based on data for the 2009 calendar year (the latest complete year for which tax return data is available) and then extrapolated to the 2011 calendar year. Total Petroleum Business Tax liability for calendar 2009 is provided as a benchmark for the tax expenditure estimates.

Description of Tax

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

The Article 13-A business privilege tax was added to the Tax Law in 1983 and was imposed on the gross receipts of such businesses. The tax was initially imposed at the rate of 3.25 percent and was reduced to 2.75 percent on April 1, 1984. On June 1, 1990, the rate was increased to 7.2 percent and was subject to a 15 percent surcharge similar to that applied temporarily to other businesses. On September 1, 1990, the tax was restructured, converting the annual gross receipts tax to a monthly tax measured by gallons.

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

The rate schedule displays the petroleum business tax rates effective January 1, 2011. These rates generally have two components: the basic tax whose rates vary by product type and the supplemental tax. For example, the motor fuel tax rate of 17.0 cents per gallon consists of a 10.2 cents per gallon basic tax and a 6.8 cents per gallon supplemental tax.

Data Sources

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

- Petroleum Business Tax (PBT) Master File for 2005-2009. This is an unverified file of all taxpayers filing a return under Article 13-A. Some of the expenditure items, as indicated, were simulated using this file by reading the gallons from the database and applying the statutory tax rate for the appropriate periods to arrive at an estimate of revenue foregone. For kerosene, bunker fuel, crude oil, and liquid petroleum gas, where no statutory tax rate existed, the most closely associated tax rate was selected. The rate used for each type of fuel are as follows: kerosene — the non-automotive

PETROLEUM BUSINESS TAX

- diesel fuel rate; bunker fuel and crude oil — the residual petroleum products rate; and for liquid petroleum gas — the motor fuel rate and non-automotive diesel rates.
- Refund data from the Department’s Audit Division.
 - Nontax data sources such as: Data from the U.S. Department of Energy and U.S. Department of Defense and New York State Energy Research and Development Authority.

Methodology

The projections of the tax expenditures from 2009 to 2011 are based, where possible, on forecasted consumption of various petroleum products. These forecasts were produced by the New York State Energy Research and Development Authority (NYSERDA). The remaining expenditure estimates used forecasts of appropriate economic variables.

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

PETROLEUM BUSINESS TAX

Petroleum Business Tax Rates as of January 1, 2011 (Cents-Per-Gallon)

Product	Base Tax	Supplemental Tax	Total Tax
Taxes:			
Motor Fuel and Aviation Gasoline	10.2	6.8	17.0
Automotive Diesel Fuel	10.2	5.05	15.25
Railroad Diesel	8.9	—	8.9
Kero-jet Fuel	6.8	—	6.8
Non-automotive Type Diesel Fuel	9.3	6.8	16.1
Residual Petroleum Product	7.1	6.8	13.9
	Base Credit	Supplemental Credit	Total Credit
Credits/Reimbursements:			
Electric Utility Credit/Reimbursement			
Unenhanced Diesel Fuel (Primarily No. 2 Fuel Oil)	6.21	—	6.21
Residual Fuel	6.17	—	6.17
Manufacturing Reimbursement ¹			
Unenhanced Diesel Motor Fuel (Primarily No. 2 Fuel Oil)	9.3	6.8	16.1
Residual Petroleum Product	7.1	6.8	13.9
Commercial Gallonage			
Unenhanced Non-automotive Type Diesel Fuel	—	6.8	6.8
Residual Petroleum Product	—	6.8	6.8
Non-residential Heating ⁴			
Unenhanced Diesel Motor Fuel	4.3	—	4.3
Residual Petroleum Product	3.3	—	3.3
Railroad Gallonage	1.3	5.05	6.35
Farm Use Reimbursement ²			
Motor Fuel	10.2	6.8	17.0
Commercial Fisherman Reimbursement			
Motor Fuel	10.2	6.8	17.0
Diesel Motor Fuel	10.2	5.05	15.25
Distributor of Aviation Gasoline Reimbursement	3.4	6.8	10.2
Not-for-Profit and Veterans' Group Credit/Reimbursement ³			
Unenhanced Diesel Motor Fuel	9.3	6.8	16.1
Residual Petroleum Product	7.1	6.8	13.9
Alternative Fuels Reimbursements			
E-85 and CNG	10.2	6.8	17.0
B-20	2.04	1.01	3.05

¹ Unenhanced diesel motor fuel and residual petroleum product used and consumed directly and exclusively in the production of tangible personal property are exempt from the tax.

² Diesel motor fuel and residual petroleum product for farm use are exempt from the tax.

³ Unenhanced diesel motor fuel and residual petroleum product used and consumed exclusively by certain not-for-profit organizations and veterans' groups for related activities are exempt from the tax.

⁴ This reimbursement rate applies where the PBT commercial gallonage rate of 9.3 cents per gallon was paid at the time of purchase and the product was subsequently used for non-residential heating purposes. Other reimbursement rates would apply if the product used was enhanced diesel motor fuel or if the full automotive or non-automotive diesel rates were paid at the time of purchase and the product was subsequently used for non-residential heating purposes.

PETROLEUM BUSINESS TAX

Table 8
2011 New York State Petroleum Business Tax Expenditure Estimates
(2009 Calendar Year Total Petroleum Business Tax Liability = \$1,110.0 Million)
(Millions of Dollars)

Tax Item	History				Forecast	Reliability	
	2005	2006	2007	2008	2009	2011	Level
Exemptions							
Products							
1. Kerosene	8.8	5.4	5.0	2.7	3.4	2.9	2
2. Bunker Fuel	27.7	41.9	66.8	68.0	56.2	56.2	2
3. Crude Oil and Liquid Petroleum Gases	49.0	44.7	51.6	52.2	47.9	46.6	4
4. CNG and Hydrogen ²	--	*	0.2	0.2	0.3	0.3	2
5. E-85 ²	--	*	*	0.2	0.3	0.3	2
6. B-20 ²	--	*	0.1	0.2	0.2	0.2	2
Sales							
7. Governments	71.2	65.4	69.8	64.0	61.7	60.0	2
8. Residential Heating	268.5	229.3	269.9	228.4	239.7	226.6	2
9. Fuel Used for Manufacturing Purposes	16.7	12.4	13.7	9.6	8.7	7.7	2
10. Fuel Used for Farm Production	7.2	7.5	7.6	7.6	7.8	7.7	2
11. Not-for-Profit Organizations and Veterans Groups	14.0	10.0	12.3	10.0	11.0	11.2	2
12. Fuel Used for Railroad Purposes	2.2	1.7	1.7	1.4	1.1	1.3	2
13. Certain Commercial Gallonage	94.6	33.1	42.5	20.0	18.9	15.3	2
14. Fuel Used for Non-Residential Heating Purposes	14.1	11.0	12.4	10.5	10.8	10.9	2
Credit, Refund, or Reimbursement							
15. Residential Heating Fuel	*	*	*	*	*	*	2
16. Governments	1.1	1.1	1.6	3.2	2.8	2.5	2
17. Omnibus Carriers	4.3	4.1	4.6	5.1	5.0	5.1	2
18. Non-Public School Operators	*	*	*	*	0.2	0.2	2
19. Regulated Electric Utilities	0.2	0.4	0.3	0.1	0.2	0.2	2
20. Fuel Used for Manufacturing Purposes	0.1	*	*	0.2	*	*	2
21. Certain Commercial Gallonage	*	*	*	*	*	*	2
22. Fuel Used by Commercial Fishers	0.2	0.3	0.3	0.3	0.3	0.3	2
23. Fuel Used for Farm Production	0.3	0.3	0.3	0.6	0.5	0.4	2
24. Fuel Used for Railroad Purposes	*	*	*	*	*	*	2
25. Fuel Used for Non-Residential Heating Purposes	*	*	*	*	*	*	2
26. Fuel Used for Mining or Extracting Purposes	0.7	1.5	1.5	1.2	1.5	2.0	2
27. Bad Debts	*	*	*	*	*	*	2
28. Not-for-Profit Organizations and Veterans Groups	*	*	*	*	*	*	2
29. Fuel Used by Passenger Commuter Ferries	0.2	0.3	0.1	0.2	0.3	0.3	2
30. E-85 ²	--	*	*	*	*	*	2
31. B-20 ²	--	*	*	*	*	*	2

PETROLEUM BUSINESS TAX

Tax Item	History				Forecast		Reliability
	2005	2006	2007	2008	2009	2011	Level
Exempt Entities							
32. Governments, the United Nations and Certain Not-for-Profit Organizations	*	*	*	*	*	*	4
33. Certain Airlines ¹	0.9	1.6	1.2	1.0	1.0	1.2	2

* Less than \$0.1 million.

N/A No data available.

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

1. First-year estimate in history is a partial calendar year estimate.

2. Effective for sales beginning September 1, 2006. NOTE: These "Alternative Fuel" exemptions and refunds are scheduled to expire on September 1, 2011.

PETROLEUM BUSINESS TAX

Exemptions

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

Products

1. **Kerosene**

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

Effective Date: September 1, 1990

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

Estimates: 2009: \$3.4 million — 2011: \$2.9 million

Data Source: PBT Master File

Reliability: Level 2

2. **Bunker Fuel**

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

Effective Date: September 1, 1990

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

Estimates: 2009: \$56.2 million — 2011: \$56.2 million

Data Source: PBT Master File

Reliability: Level 2

3. **Crude Oil and Liquid Petroleum Gases**

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

Effective Date: September 1, 1990

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

Estimates: 2009: \$47.9 million — 2011: \$46.6 million

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

Reliability: Level 4

4. **CNG and Hydrogen**

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

Effective Date: September 1, 2006

Description: Exemptions from tax apply to compressed natural gas (CNG) and hydrogen which are suitable for use in the engine of a motor vehicle. This provision sunsets on September 1, 2011.

Estimates: 2009: \$0.3 million — 2011: \$0.3 million

- Data Source:** PBT Master File
Reliability: Level 2
5. **E-85**
Citation: Section 301-b(a)(6)
Effective Date: September 1, 2006
Description: Exemptions from tax apply to sales of E-85 (85% ethanol and 15% motor fuel) provided the E-85 is delivered to and placed in a storage tank of a filling station to be dispensed directly into a motor vehicle for use in the operation of the motor vehicle. This provision sunsets on September 1, 2011.
Estimates: 2009: \$0.3 million — 2011: \$0.3 million
Data Source: PBT Master File
Reliability: Level 2
6. **B-20**
Citation: Section 301-b(a)(7)(i,ii)
Effective Date: September 1, 2006
Description: A partial exemption from tax applies to sales of B-20 (20% biodiesel and 80% diesel motor fuel). The partial exemption is equal to a 20 percent reduction of the otherwise applicable PBT rates on diesel motor fuel. This provision sunsets on September 1, 2011.
Estimates: 2009: \$0.2 million — 2011: \$0.2 million
Data Source: PBT Master File
Reliability: Level 2

Sales

7. **Governments**
Citation: Section 301-b(c), 301-e(e)(4)
Effective Date: September 1, 1990
Description: The petroleum business tax exempts the sales of motor fuel, enhanced diesel motor fuel, diesel motor fuel, or residual petroleum products to the State of New York, the United States of America, or any of their agencies, instrumentalities, or political subdivisions. The exemption applies where such fuel is used by these entities for its own use or consumption. An exemption from tax also exists for naphtha based aviation fuel used solely for propelling military jet aircraft of the United States Armed Forces.
Estimates: 2009: \$61.7 million — 2011: \$60.0 million
Data Source: PBT Master File and U.S. Department of Defense
Reliability: Level 2
8. **Residential Heating**
Citation: Section 301-b(d)
Effective Date: September 1, 1990
Description: An exemption from tax applies to unenhanced diesel motor fuel, enhanced diesel motor fuel, and residual petroleum product sold by a registered distributor of the product, to a consumer, exclusively for residential heating purposes.
Estimates: 2009: \$239.7 million — 2011: \$226.6 million

PETROLEUM BUSINESS TAX

Data Source: PBT Master File

Reliability: Level 2

9. Fuel Used for Manufacturing Purposes

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

Effective Date: January 1, 1998

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

Estimates: 2009: \$8.7 million — 2011: \$7.7 million

Data Source: PBT Master File

Reliability: Level 2

10. Fuel Used for Farm Production

Citation: Section 301-b(g)

Effective Date: September 1, 1994

Description: The sale or use of diesel motor fuel and residual petroleum product for off-highway farm production of goods for sale are exempt from the tax. However, the fuel must be delivered on the farm site and no more than 4,500 gallons of diesel motor fuel in a 30 day period may be exempted without prior clearance given by the Commissioner of Taxation and Finance. (See item 23: “Fuel Used for Farm Production.”) Prior to September 1, 1994 (effective in July 1991), the sale of diesel motor fuel for off-highway farm production of goods for sale was exempt from the supplemental portion of the tax. No exemption was available for residual fuel prior to September 1, 1994.

Estimates: 2009: \$7.8 million — 2011: \$7.7 million

Data Source: PBT Master File

Reliability: Level 2

11. Not-for-Profit Organizations and Veterans Groups

Citation: Section 301-b(h)

Effective Date: January 1, 1996

Description: Not-for-profit organizations and veterans’ groups purchasing and using residual fuel, non-automotive diesel fuel, or dyed diesel motor fuel for their exclusive use are eligible for a full, up-front exemption from the tax. These organizations include not-for-profit groups organized for religious, charitable, scientific, testing for public safety, literary or educational purposes, to foster national or international amateur sports competition, for the prevention of cruelty to children or animals, or veteran groups as listed in Section 1116(a)(4) or (5) of the Tax Law. (See item 28: “Not-for-Profit Organizations and Veterans Groups” for a full credit/reimbursement of the tax.) Before January 1, 1996 (effective September 1, 1995), sales of unenhanced diesel motor fuel and residual petroleum product to not-for-profit organizations were exempt only from the supplemental tax.

Estimates: 2009: \$11.0 million — 2011: \$11.2 million

Data Source: PBT Master File

Reliability: Level 2

12. **Fuel Used for Railroad Purposes**

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

Effective Date: January 1, 1997

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

Estimates: 2009: \$1.1 million — 2011: \$1.3 million

Data Source: PBT Master File and refund data from the Department of Taxation and Finance’s Audit Division

Reliability: Level 2

13. **Certain Commercial Gallonage**

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

Effective Date: March 1, 1997

Description: Commercial gallonage defined as non-automotive type diesel fuel and residual fuel that does not qualify for the utility credit/reimbursement or the manufacturing exemption or the not-for-profit exemption is exempt from the supplemental portion of the tax. This fuel is primarily used for space heating. (See item 21: “Certain Commercial Gallonage” for refund/reimbursement of tax.)

Estimates: 2009: \$18.9 million — 2011: \$15.3 million

Data Source: PBT Master File

Reliability: Level 2

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

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

Effective Date: April 1, 2001

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

Estimates: 2009: \$10.8 million — 2011: \$10.9 million

Data Source: PBT Master File

Reliability: Level 2

PETROLEUM BUSINESS TAX

Credit, Refund, or Reimbursement

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

15. **Residential Heating Fuel**

Citation: Section 301-c(a)

Effective Date: September 1, 1990

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

Estimates: 2009: Minimal — 2011: Minimal

Data Source: Refund data from the Department of Taxation and Finance's Audit Division

Reliability: Level 2

16. **Governments**

Citation: Section 301-c(b)

Effective Date: September 1, 1990

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

Estimates: 2009: \$2.8 million — 2011: \$2.5 million

Data Source: Refund data from the Department of Taxation and Finance's Audit Division

Reliability: Level 2

17. **Omnibus Carriers**

Citation: Section 301-c(c)

Effective Date: April 1, 1992

Description: A reimbursement is allowed for taxes paid on motor fuel and diesel motor fuel purchased in the State by an omnibus carrier. The reimbursement applies to fuel used in the operation of: i) an omnibus in local transit service pursuant to a certificate of convenience and necessity issued by the Commissioner of the Department of Transportation, or issued by the Interstate Commerce Commission of the United States, or pursuant to a contract, franchise, or consent with a city having a population of one million or more; and ii) as a school bus used for the transportation of children in the State pursuant to the Education Law.

Estimates: 2009: \$5.0 million — 2011: \$5.1 million

Data Source: Refund data from the Department of Taxation and Finance's Audit Division

Reliability: Level 2

18. **Non-Public School Operators**

Citation: Section 301-c(d)

Effective Date: April 1, 1992

Description: This section provides a reimbursement for taxes paid on motor fuel and diesel motor fuel purchased in the State by a non-public school operator and consumed by the operator exclusively for education related activities.

Estimates: 2009: \$0.2 million — 2011: \$0.2 million

Data Source: Refund data from the Department of Taxation and Finance’s Audit Division

Reliability: Level 2

19. **Regulated Electric Utilities**

Citation: Section 301-d

Effective Date: September 1, 1990

Description: This section extends a credit, refund, or reimbursement for the tax surcharge and part of the basic tax for fuel used in the production of electricity. For periods July 1991 and August 1991, this credit was available only for petroleum used to produce residential electricity.

Estimates: 2009: \$0.2 million — 2011: \$0.2 million

Data Source: PBT Master File

Reliability: Level 2

20. **Fuel Used for Manufacturing Purposes**

Citation: Section 301-c(j)

Effective Date: January 1, 1998

Description: Purchasers who subsequently sell residual fuel or non-automotive diesel fuel used and consumed for manufacturing purposes may be reimbursed for the full Petroleum Business Tax. (See item 9: “Fuel Used for Manufacturing Purposes” for the up-front exemption.) Prior to January 1, 1998 (effective in September 1994), the above purchasers making such sales were eligible for reimbursement of the supplemental portion of the petroleum business tax.

Estimates: 2009: Minimal — 2011: Minimal

Data Source: Refund data from the Department of Taxation and Finance’s Audit Division

Reliability: Level 2

21. **Certain Commercial Gallonage**

Citation: Section 301-c(i)(1, 2)

Effective Date: March 1, 1997

Description: Reimbursements are allowed to a consumer where such consumer purchased non-automotive type diesel fuel or residual fuel, absorbed the supplemental portion of the tax in the purchase price and used such gallonage as “commercial gallonage.” The reimbursement is calculated as the amount of such gallonage multiplied by the then-applicable supplemental tax rate. (See item 13: “Certain Commercial Gallonage” for refund/reimbursement of tax.) Prior to March 1997 (and subsequent to September 1994), commercial gallonage was eligible for a credit/reimbursement at a rate of one-half the then-applicable supplemental tax plus surcharge on the supplemental tax under Section 301-k.

Estimates: 2009: Minimal — 2011: Minimal

Data Source: Refund data from the Department of Taxation and Finance’s Audit Division

PETROLEUM BUSINESS TAX

- Reliability:** Level 2
22. **Fuel Used by Commercial Fishers**
Citation: Section 301-c(e)
Effective Date: September 1, 1994
Description: A reimbursement is allowed for diesel motor fuel and motor fuel used in the operation of a commercial fishing vessel by commercial fishers while such vessel is engaged in harvesting fish for sale.
Estimates: 2009: \$0.3 million — 2011: \$0.3 million
Data Source: Refund data from the Department of Taxation and Finance’s Audit Division
Reliability: Level 2
23. **Fuel Used for Farm Production**
Citation: Section 301-c(e), (f)
Effective Date: September 1, 1994
Description: Reimbursements are allowed for diesel motor fuel and residual fuel purchased in this State and sold by such purchaser to a consumer for farm use. In addition, a purchaser of motor fuel who uses the fuel for farm production is eligible for a reimbursement of the PBT. The reimbursement is only allowed if it is not more than 1,500 gallons of gasoline purchased in a 30 day period, or for greater amounts with prior clearance by the Commissioner of Taxation and Finance. The motor fuel must be delivered on the farm site and consumed off-highway in the production of goods for sale. (See item 10: “Fuel Used for Farm Production” for the up-front exemption.) Prior to September 1, 1994 (effective in July 1991), the sale of diesel motor fuel for off-highway farm production of goods for sale was exempt from the supplemental portion of the tax. No exemption was available for residual or motor fuel prior to September 1, 1994.
Estimates: 2009: \$0.5 million — 2011: \$0.4 million
Data Source: Refund data from the Department of Taxation and Finance’s Audit Division
Reliability: Level 2
24. **Fuel Used for Railroad Purposes**
Citation: Section 301-c(k)(1, 2)
Effective Date: January 1, 1997
Description: Reimbursements are allowed to subsequent purchasers, who are registered as distributors of diesel motor fuel, have absorbed the full PBT automotive diesel rate and then sell such fuel as “railroad diesel.” The amount of the reimbursement is equal to the difference between the full automotive diesel rate and the railroad diesel rate. (See item 12: “Fuel Used for Railroad Purposes” for the exemption from tax.)
Estimates: 2009: Minimal — 2011: Minimal
Data Source: Department of Taxation and Finance Audit Division
Reliability: Level 2

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

Citation: Section 301-c(a)(2)

Effective Date: April 1, 2001

Description: A partial reimbursement from tax applies to diesel motor fuel purchased in the State and then sold by such purchaser to a consumer exclusively for non-residential heating purposes. The partial reimbursement is provided only when such diesel motor fuel is delivered into a storage tank (which is not equipped with a hose or other apparatus where such fuel can be dispensed into the tank of a motor vehicle) – and where such tank is attached to the heating unit burning such fuel. Additionally, the purchaser must possess documentary proof that it absorbed the full amount of the PBT.

The rate of the partial reimbursement was calculated as the then-current PBT supplemental tax rate (imposed under Section 301-j) plus 20 percent of the then-current PBT base rate (imposed under Section 301-a) applicable for the specific diesel motor fuel rate above. Effective September 1, 2002, this partial exemption is calculated as the then-current supplemental tax rate plus 46 percent of the then-current PBT base rate.

Estimates: 2009: Minimal — 2011: Minimal

Data Source: Department of Taxation and Finance Audit Division

Reliability: Level 2

26. **Fuel Used for Mining or Extracting Purposes**

Citation: Section 301-c(1)

Effective Date: April 1, 2001

Description: A purchaser may obtain a reimbursement of the PBT paid on diesel motor fuel or residual petroleum product when such fuel is purchased exclusively for use and consumption directly and exclusively in the production of tangible personal property for sale by mining or extracting. The reimbursement is provided only where such fuel is delivered at the mining or extracting site and is consumed other than on the highways of the State. Additionally, the purchaser must possess documentary proof that it absorbed the full amount of the PBT.

Estimates: 2009: \$1.5 million — 2011: \$2.0 million

Data Source: Refund data from the Department of Taxation and Finance’s Audit Division

Reliability: Level 2

27. **Bad Debts**

Citation: Section 301-l

Effective Date: September 1, 1994

Description: A registered petroleum business or aviation fuel business may apply for a refund for PBT that it has paid with respect to gallonage sold in-bulk by the business for the purchaser’s own consumption. The same must then give rise to a debt that becomes worthless for Federal income tax purposes. In addition, a sale of motor fuel and enhanced diesel motor fuel to a filling station is a sale in-bulk for such filling station’s own use and consumption. Sales by a filling station are not eligible for this refund.

Estimates: 2009: Minimal — 2011: Minimal

PETROLEUM BUSINESS TAX

- Data Source:** Refund data from the Department of Taxation and Finance’s Audit Division
Reliability: Level 2
28. **Not-for-Profit Organizations and Veterans Groups**
Citation: Section 301-c(h)
Effective Date: January 1, 1996
Description: Purchasers who subsequently sell residual fuel, non-automotive diesel fuel, or dyed diesel motor fuel used and consumed exclusively by certain not-for-profit organizations and veterans’ groups may apply for a full refund of the PBT. These organizations include the organizations listed in Section 1116(a)(4) or (5) of the Tax Law. (See item 8: “Not-for-Profit Organizations and Veterans Groups” for the full up-front exemption.)
Estimates: 2009: Minimal — 2011: Minimal
Data Source: Refund data from the Department of Taxation and Finance’s Audit Division
Reliability: Level 2
29. **Fuel Used by Passenger Commuter Ferries**
Citation: 301-c(m)
Effective Date: December 1, 2000
Description: A reimbursement is allowed for diesel motor fuel and residual petroleum product used and consumed by a passenger commuter ferry when such fuel is used exclusively in providing a mass transportation service.
Estimates: 2009: \$0.3 million — 2011: \$0.3 million
Data Source: Refund data from the Department of Taxation and Finance’s Audit Division
Reliability: Level 2
30. **E-85**
Citation: Section 301-c(n)
Effective Date: September 1, 2006
Description: A reimbursement of tax applies for purchases of E-85 where the tax was paid by the purchaser and the E-85 was delivered to and placed in a storage tank of a filling station to be dispensed directly into a motor vehicle for use in the operation of the motor vehicle. This provision sunsets on September 1, 2011.
Estimates: 2009: Minimal — 2011: Minimal
Data Source: Department of Taxation and Finance Audit Division
Reliability: Level 2
31. **B-20**
Citation: 301-c(o)
Effective Date: September 1, 2006
Description: A partial reimbursement of tax applies for purchases of B-20 where the tax was paid by the purchaser and subsequently resold. The partial reimbursement is equal to 20 percent of the PBT tax paid on diesel motor fuel. This provision sunsets on September 1, 2011.
Estimates: 2009: Minimal — 2011: Minimal

Data Source: Department of Taxation and Finance Audit Division

Reliability: Level 2

EXEMPT ENTITIES

32. **Governments, The United Nations, and Certain Not-for-Profit Organizations**

Citation: Section 305

Effective Date: July 1, 1983

Description: Organizations exempt under the Sales Tax (Section 1116(a) that import petroleum into New York exclusively for their own use and consumption are not considered petroleum businesses and are exempt from the PBT. These organizations include: the State of New York, the United States of America and any of its agencies, instrumentalities, or political subdivisions; the United Nations; or any international organization of which the United States is a member; any trust, corporation, association, fund, or foundation operated exclusively for religious, charitable, or scientific purposes, or to foster international amateur sports competition, for the prevention of cruelty to children or animals, or veteran's groups; certain Indian nations or tribes; and certain not-for-profit health maintenance organizations.

Estimates: 2009: Minimal — 2011: Minimal

Data Source: PBT Master File

Reliability: Level 4

33. **Certain Airlines**

Citation: 301-e(f)

Effective Date: June 1, 2005

Description: Aviation fuel businesses (i.e., airlines) which service four or more cities in the State with direct non-stop flights between these cities are fully exempt from the PBT. This provision will allow these airlines to “burn” jet fuel on take-offs in New York State without paying the PBT whether the associated flights or legs of flights are intra or interstate in destination. The provision became effective June 1, 2005.

Estimates: 2009: \$1.0 million — 2011: \$1.2 million

Data Source: PBT Master File

Reliability: Level 2

PETROLEUM BUSINESS TAX

REAL ESTATE TRANSFER TAX

This section of the report provides tax expenditure estimates for 17 separate provisions of the Real Estate Transfer Tax. Table 9 provides a list of expenditures based on the Tax Law as of January 1, 2011. The estimates are based on liability data from the 2008-09 fiscal year. Base year 2008-09 liability is also extrapolated to the 2011-12 fiscal year. The estimates are based on an examination of liability incurred between April 1 and March 31. Real Estate Transfer Tax liability for the 2008-09 fiscal year has been included to provide some perspective to the tax expenditure estimates.

Description of Tax

Adopted in 1968, Article 31 of the New York State Tax Law imposes a Real Estate Transfer Tax on the conveyance of real property or an interest in real property where the consideration exceeds \$500. Payment is due no later than fifteen days after the delivery of the instrument effecting the conveyance (such as a deed). The rate of tax equals two dollars for every five hundred dollars (or fraction thereof) of consideration. Responsibility for payment rests with the person making the conveyance, the grantor. If the grantor (the seller) has failed to pay the tax or is exempt from liability, the grantee (the buyer) is responsible for payment.

The transfer tax also applies to conveyances of shares of stock in a cooperative housing corporation, the creation of long-term leaseholds and subleases, and transfers or acquisitions of a controlling interest in an entity which owns an interest in real property.

Together with the basic transfer tax, an additional one percent tax (the “mansion” tax) is imposed on the conveyance of residential real property or interest therein where the consideration is one million dollars or more. The additional tax is imposed upon the grantee. However, if the grantee is exempt from tax, then the tax is imposed on the grantor.

Data Sources

The major source of data used to compute the tax expenditure estimates include:

- Real Estate Transfer Tax Return Database — This file, compiled by the Department of Taxation and Finance, includes information on selected transfers of real property. It includes data items from the TP-584 tax return filed with these transfers and is an unverified data file.

Methodology

Historical estimates are projected to Fiscal Year 2011-12 levels using various economic forecast variables.

REAL ESTATE TRANSFER TAX

Table 9
2011 New York State Real Estate Transfer Tax Expenditure Estimates
(Fiscal Year 2009 Total Real Estate Transfer Tax Liability = \$701.16 Million)
(Millions of Dollars)

Tax Item	History				Forecast	Reliability
	2005-06	2006-07	2007-08	2008-09	2011-12	Level
Exclusions						
1. Continuing Lien Deduction	2.4	1.9	2.6	1.6	2.3	2
Exemptions						
2. State of New York	N/A	N/A	N/A	N/A	N/A	5
3. The United Nations and United States of America	N/A	N/A	N/A	N/A	N/A	5
4. Conveyances to the United Nations, United States of America, or State of New York	6.6	6.9	3.7	5.3	6.0	2
5. Conveyances Which Secure a Debt or Other Obligation	0.5	0.5	0.4	0.3	0.6	2
6. Conveyances that Confirm, Correct, Modify, or Supplement a Prior Conveyance	0.4	0.4	1.3	0.2	0.5	2
7. Bona Fide Gifts and Conveyance Without Consideration	0.6	0.5	0.4	0.3	0.5	2
8. Tax Sale	0.3	0.6	0.6	0.4	0.6	2
9. Mere Changes of Identity	4.3	2.9	6.7	5.2	4.2	2
10. Deeds of Partition	*	*	*	*	*	2
11. Federal Bankruptcy Act	1.3	0.9	0.8	4.2	1.6	2
12. Contract to Sell or Option to Purchase Without Use	1.0	0.2	0.1	*	0.3	2
13. Option or Contract to Purchase With Right to Occupy	0.1	0.1	*	*	*	2
Credits						
14. Credit for Prior Transfer Tax Paid	0.5	0.1	0.1	0.1	0.2	2
15. Cooperative Housing Corporation Transfer Credit	0.4	1.3	0.9	0.3	0.7	2
Preferential Tax Rates						
16. Real Estate Investment Trust Transfers (Initial Formation REITS)	0.0	0.0	0.0	0.0	0.0	2
17. Real Estate Investment Trust Transfers (Existing REITS)	D/	2.1	0.0	0.0	0.5	2

* Minimal

N/A No data available.

D/ Tax Law prohibits the disclosure of individual taxpayer information.

Exclusions

1. Continuing Lien Deduction

Citation: Section 1402

Effective Date: August 1, 1968 (amended May 1, 1983)

Description: The Real Estate Transfer Tax excludes the amount of any lien or encumbrance remaining at the time of sale involving a one-, two-, or three-family house or individual residential condominium unit, from the total consideration used to calculate the tax due. Additionally, consideration does not include the value of any lien or encumbrance at the time of sale where consideration is less than \$500,000.

Estimates: FY2009: \$1.6 million — FY2012: \$2.3 million

Data Source: RETT Database

Reliability: Level 2

Exemptions

Section 1405 of the New York State Tax Law exempts certain organizations from payment of the transfer tax. Liability for any tax incurred, when an exempt organization is the grantor, becomes the responsibility of the grantee and is payable no later than 15 days after delivery of the instrument effecting the conveyance. Where both parties are exempt there is no tax due. Section 1405 also exempts certain conveyances from tax.

2. State of New York

Citation: Section 1405(a)(1)

Effective Date: August 1, 1968

Description: This section exempts the State of New York or any of its agencies, instrumentalities, political subdivisions, or public corporations (including a public corporation created pursuant to an agreement with another state or Dominion of Canada) from liability for the transfer tax.

Estimate: No data available

Reliability: Level 5

3. The United Nations and United States of America

Citation: Section 1405(a)(2)

Effective Date: August 1, 1968

Description: The real estate transfer tax excuses the United Nations, the United States of America, and any of its agencies or instrumentalities from incurring liability for payment of the tax.

Estimate: No data available

Reliability: Level 5

4. Conveyances to the United Nations, United States of America, or State of New York

Citation: Section 1405(b)(1)

Effective Date: August 1, 1968

Description: Exempt from tax are conveyances to the United Nations, the United States of America, the State of New York, or any of their agencies, political

REAL ESTATE TRANSFER TAX

- subdivisions, instrumentalities, or any public corporation (including public corporations created pursuant to an agreement with another state or Dominion of Canada).
- Estimates:** FY2009: \$5.3 million — FY2012: \$6.0 million
Data Source: RETT Database
Reliability: Level 2
5. **Conveyances which Secure a Debt or Other Obligation**
Citation: Section 1405(b)(2)
Effective Date: August 1, 1968
Description: The transfer tax exempts conveyances used to secure a debt or other obligation.
Estimates: FY2009: \$0.3 million — FY2012: \$0.6 million
Data Source: RETT Database
Reliability: Level 2
6. **Conveyances that Confirm, Correct, Modify, or Supplement a Prior Conveyance**
Citation: Section 1405(b)(3)
Effective Date: August 1, 1968
Description: The real estate transfer tax does not apply to conveyances which without additional consideration confirm, correct, modify, or supplement a prior conveyance.
Estimates: FY2009: \$0.2 million — FY2012: \$0.5 million
Data Source: RETT Database
Reliability: Level 2
7. **Bona Fide Gifts and Conveyance Without Consideration**
Citation: Section 1405(b)(4)
Effective Date: August 1, 1968
Description: Conveyances exempted from the tax include: conveyances made without consideration, bona fide gifts, bequests, or inheritances.
Estimates: FY2009: \$0.3 million — FY2012: \$0.5 million
Data Source: RETT Database
Reliability: Level 2
8. **Tax Sale**
Citation: Section 1405(b)(5)
Effective Date: August 1, 1968
Description: The real estate transfer tax exempts any conveyance given in connection with a tax sale.
Estimates: FY2009: \$0.4 million — FY2012: \$0.6 million
Data Source: RETT Database
Reliability: Level 2
9. **Mere Changes of Identity**
Citation: Section 1405(b)(6)
Effective Date: July 1, 1989

- Description:** The transfer tax does not apply to a conveyance used to effectuate a mere change in identity or form of ownership where there is no change in beneficial ownership. This exemption is not applicable to conveyances to a cooperative housing corporation of the real property comprising the cooperative dwelling.
Estimates: FY2009: \$5.2 million — FY2012: \$4.2 million
Data Source: RETT Database
Reliability: Level 2
10. **Deeds of Partition**
Citation: Section 1405(b)(7)
Effective Date: August 1, 1968
Description: Exempt from the tax are conveyances which consist of a deed of partition. Partition is the division of property between several persons who are co-owners of the property. The object of a partition is to end the joint tenancy or tenancy in common and divide the property among the respective co-owners.
Estimates: FY2009: Minimal — FY2012: Minimal
Data Source: RETT Database
Reliability: Level 2
11. **Federal Bankruptcy Act**
Citation: Section 1405(b)(8)
Effective Date: August 1, 1968
Description: This section exempts from taxation any conveyance given pursuant to the Federal Bankruptcy Act.
Estimates: FY2009: \$4.2 million — FY2012: \$1.6 million
Data Source: RETT Database
Reliability: Level 2
12. **Contract to Sell or Option to Purchase Without Use**
Citation: Section 1405(b)(9)
Effective Date: July 1, 1989
Description: The real estate transfer tax exempts a conveyance which consists of a contract to sell real property without the use or occupancy of such property. Likewise, exempt from tax are conveyances granting an option to purchase real property without the use or occupancy of the property.
Estimates: FY2009: Minimal — FY2012: \$0.3 million
Data Source: RETT Database
Reliability: Level 2
13. **Option or Contract to Purchase With Right to Occupy**
Citation: Section 1405(b)(10)
Effective Date: July 1, 1989
Description: An exemption from the transfer tax is allowed for conveyances of an option or contract to purchase real property, which includes the right to use or occupy the property, providing:
- a. the consideration is less than \$200,000;

REAL ESTATE TRANSFER TAX

- b. such property or at least one unit of a two- or three-family house was used solely as the grantor's personal residence; and
- c. the real property consists of a one-, two-, or three-family house, an individual residential condominium unit or the sale of stock in a cooperative housing corporation in connection with a grant or transfer of a proprietary leasehold covering an individual residential cooperative unit.

Estimates: FY2009: Minimal — FY2012: Minimal

Data Source: RETT Database

Reliability: Level 2

Credits

The real estate transfer tax allows credits for taxes paid in certain transactions.

14. Credit for Prior Transfer Tax Paid

Citation: Section 1405-A

Effective Date: July 1, 1989

Description: A grantor is allowed credit against the tax due on a conveyance of real property to the extent tax was paid by the grantor on a prior creation of a leasehold for all or a portion of the same real property or on the granting of a contract or option to purchase all or a part of the same real property.

Estimates: FY2009: \$0.1 million — FY2012: \$0.2 million

Data Source: RETT Database

Reliability: Level 2

15. Cooperative Housing Corporation Transfer Credit

Citation: Section 1405-B

Effective Date: July 1, 1989

Description: A credit is allowed for a proportionate part of the amount of tax paid upon the conveyance to the cooperative housing corporation of real property comprising the cooperative dwelling(s). The credit applies to the conveyance of cooperative shares to unit purchases. It is allowed only to the extent that the original conveyance of the real property to the cooperative housing corporation effectuates a mere change in identity or form of ownership, and not a change in the beneficial ownership of the property.

Estimates: FY2009: \$0.3 million — FY2012: \$0.7 million

Data Source: RETT Database

Reliability: Level 2

Preferential Tax Rates

The Real Estate Transfer Tax allows a preferential tax rate in the following instances.

16. Real Estate Investment Trust Transfers (Initial Formation REITs)

Citation: Section 1402(b)

Effective Date: June 9, 1994 (amended July 13, 1996)

REAL ESTATE TRANSFER TAX

Description: The transfer tax rate is reduced to \$1.00 per \$500 (or fractional part thereof) on transfers of real property effected through qualifying “real estate investment trust transfers” in order to form a REIT occurring on or after June 9, 1994.

Estimates: FY2009: \$0.0 million — FY2012: \$0.0 million

Data Source: New York State Department of Taxation and Finance

Reliability: Level 2

17. Real Estate Investment Trust Transfers (Existing REITs)

Citation: Section 1402(b)

Effective Date: July 13, 1996

Description: The transfer tax rate is reduced to \$1.00 per \$500 (or fractional part thereof) on transfers of real property to existing REITs effected through qualifying “real estate investment trust transfers” occurring on or after July 13, 1996 and before September 1, 2011.

Estimates: FY2009: \$0.0 million — FY2012: \$0.5 million

Data Source: New York State Department of Taxation and Finance

Reliability: Level 2

REAL ESTATE TRANSFER TAX

CROSS-ARTICLE TAX EXPENDITURES

Certain tax expenditures appear in more than one Article of the Tax Law. For example, taxpayers can claim the investment tax credit against the Personal Income Tax and the Corporate Franchise Tax. Table 10 lists tax expenditure provisions common to the Personal Income, Corporate Franchise, Bank, and Insurance Taxes for the 2011 tax year. The charts that follow present tax expenditure information for selected expenditures common to more than one tax. They show the share of the tax expenditure from each tax article forecasted for 2011.

Table 10
2011 Tax Year
Selected Cross-Article Tax Expenditure Estimates
(\$ in Millions)

	Personal Income Tax	Corporate Franchise Tax	Bank Tax	Insurance Tax
Additional Holocaust Tax Exemption ¹	*	*	--	--
Federal Flow-Through Provisions				
MACRS/ACRS Depreciation	370.0	565.0	3.0	0.0
Deferred Tax on Installment Sales	19.0	13.0	5.0	*
Expensing of Certain Depreciable Business Property	122.0	*	*	*
Expensing of Research and Development Costs	8.0	190.0	--	--
Amortization of Business Start-Up Costs	26.0	0.2	--	--
Deductibility of Charitable Contributions	603.0	43.0	38.0	*
State Credits				
Investment Tax Credit	26.0	97.0	--	--
Investment Tax Credit for the Financial Services Industry	0.5	7.0	3.0	0.0
Special Additional Mortgage Recording Tax Credit ^{2,3}	13.0	5.0	12.0	*
Empire Zone and QEZE Credits ⁴	116.0	268.0	9.0	30.0
Credit for Employment of Persons With Disabilities ²	*	0.0	0.0	0.0
Qualified Emerging Technology Companies Credits	7.0	23.0	--	--
Credit for Purchase of an Automated External Defibrillator	*	0.0	0.0	0.0
Green Building Credit ²	0.0	1.0	0.0	0.0
Low-Income Housing Credit	0.0	0.0	0.0	0.0
Long-Term Care Insurance Credit ²	70.0	0.0	0.0	0.0
Brownfields Tax Credits ²	354.0	195.0	0.0	0.0
Empire State Film Production Credit	15.0	276.0	--	--
Farmers' School Property Tax Credit	30.0	1.0	--	--
Security Training Tax Credit ²	0.0	0.0	0.0	0.0
Empire State Commercial Production Credit	6.0	2.0	--	--
Biofuel Production Credit ²	10.0	0.0	--	--
Rehabilitation of Historic Properties Credit	5.0	4.0	0.0	0.0
Land Conservation Easement Credit	1.0	0.0	--	--
Clean Heating Fuel Credit	0.4	0.0	--	--
Empire State Film Post Production Credit	*	7.0	--	--
Excelsior Jobs Program Tax Credits	5.0	25.0	0.0	0.0

¹ The Additional Holocaust Tax Exemption appears in section 13 of the Tax Law. The exemption is different from the Exclusion of Payments to Victims of Nazi Persecution found in the Personal Income Tax section of the report. The provision exempts qualified settlement funds or grantor trusts established for the benefit of victims or targets of Nazi persecution by or in the Swiss Confederation from all state taxes imposed on or measured by income, as well as sales and use tax (not shown here). Amounts received by such victims or targets of Nazi persecution, including accumulated interest, are also exempt from State taxes imposed on or measured by income.

² This expenditure is also permitted under certain sections of the Corporation Tax (Article 9). See the Corporation Tax section of the report for more details.

³ Part of the corresponding credit under the Personal Income Tax is a carryforward only credit. See the Personal Income Tax section for the report for more details.

⁴ There is also a QEZE Sales Tax expenditure of \$80.0 million.

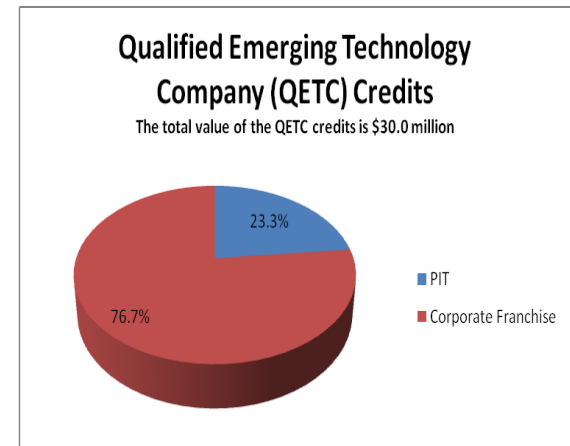
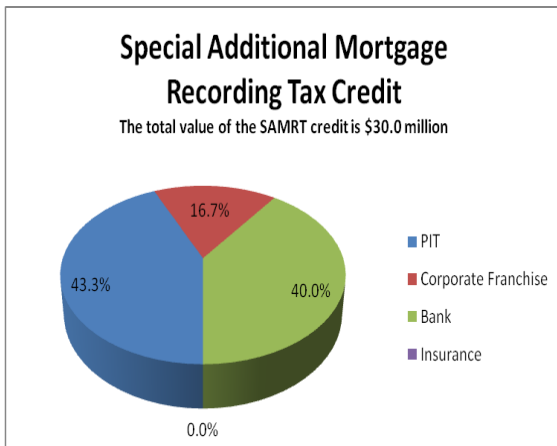
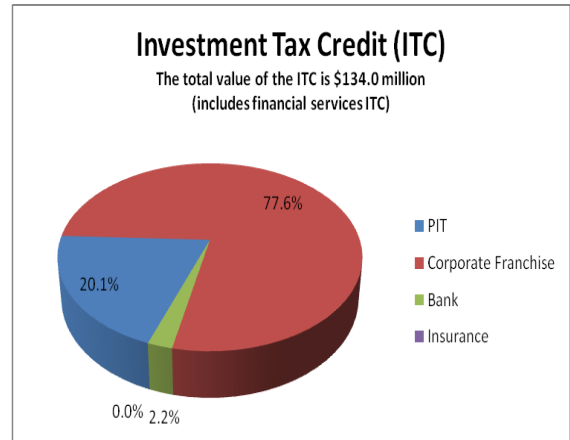
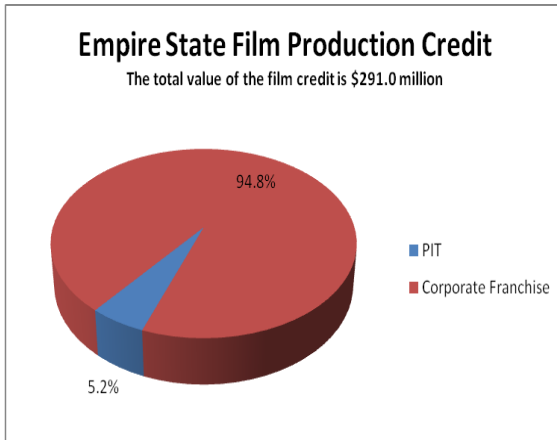
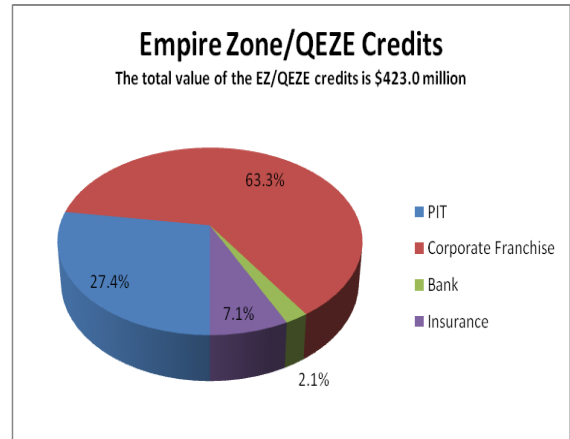
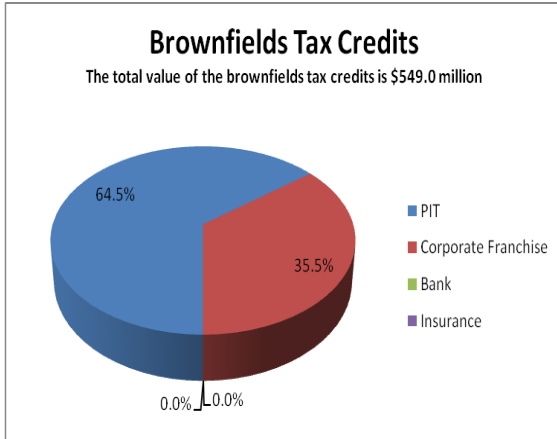
* Less than \$1 million.

N/A No data available

CROSS-ARTICLE TAX EXPENDITURES

-- The tax expenditure is not applicable.

Share of Selected State Special Tax Expenditures by Tax Article for 2011 Tax Year



2011-12 EXECUTIVE BUDGET TAX EXPENDITURE PROPOSALS

This section describes the proposals contained in the 2011-12 Executive Budget that modify, add, or repeal specific tax expenditures. Each description begins with background information regarding the proposal, a summary of the proposal, reasons for recommending the change, and an estimate of the revenue implications. Table 11 provides a listing of these provisions.

**Table 11
2011-12 Executive Budget Proposals Affecting Tax Expenditures
(Millions of Dollars)**

	2011-12 Fiscal Year Estimate
Excise, Petroleum Business, and State and Local Sales Taxes	
-Extend Expiring Alternative Fuel Exemptions	\$ (1.5)
Tax on the Furnishing of Utility Services	
-Extend the Power for Jobs Tax Credit	(6.4)
Insurance Tax	
-Remove the Exemption for Certain Town or County Cooperative Insurance Corporations	22.0
Personal Income, Corporate Franchise, Bank, and Insurance Tax	
-Provide Empire State Development with Authority to Decertify Noncompliant Empire Zone (EZ) Program Participants	0.0
-Extend the Financial Services Investment Tax Credit	0.0
-Expand the Low-Income Housing Credit	0.0
-Amend the Excelsior Jobs Program	0.0
-Double Long-Term Care Insurance Credit Rate	0.0

EXECUTIVE BUDGET PROPOSALS

1. Proposal to Extend Expiring Alternative Fuels Exemptions

Background: Alternative Fuel exemptions were enacted under Chapter 109 of the Laws of 2006 effective September 1, 2006. This law provides for a full exemption from the excise tax, petroleum business tax and State and local sales taxes for fuel products identified as E-85 (85 percent ethanol / 15 percent gasoline), compressed natural gas (CNG) and hydrogen, when suitable for use in a motor vehicle engine.

The law also provides for reduced tax rates under the excise tax and PBT for fuel product identified as biodiesel-B-20 [20 percent bio-product (e.g. soybean oil), 80 percent diesel fuel]. The rate reduction is 20 percent under both taxes. Further, 20 percent of the receipts from the retail sale of B-20 are exempted from the State & local sales tax.

Proposal: Part L of the Budget legislation would extend the alternative fuel tax exemptions for E-85, CNG and hydrogen and the partial exemption for B-20 for one year. Under current law, these exemptions are scheduled to expire on September 1, 2011; this bill would extend this expiration date until September 1, 2012. The proposal also clarifies the E-85 fuel tax law definition to reference its American Society of Testing Materials definition. The bill would take effect immediately upon enactment.

Discussion: Alternative fuels sales eligible for the tax exemption increased significantly since 2006. For example, gallons claimed for the E-85 exemption have grown from roughly 140,000 gallons in 2007 to a projected 3 million gallons in 2010. Similarly, gallons claimed for the CNG exemption have grown from 1 million gallons in 2007 to a projected 3 million gallons in 2010. Finally, gallons claimed for the B-20 exemption have grown from 4.7 million gallons in 2007 to a projected 9 million gallons in 2010. While these volume increases are large in percentage terms, the volumes are still a small share of the overall State tax bases for highway fuels of 5.5 billion gallons of gasoline and 900 million gallons of diesel fuel annually. Accordingly, the annual revenue costs to the State's financial plan, from these exemptions are quite limited.

New York's alternative fuels tax exemptions and credits are among the most progressive in the Country. Extending these expiring tax exemptions and credits will clearly be an energy, environmental, and economic development based policy decision for the Legislature to consider in the upcoming State budget deliberation process.

Estimate: The proposal would decrease State revenues in SFY2011-12 by \$1.5 million.

2. Proposal to Extend the Power for Jobs Tax Credit

Background: The Power for Jobs Program provides discounted energy to businesses and non-profits across New York State. The credit is available to qualified electric corporations for net lost revenue resulting from discounted power delivered through the Program.

Proposal: This proposal extends the Power for Jobs tax credit through June 30, 2012.

Discussion: The Power for Jobs Program has been extended on an annual basis for the last several years. However, when the last program extender was enacted, it failed to extend the tax credit available under Section 186-a of the Tax Law. As such, the credit expired after the 2010 tax year. This proposal would extend the credit for two years through 2012. At that point, the Power for Jobs Program will be fully replaced by the new Recharge New York Power Program.

Estimate: This proposal would decrease State revenues in SFY2011-12 by \$6.4 million.

3. **Proposal to Remove the Exemption from Franchise Tax for Certain Town or County Cooperative Insurance Corporations**

Background: Article 33 provides an exemption from the franchise tax for town and county co-operative insurance corporations that were exempt from tax prior to the enactment of Article 33 in 1974. These are small local mutual property/casualty companies formed on a co-operative basis for the benefit of their members. The original exemption, which was previously codified in Section 187 of Article 9, applied only to co-operatives that were in existence prior to 1937.

Proposal: This proposal amends the exemption to provide that it will only apply to corporations properly reporting direct written premiums to the Superintendent of Insurance of \$25 million or less for the taxable year.

Discussion: Some of the corporations to which this exemption applies have significantly expanded their business beyond what was originally contemplated when the exemption was enacted. This proposal is intended to level the playing field between large co-operative insurance corporations and other property/casualty companies, and limit the exemption to those companies whose operations are more closely aligned with the original intent of the exemption.

Estimate: This proposal would increase revenues by \$22 million in SFY 2011-12 and \$16 million annually in subsequent fiscal years.

4. **Proposal to Provide Empire State Development with Authority to Decertify Noncompliant Empire Zone (EZ) Program Participants**

Background: Prior to the EZ Program sunset on June 30, 2011, Empire State Development (ESD) was the agency responsible for certifying businesses and monitoring the performance of program participants. Although no new businesses may enter the program, existing participants can continue to claim the EZ and QEZE credits for various durations.

Proposal: This proposal amends the tax law to clarify that a taxpayer must remain certified by ESD in order to use the remaining years in its benefit periods for the EZ Program credits.

Discussion: When the bill containing the program sunset was enacted it did not specify that ESD would have ongoing authority to monitor and enforce compliance with the eligibility criteria in the program. As drafted, the law essentially stipulated that taxpayers would be eligible for credit during the entire duration of their respective credit benefit periods. This proposal clarifies that a taxpayer must continue to meet job creation, worker protection, and environmental laws and regulations in order to continue to claim EZ/QEZE credits.

Estimate: This proposal preserves current revenue.

5. **Proposal to Extend the Financial Services Investment Tax Credit**

Background: The financial services investment tax credit (FS-ITC) is available to taxpayers for qualifying property generally used in broker/dealer, investment advisory, or registered exchange or board of trade activity. Taxpayers must satisfy one of three employment tests to be eligible for the credit as well.

EXECUTIVE BUDGET PROPOSALS

Proposal: This proposal would extend the FS-ITC sunset from October 1, 2011 to October 1, 2015.

Discussion: The FS-ITC provisions have encouraged taxpayers in the financial services industry to make investments in qualifying property, including buildings, in New York State.

Estimate: The annual revenue forgone due to the extension of the credit is already included in the State Financial Plan.

6. Proposal to Expand the Low-Income Housing Credit

Background: The New York State low-income housing tax credit program was established in 2000 to promote the construction and rehabilitation of low-income housing in New York State. The credit is similar to the federal low-income housing credit and is administered by the New York State Division of Housing and Community Renewal. The amount of the credit depends upon the applicable percentage of the qualified basis of each low income housing building. The amount allocated is allowed as a credit against tax for 10 years and is available under the Corporate Franchise, Personal Income, Bank, and Insurance taxes. Unused credits may be carried forward indefinitely. The total amount of the credit currently available is \$280 million, or \$28 million per year. This was increased from \$240 million (\$24 million per year) in the 2010-11 enacted State budget.

Proposal: This proposal increases the aggregate dollar amount of low-income housing tax credit the Commissioner of Housing and Community Renewal may allocate from \$28 million to \$32 million per year.

Discussion: Increasing the available amount of credit will encourage developers and investors to devote greater resources to the program and will allow for the construction of additional low-income housing in New York State.

Estimate: The annual revenue forgone due to the increase in the credit is already included in the State Financial Plan.

7. Proposal to Amend the Excelsior Jobs Program

Background: The Excelsior Jobs Program was created in 2010 as the replacement for the Empire Zones Program. It consists of four tax credits: a jobs credit; a research and development (R&D) credit; an investment tax credit (ITC); and a real property tax credit (RPTC). Taxpayers apply to Empire State Development (ESD) and are awarded credit certificates upon satisfaction of job and investment projections.

Proposal: This proposal makes several modifications to the Excelsior Jobs Program to strengthen its economic development potential. It modifies the credits to make them more widely available and lucrative and creates a new energy incentive. It also lengthens the benefit period from 5 to 10 years. Finally, it makes several administrative changes.

Discussion: The tax credit changes would:

- revise the jobs tax credit formula to be the uncapped product of gross wages multiplied by 6.85%; presently it is a marginal wages computation capped at \$5,000 per job;
- increase the R&D credit from 10% to 50% of the taxpayer's federal R&D credit;
- allow property improvements that increase the value of real property to be factored into the amount of the real property tax credit;

- use the same property and expenses to qualify for Excelsior credits and the non-Excelsior R&D investment tax credit and qualified emerging technology credit facilities, operations, and training credit; and
- authorize utilities to offer discounted gas or electric rates to Excelsior participants.

The administrative changes would:

- apply the strategic industries qualifying test at the location where the activity will take place instead of on the entity as a whole;
- only require an Empire Zone participant to decertify at the location where it will claim Excelsior benefits instead of decertifying at all its locations;
- allow participants to claim credit as interim milestones are reached; and
- limit the tax credit recapture provision to instances where ESD revokes a taxpayer's certification for violating worker protection or environmental laws or failure to pay state and local taxes.

Estimate: There is no change to the Financial Plan through SFY2016-17.

8. Proposal to Double the Long-Term Care Insurance Credit Rate

Background: Taxpayers may claim a credit equal to 20 percent of premiums paid for the purchase of, or continuing coverage under, a long-term care insurance policy.

Proposal: This proposal would double the credit rate from 20 percent to 40 percent, effective for tax years beginning on or after January 1, 2012.

Discussion: Currently, Medicaid is a major source of funding for long-term care services. The high cost of long-term medical care is a significant contributor to the size of the Medicaid Program in New York. This proposal seeks to alleviate the cost pressures of long-term care on Medicaid by encouraging individuals to provide for long-term care through privately obtained long-term care insurance policies.

Estimate: This proposal will have no effect on revenues in SFY2011-12.

GLOSSARY

Compensating Use Tax: Tax levied on tangible personal property and services for its consumption, storage, or use in the State of residency upon which sales tax has not been collected.

Corporate Exemption: The partial or full statutory exemption of certain types of business entities from taxation.

Credit: Credits are amounts that are subtracted from tax liability (i.e., credits reduce the amount of tax due by the amount of the credit):

Credit Earned: The amount of credit generated in the current tax year.

Credit Claimed: The amount of credit which taxpayers have available during the taxable year. Taxpayers determine this by adding credit earned in the current year to any unused credit from prior years and subtracting any applicable credit recapture. The claimed amount also reflects the imposition of any statutory limitations.

Credit Used: The amount of credit which taxpayers actually apply to their tax liability.

Credit Carried Forward: Any unused amount of credit which is allowed to be used to offset tax liability in future years. The amount of credit carried forward is determined by subtracting the amount of credit used or refunded in the current year from the amount of credit claimed.

Credit Refunded: Unused credit amounts requested as a refund or applied against the next liability period. These are requested amounts from the tax return, not necessarily amounts actually paid. Refund requests are subject to audit and adjustment by the Tax Department and the Office of the State Comptroller.

Deduction: An amount which a taxpayer is allowed to subtract when computing the tax base.

Deferral: The legal authorization to delay the obligation to pay tax to a future period (e.g., a future tax year).

Dependent Exemptions: A fixed amount that is subtracted from New York Adjusted Gross Income for an individual's dependents, not including the taxpayer or spouse.

Entire Net Income (ENI): The amount of the taxable income base for corporate taxpayers. ENI equals federal taxable income after certain additions and subtractions for items that New York treats differently. The major adjustment in the computation of ENI for most taxpayers is the exclusion of income from subsidiary capital.

Excise Tax: A fixed, per unit tax imposed on a commodity or commodities (e.g., 11 cents per gallon of beer).

Exclusion/Exemption: The statutory elimination of certain items or transactions from the tax base.

GLOSSARY

Federal Adjusted Gross Income (FAGI): The amount of Federal income earned or received during the income year after certain exclusions and adjustments. Major exclusions from gross income include many government transfer payments, employer-provided pension contributions and fringe benefits, most capital gains from the sale of a primary residence, and a portion of social security benefits. Major adjustments to gross income include deductions for individual retirement arrangements, alimony paid, employee moving expenses, and one-half of self-employment tax paid.

Federal Conformity: The extent to which State tax laws adopt or conform to various provisions of Federal Tax Law.

Federal Taxable Income (FTI): The amount of taxable income before certain deductions reported by a corporate taxpayer on its Federal tax return. FTI includes all income received by the taxpayer during the tax year and most deductions from income. It does not include the Federal net operating loss deduction or the special Federal deductions for dividends received.

Flow-Through Provisions: Provisions (e.g., definitions, deductions, exclusions) that are derived from provisions of the Federal Tax Law and are applied to or flow-through to State Tax Law.

Franchise Tax: A tax imposed on business corporations for the privilege of conducting business in the State.

Gross Receipts Tax: Tax levied on the total receipts (e.g., income from sales) of a business.

Itemized Deductions: Individual deductions that are subtracted from New York Adjusted Gross Income and are applied in lieu of a standard deduction.

New York Adjusted Gross Income (NYAGI): The amount of Federal adjusted gross income earned or received during the income year after certain modifications and before the subtraction of either the standard deduction or itemized deductions, and dependent exemptions. For example, New York State income tax refunds, included in FAGI, are subtracted in determining NYAGI.

Personal Income Tax: A tax imposed on the income of persons. Examples of income that may be subject to tax include wages, non-wage income (interests, dividends, capital gains), business income, and investment income.

Premiums Tax: A tax imposed on insurance corporations and levied on the amount of net premiums received.

Reimbursement: An amount due to a taxpayer where there was a payment of tax, but no liability.

Sales Tax: An ad valorem tax levied on sales at retail.

Service: The performance of an action or activity for others.

Standard Deduction: A statutorily fixed amount, determined by filing status, subtracted from New York adjusted gross income.

Tangible Personal Property: Corporeal personal property of any nature.

Tax Expenditure: Features of the Tax Law that by exemption, exclusion, deduction, allowance, credit, preferential tax rate, deferral, or other statutory device, reduce the amount of taxpayers' liabilities to the State by providing either economic incentives or tax relief to particular classes of persons or entities, to achieve a public purpose.

Taxable Income: The amount to which the applicable tax rate is applied. Taxable income is gross income (prior to any adjustments) minus modifications, deductions, and exemptions.

Tax Liability: The amount of tax required to be paid by a taxpayer.

Transfer Tax: A tax imposed on the transfer of tangible personal property (e.g., real property) from one individual or entity to another.

GLOSSARY

APPENDIX

Federal Exclusions from Income

This Appendix summarizes Federal “flow through” tax expenditure provisions which impact the New York State Personal Income, Corporate Franchise, Bank, and Insurance Taxes. It should be noted the Appendix items under the Insurance Tax apply only to life insurance corporations. These taxes begin with definitions of income which are derived from provisions of the Federal Internal Revenue Code. As a result of this “coupling” of State definitions of income base to Federal definitions, exclusions, or deductions from income at the Federal level become exclusions or deductions at the State level. Therefore, these provisions automatically become tax expenditures at the State level. The descriptions apply for Federal law as of January 1, 2011. Therefore, estimates for the 2004-2008 tax years (2003-2007 for Corporate Franchise Tax, Bank Tax, and Insurance Tax) might reflect law provisions which have changed since that time.

Code Sections 101-137 set forth items that are excluded from income. In addition, other special types of income are specifically excluded by law. The following types of income are also exempt:

- items that are protected by the U.S. Constitution,
- items that are exempted by virtue of any act of Congress, and
- items that arise under the provisions of foreign tax treaties.

These exclusions (and exemptions) are not interchangeable with deductions from gross income (e.g., losses, expenses, bad debts, etc.). Deductions must be shown on the taxpayer’s return, while exclusions generally are not.

Each of these estimates is derived from methodologies which allocate Federal tax expenditures to a New York State tax equivalent. Federal exclusions and deductions from income and their associated New York State tax expenditure value are presented in the following tables.

APPENDIX

New York State Tax Expenditure Estimates of Federal Exclusions from and Adjustments to Income

Provision	2004	2005	2006	2007	2008	2011
Personal Income Tax						
1. Deduction for IRA and Keogh Contributions Taxpayers may deduct up to \$5,000 of contributions to qualified IRA plans. For married couples, each spouse may deduct \$5,000. Limitations apply for taxpayers covered by an employer-provided retirement plan. In addition, taxpayers may exclude earnings from plans for which they elected not to deduct contributions. Separate limits apply for contributions to a Keogh plan.	114.3	127.3	131.2	135.4	128.8	153.6
2. Exclusion of Income Earned Abroad by U.S. Citizens A citizen or resident of the United States whose principal residence is in a foreign country may exclude, for Federal income tax purposes, income earned in foreign countries and related housing costs.	65.5	56.8	53.9	65.0	121.0	116.0
3. Limited Exception to Passive Loss Rules on Rental Real Estate Taxpayers may deduct up to \$25,000 of passive losses attributable to rental real estate against active income.	154.0	149.7	160.5	180.8	137.0	198.0
4. Exclusion of Capital Gains on Home Sales Taxpayers may exclude up to \$250,000 (single) and \$500,000 (married joint) of gain from the sale or exchange of a principal residence. This exclusion applies for each sale or exchange.	856.7	801.4	644.6	645.2	535.0	562.0
5. Exclusion of Capital Gains from Small Business Stock Investors may exclude, subject to certain dollar limitations, seventy-five percent of capital gains from investment in the stock of a qualified small business when held at least five years. In addition, gain may be deferred if reinvested in other qualified small business stock within 60 days.	4.8	5.5	5.5	6.4	9.0	9.3
6. Exclusion of Scholarship and Fellowship Income Scholarship and fellowship income may be excluded from a student's Federal gross income.	32.9	40.4	38.3	42.9	47.3	54.4
7. Exclusion of Employee Meals and Lodging The value of meals supplied on the employer's business premises and lodging provided as a condition of employment are excluded from an employee's Federal gross income.	20.2	20.2	19.0	20.8	23.0	27.2
8. Exclusion of Public Assistance Benefits Public assistance benefits are excluded from Federal gross income.	10.2	10.2	9.6	12.0	13.6	16.5
9. Exclusion of Veterans' Benefits Various benefits received by veterans or their beneficiaries are tax-exempt.	86.4	90.2	86.2	93.1	100.1	137.7
10. Exclusion of Employer Contributions for Medical Insurance and Care and Long-Term Care Insurance Contributions made by an employer to a health insurance plan which provides compensation to the employee for personal injury and sickness and premiums for long-term care insurance may be excluded from the employee's gross income for Federal income tax purposes.	2,819.0	2,840.2	2,739.7	2,810.8	3,285.0	4,450.0
11. Exclusion of Employer Contributions for Employee Pensions Employer contributions to an employee's pension plan are excluded from the employee's Federal gross income. Also, earnings are excludible until distributed. Various limitations apply to contributions on behalf of highly-compensated employees.	2,096.5	2,040.4	1,905.6	1,996.8	1,930.0	2,740.0
12. Exclusion of Workers' Compensation Benefits Amounts received under workers' compensation acts, accident and health insurance, and similar plans are excluded from gross income.	137.4	128.6	117.5	125.0	132.0	141.3
13. Exclusion of Employer-Provided Tuition Assistance Employees may exclude up to \$5,250 of employer-paid tuition for undergraduate and graduate college education.	13.3	13.4	12.9	13.9	15.0	15.3
14. Exclusion of Employer-Provided Child Care The value of child care provided by an employer is excluded from the employee's Federal gross income. The exclusion may not exceed \$5,000 (\$2,500 for married filing separately).	14.5	15.0	24.0	20.2	17.5	32.4

APPENDIX

Provision	2004	2005	2006	2007	2008	2011
Personal Income Tax						
15. Exclusion of Certain Employer-Provided Transportation Benefits Employees may exclude from income certain qualified transportation fringe benefits for commuter vehicles, transit passes, and parking.	73.1	75.0	66.6	72.9	79.6	87.0
16. Exclusion of Benefits and Allowances to Armed Forces Personnel Combat pay and certain other in-kind benefits and cash allowances received by members of the Armed Forces are excluded from Federal gross income.	71.2	70.4	65.9	81.5	125.0	135.0
17. Exclusion of Accelerated Death Benefits Taxpayers may exclude accelerated death benefits paid under life insurance contracts.	4.0	4.0	4.0	4.0	4.0	4.0
18. Deduction for Self-Employed Persons' Health and Long-Term Care Insurance Self-employed taxpayers may deduct the entire cost of health insurance and long-term care premiums they provide for themselves and their families. The deduction is not allowed for any month in which the taxpayer or spouse is eligible to participate in an employer's health insurance plan.	76.2	86.3	80.0	94.2	97.6	128.0
19. Exclusion of Employer-Provided Adoption Assistance Taxpayers may exclude up to \$12,170 per child of qualified adoption expenses provided by their employers.	8.6	12.3	7.6	10.1	12.0	2.1
20. Exclusion of Employer-Paid Premiums on Life Insurance, Accident Disability Insurance, and Accidental Death Insurance Plans Employer-paid life insurance premiums for coverage up to \$50,000 and premiums for accident disability and accidental death may be excluded from an employee's Federal gross income.	55.2	58.8	49.8	55.1	57.1	62.3
21. Exclusion of Interest on Life Insurance Policy and Annuity Cash Value Interest which is credited annually on the cash value of a life insurance policy or annuity contract is not included in the income of the policy holder or annuitant.	415.2	400.0	355.7	397.3	426.0	533.0
22. Exclusion of Interest on Qualified New York State and Local Bonds Interest payments from qualified New York State and municipal bonds are excluded from the taxpayer's Federal gross income.	534.4	424.0	373.7	423.0	470.0	608.0
23. Expensing of Exploration and Development Costs of Oil and Gas Investors in oil and gas extraction enterprises may deduct from Federal gross income exploration and development costs incurred during the taxable year.	*	*	*	*	*	*
24. MACRS/ACRS Depreciation Depreciable property used in the ordinary course of trade or business, and which has been placed in service after 1980, may be depreciated at an accelerated rate over a prescribed period. The taxpayer may either claim the depreciation deduction using the ACRS method of depreciation, or elect to deduct all or a part of the cost of the property from Federal gross income as an expense deduction. Modified ACRS applies to New York property placed in service after December 31, 1986, except that any "bonus depreciation" used for Federal purposes does not apply for New York purposes for property placed in service on or after June 1, 2003, for tax years beginning on or after January 1, 2003.	188.8	225.0	234.3	301.6	335.0	370.0
25. Amortization of Business Start-Up Costs A taxpayer may elect to amortize, over a period of at least 60 months, the investigatory and start-up expenses of a business in which the taxpayer actively participates.	12.0	14.0	15.0	17.0	20.4	26.0
26. Capital Gains at Death Capital gains on property which is transferred at death by inheritance or otherwise is exempt from taxation, being excluded from the Federal gross income of both the deceased and the recipient of the property.	638.4	672.6	667.6	463.0	578.0	905.0
27. Farm Income Stabilization: Expensing of Capital Outlays Farmers are allowed to deduct certain capital outlays for the taxable year during which they are paid or incurred instead of being apportioned over an extended period in the form of depreciation deductions.	24.5	24.3	23.8	28.7	20.2	17.2

APPENDIX

Provision	2004	2005	2006	2007	2008	2011
Personal Income Tax						
28. Capital Asset Treatment of Timber Income, Iron Ore, and Coal Royalties Income earned from the sale of timber or royalties received pursuant to the lease of coal or iron ore mining rights may be treated as income from long term capital assets, allowing the owner to claim any capital losses against either capital gains or ordinary income.	*	*	*	*	*	*
29. Expensing of R&D Costs A taxpayer may elect to deduct costs incurred or paid during the taxable year with respect to research and development in connection with the taxpayer's trade or business. Alternatively, these expenses may, under specified conditions, be amortized over a period of not less than 60 months.	2.4	3.4	2.0	5.4	5.9	8.0
30. Expensing up to \$500,000 on Certain Depreciable Business Property Businesses investing in certain depreciable property during the taxable year may deduct as an expense, in lieu of depreciation, up to \$500,000 of the cost of new equipment put in service during the tax year. This "Section 179" expensing deduction begins to phase out dollar for dollar when the total cost of such property exceeds \$2 million.	70.1	70.0	48.0	35.0	65.0	122.0
31. Exclusion of Social Security and Tier I Railroad Retirement Benefits A minimum one-half of Social Security and Tier I benefits received by single taxpayers with modified adjusted gross income (MAGI) between \$25,000 and \$34,000 is excluded from Federal gross income. For single taxpayers with income above \$34,000, a minimum of 15 percent is excluded. For married taxpayers with MAGI between \$32,000 and \$44,000, a minimum of one half of Social Security is excluded, and for married taxpayers with MAGI above \$44,000, a minimum of 15 percent is excluded.	412.0	413.6	579.7	633.8	717.0	663.0
32. Deferred Tax on Installment Sales Non-dealer taxpayers may report certain sales using the installment method of accounting as provided by IRC Section 453.	12.0	11.4	15.0	10.7	11.4	19.0
33. Deduction for Student Loan Interest Taxpayers may deduct up to \$2,500 of interest paid on qualified education loans. The deduction phases out when modified AGI exceeds \$70,000 (single) and \$145,000 (married joint).	18.6	18.2	16.6	26.8	28.4	13.7
34. Exclusion for Education IRAs Taxpayers may exclude distributions (including earnings) from education IRAs if used for qualified higher education. The exclusion is completely phased out when modified AGI exceeds \$110,000 (single) and \$220,000 (married joint).	1.7	0.2	0.4	0.6	0.9	1.9
35. Exclusion of Earnings of Qualified Tuition Programs Taxpayers may exclude the earnings and distributions of qualified tuition programs, such as New York's "College Choice" programs.	12.0	16.0	12.3	12.8	7.0	16.2
36. Deduction for Contributions to Health Savings Accounts Eligible taxpayers may deduct contributions to HSA's equal to the lesser of the annual deductible under their high deductible health insurance plan or \$6,150 for those with family coverage (\$3,050 for those with individual coverage).	9.5	15.5	6.2	10.7	15.9	37.0

APPENDIX

Provision	2003	2004	2005	2006	2007	2011
Corporate Franchise Tax						
1. Expensing of Certain Outlays for Farmers (Soil and Water Conservation Expenditures, etc.) Farmers may deduct certain capital outlays from gross income for the tax year in which they pay or incur such costs, instead of apportioning them over an extended period in the form of depreciation deductions.	0.5	0.5	0.5	0.5	0.5	0.5
2. Expensing up to \$500,000 on Certain Depreciable Business Property Businesses investing in certain depreciable property during the taxable year may deduct as an expense, in lieu of depreciation, up to \$500,000 of the cost of new equipment put in service during the tax year. This "Section 179" expensing deduction begins to phase out dollar for dollar when the total cost of such property exceeds \$2 million.	4.8	3.2	*	*	*	*
3. MACRS/ACRS Depreciation Depreciable property used in the ordinary course of trade or business, and which has been placed in service after 1980, may be depreciated at an accelerated rate over a prescribed period. The taxpayer may either claim the depreciation deduction using the ACRS method of depreciation, or elect to deduct all or a part of the cost of the property from Federal gross income as an expense deduction. Modified ACRS applies to New York property placed in service after December 31, 1986, except that any "bonus depreciation" used for Federal purposes does not apply for New York purposes for property placed in service on or after June 1, 2003, for tax years beginning on or after January 1, 2003.	172.2	188.4	206.0	225.0	233.1	565.0
4. Utility Generation Property Transition Provisions Taxpayers that are qualified public utilities and were taxed under former Section 186 in 1999 and earlier may claim for New York depreciation on property placed in service before January 1, 2000, a deduction equal to the amount of depreciation expense shown on the taxpayer's books and records for the taxable year, rather than the Federal MACRS amount. Similarly, the basis for gain or loss upon disposition of such transition property that the taxpayer owned in 1999 is generally the book cost of the property less the aggregate of New York depreciation deductions taken.	N/A	N/A	N/A	N/A	N/A	N/A
5. Expensing of Research and Development Costs A corporation may deduct from Federal gross income costs incurred or paid during the tax year for research and development in connection with its business.	44.2	54.6	76.5	105.0	195.0	190.0
6. Amortization of Business Start-Up Costs A corporation may amortize, over a period of at least 180 months, certain investigatory and business start-up expenses.	0.2	0.2	0.2	0.2	0.2	0.2
7. Deferred Tax on Installment Sales Non-dealer sellers of property, other than inventory, may use the installment method of accounting as provided by IRC Section 453.	5.8	5.8	5.8	6.0	7.0	13.0
8. Deductibility of Charitable Contributions Taxpayers may deduct charitable contributions, not exceeding 10 percent of taxable income computed as specified, from gross income.	28.3	29.9	32.1	35.0	35.0	43.0
9. Expensing of Exploration and Development Costs Taxpayers may deduct exploration costs and development expenditures of a mine or natural deposit as expenses in the year incurred.	*	*	*	*	*	*
10. Completed Contract Accounting Under the completed contract accounting method, taxpayers report income and expenses associated with a long term contract in the tax year of contract completion. Expenses that are not allowable to the contract (i.e., period costs), are deductible in the year paid or incurred depending on the accounting method employed.	1.4	1.4	1.4	1.0	1.0	5.0
11. Amortization of Pollution Control Facilities and Reforestation Expenditures Instead of taking MACRS depreciation, a taxpayer may elect to amortize over a 60-month period qualified pollution control facilities, used in connection with a plant or other property in operation before 1976.	N/A	N/A	N/A	N/A	N/A	N/A

APPENDIX

Provision	2003	2004	2005	2006	2007	2011
Bank Tax						
<p>1. MACRS/ACRS Depreciation Depreciable property used in the ordinary course of trade or business, and which has been placed in service after 1980, may be depreciated at an accelerated rate over a prescribed period. The taxpayer may either claim the depreciation deduction using the ACRS method of depreciation, or elect to deduct all or a part of the cost of the property from Federal gross income as an expense deduction. Modified ACRS applies to New York property placed in service after December 31, 1986, except that any "bonus depreciation" used for Federal purposes does not apply for New York purposes for property placed in service on or after June 1, 2003, for tax years beginning on or after January 1, 2003.</p>	146.3	154.0	92.8	29.3	12.6	41.0
<p>2. Expensing up to \$500,000 on Certain Depreciable Business Property Businesses investing in certain depreciable property during the taxable year may deduct as an expense, in lieu of depreciation, up to \$500,000 of the cost of new equipment put in service during the tax year. This "Section 179" expensing deduction begins to phase out dollar for dollar when the total cost of such property exceeds \$2 million.</p>	*	*	*	*	*	*
<p>3. Deductibility of Charitable Contributions A corporation may deduct charitable contributions, not exceeding 10 percent of taxable income computed as specified, from gross income.</p>	42.8	45.2	41.6	38.0	40.4	38.0
<p>4. Amortization of Business Start-Up Costs A corporation may elect to amortize, over a period of 60 months or more, the investigatory and start-up expenses of a business.</p>	N/A	N/A	N/A	N/A	N/A	N/A
<p>5. Deferred Tax on Installment Sales Pursuant to the Tax Reform Act of 1986, non-dealer taxpayers may report certain sales using the installment method of accounting as provided by IRC Section 453.</p>	35.0	30.0	30.0	30.0	165.0	5.0

Provision	2003	2004	2005	2006	2007	2011
Insurance Tax						
1. MACRS/ACRS Depreciation Depreciable property used in the ordinary course of trade or business, and which has been placed in service after 1980, may be depreciated at an accelerated rate over a prescribed period. The taxpayer may either claim the depreciation deduction using the ACRS method of depreciation, or elect to deduct all or a part of the cost of the property from Federal gross income as an expense deduction. Modified ACRS applies to New York property placed in service after December 31, 1986, except that any "bonus depreciation" used for Federal purposes does not apply for New York purposes for property placed in service on or after June 1, 2003, for tax years beginning on or after January 1, 2003.	12.3	12.9	7.8	2.5	1.1	3.0
2. Expensing up to \$500,000 on Certain Depreciable Business Property Businesses investing in certain depreciable property during the taxable year may deduct as an expense, in lieu of depreciation, up to \$500,000 of the cost of new equipment put in service during the tax year. This "Section 179" expensing deduction begins to phase out dollar for dollar when the total cost of such property exceeds \$2 million.	*	*	*	*	*	*
3. Deductibility of Charitable Contributions Charitable contributions, not exceeding 10 percent of taxable income computed as specified, may be deducted from a corporation's gross income.	*	*	*	*	*	*
4. Amortization of Business Start-Up Costs A corporation may elect to amortize, over a period of no less than 60 months, the investigatory and start-up expenses of a business.	N/A	N/A	N/A	N/A	N/A	N/A
5. Deferred Tax on Installment Sales Pursuant to the Tax Reform Act of 1986, non-dealer taxpayers may report certain sales using the installment method of accounting as provided by IRC Section 453.	*	*	*	*	*	*
6. Small Life Insurance Company Taxable Income Adjustment Small life insurance companies may claim a special deduction from gross income which is not available to other insurance corporations. The deduction is 60 percent of that portion of tentative life insurance company taxable income which does not exceed \$3 million for the taxable year. A phase out of the deduction occurs for amounts over \$3 million.	0.9	0.9	0.9	0.9	0.9	0.9
7. Deduction of Life Insurance Reserves for Life Insurance Companies Life insurance companies may deduct a net increase in reserves which are maintained with respect to its insurance contracts and annuity contracts.	5.3	6.9	7.3	7.7	8.1	9.3
8. Exclusion of Investment Income on Life Insurance and Annuity Contracts Life insurance gross income excludes investment income on life insurance and annuity contracts, in the form of policy holder dividends.	2.1	2.1	3.6	3.8	3.8	4.2

* Less than \$0.1 million.

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

N/A No data available.