

2004-05 Executive Budget  
30-DAY AMENDMENTS  
February 5, 2004

Amendments to Senate 6060, Assembly 9560  
(Revenue Article VII Bill)

Amend Senate 6060, Assembly 9560, A BUDGET BILL, AN ACT to amend the tax law, in relation to exemptions from sales and compensating use taxes for certain clothing and footwear (Part A);...

- Page 2, unnumbered Line 38 After "(Part S);" strike out "and"
- Page 2, unnumbered Line 42 After "(T)" insert (Insert AA -- An Act clause from LBD#74026-01-4) "; to amend the tax law, in relation to changing the date interest begins to run under article 26 of such law for certain late estate tax payments, changing the calculation of the estate tax for estates with property both in New York and in another state, and repealing article 10 of such law relating to taxable transfers (Part U);"
- Page 2, unnumbered Line 42 After (new Part U) insert (Insert BB -- An Act clause from LBD#74027-01-4) "and to amend the tax law, in relation to reducing the tax on aviation fuel businesses under Article 13-A thereof (Part V)"
- Page 2, Line 4 After "through" strike out "T" and insert "V"
- Page 22, Line 25, After "commissioner" insert "or imposed under or pursuant to the authority of this chapter".
- Page 22, Between lines 39 and 40, Insert new "3. An organization whose tax-exempt status is suspended pursuant to subdivision one of this section shall have the right to appeal the determination using the procedure prescribed by article forty of this chapter or otherwise prescribed pursuant to this chapter, provided that the organization cannot challenge the merits of the determination made by the internal revenue service."
- Page 22, Line 40, Strike out "3" and insert "4"
- Page 22, Line 50, After "tax" insert "if such purchaser files such a return and pays such tax due".
- Page 22, Line 51, After "purchase" insert "or, in the case of a purchaser who is an individual, estate or trust eligible to report and pay sales and compensating use tax on such purchaser's personal income tax return, if such purchaser pays and reports such tax due with such purchaser's next due personal income tax return"
- Page 28, Line 3, After "sees" strike out "an equal".

- Page 28, Line 3, After "privilege" insert "s".
- Page 28, Line 9, After "accompanied by" insert "true copies of the applicant's federal basic permit and the applicant's current license to manufacture wine issued in its state of domicile, along with"
- Page 28, Line 9, After "dollars" insert ";notwithstanding the provisions of §110 of the alcoholic beverage control law, the authority in its discretion may excuse an out-of-state winery from the submission of such information"
- Page 28, Line 21, After "annually" insert ",in such manner and form as the authority may direct,"
- Page 28, Line 22, After "year" insert "the names and addresses of the purchasers to whom the wine was shipped, the date purchased, the name of the common carrier used to deliver the wine, and the quantity and value of each shipment"
- Page 28, Line 23, Insert "(d) in connection with the acceptance of an order for a delivery of wine to a New York resident, require the prospective customer to represent that he or she has attained the age of 21 years or more and that the wine being purchased will not be resold or introduced into commerce."
- Page 28, Line 23, Strike out "(d)" and add "(e)"
- Page 28, Line 23, After "carriers to" add ":""
- Page 28, Lines 23 through 28, After "carriers to:" strike out "obtain the signature of a person over twenty-one years of age at the delivery address on a form to be prescribed by the authority. One copy of the form shall be maintained by the out-of-state winery for a period of three years. One copy of the form shall be forwarded to the authority within forty-five days of the date of delivery;" and insert "(1) require the recipient, upon delivery, to demonstrate that the recipient is at least twenty-one years of age by providing a valid form of photographic identification authorized by section 65-b of this chapter.  
(2) require the recipient to sign an electronic or paper form or other acknowledgement of receipt as approved by the authority; and  
(3) refuse delivery when the proposed recipient refuses to present valid identification as required by subdivision (1) of this subsection;"
- Page 28, Lines 29, Strike out "(e)" and insert "(f)"
- Page 28, Line 35, Strike out "(f)" and insert "(g)"

- Page 28, Line 38, Strike out "(g)" and insert "(h)"
- Page 28, Line 41, After "regulations;" insert "and"
- Page 28, Lines 42 through 46, Strike out "(h) obtain a statement in a form to be prescribed by the authority wherein the New York state resident who purchases the wine certifies that he has not exceeded, and that with this purchase will not exceed, the limitations on quantity of wine that may be shipped to any New York resident at least twenty-one years of age;"
- Page 28, Line 51, Strike out ";and" and insert ".""
- Page 28, Lines 52 through Page 29 Line 8 Strike out "(j) collect, maintain, and annually report information required by the New York state liquor authority, in such manner and form as the authority may direct, which information shall include, with respect to each direct shipment into New York:  
(1) the name and date of birth of the purchaser;  
(2) the full mailing address of the purchaser, including zip code;  
(3) the name, total quantity, and total price of wine purchased;  
(4) the date purchased;  
(5) the name and address of the person carrying the wine into New York, and, if the person is other than the holder of the out-of-state-winery direct shipper's license, the New York state license or permit number of the person carrying the wine into New York; and  
(6) the signature of the person filing the report."
- Page 29, Line 17 After "with" strike out "a true copy of its" and insert "true copies of its current federal basic permit and its"
- Page 29, Line 18 After "issued in" strike out "another state" and insert "its state of domicile"
- Page 29 Line 19 After "such other" insert "application and renewal"
- Page 29 Line 24 After "Violations." strike out "Any violation of this section shall be the joint responsibility of the licensee and the common carrier delivering the wine" and insert "In any action brought under this section, the common carrier and the licensee shall only be held liable for their independent acts"
- Page 29 Between lines 32 and 33 Insert new "9. Severability. If any provision of this section or if any application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or applications of this section which shall be given effect without the invalid

provisions or application, and to this end the provisions of this section are severable.

§1(a). The alcoholic beverage control law is amended by adding a new section 79-d to read as follows:

§79-d. Any person having applied for and received a license as a winery or farm winery under section seventy-six and seventy-six-a of this article may ship no more than two cases (no more than nine liters each case) of wine produced by such winery or farm winery per month directly to a New York state resident who is at least twenty-one years of age, for such resident's personal use and not for resale.

1. Licensee's shipping responsibilities. Notwithstanding any provision to the contrary contained in this chapter, any winery licensee or farm winery licensee shall:

(a) ship no more than two cases (no more than nine liters each case) per month of wine produced by such license holder directly to a New York state resident who is at least twenty-one years of age, for such resident's personal use and not for resale;

(b) ensure that the outside of each shipping container used to ship wine directly to a New York state resident is conspicuously labeled with the words: "CONTAINS WINE – SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY", or with other language specifically approved by the New York state liquor authority;

(c) report to the authority annually, in such manner and form as the authority may direct the total amount of wine shipped in the state the preceding calendar year, the names and address of the purchasers to whom the wine was shipped, the date purchased, the name of the common carrier used to deliver the wine, and the quantity and value of each shipment; and

(d) in connection with the acceptance of an order for a delivery of wine to a New York resident, require the prospective customer to represent that he or she has attained the age of 21 years or more and that the wine being purchased will not be resold or introduced into commerce;

(e) require common carriers to:

(1) require the recipient, upon delivery, to demonstrate that the recipient is at least twenty-one years of age by providing a valid form of photographic identification authorized by section 65-b of this chapter;

(2) require the recipient to sign an electronic or paper form or other acknowledgement of receipt as approved by the authority; and

(3) refuse delivery when the proposed recipient appears to be under twenty-one years of age and refuses to present valid identification as required by subdivision (1) of this subsection.

2. Severability. If any provision of this section or if any application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or applications of this section which shall be given effect without the invalid provisions or application, and to this end the provisions of this section are severable."

- Page 51, Line 16, After "property" insert ", provided that where such taxpayers as tenants by the entirety or otherwise own undivided interests in the whole of such property, they will be deemed to own equal shares of such property for purposes of allocating such credit"
- Page 55, Lines 1 and 2, After "thereafter," strike out "or any new or further debt or obligation secured by a mortgage,"
- Page 55, Line 22, After "within" strike out "such" and insert "a"
- Page 55, Line 22, After "county" insert "imposing the tax authorized by this section"
- Page 55, Line 25, After "or" strike out "by" and insert "under"
- Page 55, Line 25, After "mortgage" insert "at the date of execution thereof or at any time thereafter"
- Page 56, Lines 14 and 15, After "shall be" strike out "the sum of the rates of tax specified in paragraphs (a) and (b) of this subdivision and"
- Page 56, Line 16, After "be" strike out "one dollar" and insert "fifty cents"
- Page 57, Line 17, After "officer of the" strike out "jurisdiction" and insert "county"
- Page 57, Lines 20 through 22, Strike out "8. A tax imposed pursuant to the authority of this section shall be in addition to the taxes imposed by section two hundred fifty-three of this article."
- Page 57, Line 23, Strike out "9" and insert "8"
- Page 58, Line 26, Strike out "10" and insert "9"

- Page 58, Line 31 After "least" strike out "thirty" and insert "sixty"
- Page 62 Between Lines 20 and 21 Insert "(t) "Flex acreage agribusiness opportunity empire zone" shall mean an empire zone area designated pursuant to subdivision (g) of section nine hundred fifty-eight of this article to accommodate agribusinesses, including but not limited to, dairy, food, and fruit processors, and bio-refineries.""
- Page 62 Line 21 Strike out "(t)" and insert "(u)"
- Page 62 Line 32 Strike out "(u)" and insert "(v)"
- Page 62 Line 35 Strike out "(v)" and insert "(w)"
- Page 67 Line 16 Strike out "(a) through (d)" and insert "(a), (b), (c), (d), and (g)"
- Page 67 Between lines 25 and 26 Insert "(g) Notwithstanding the provisions of subdivisions (a) through (d) and (f) of this section, the commissioner may, with the concurrence of the commissioner of agriculture and markets, designate each year areas of up to one non-contiguous mile in total which will attract projects that substantially contribute to keeping viable agricultural land in active production or significantly increase agribusiness economic activity within the state as may be demonstrated by such factors, including but not limited to, increased cultivated acreage or production capacity of or increased processing capacity or market opportunities for crops, livestock and livestock products, as defined in section 301 of the agriculture and markets law, produced within the state. The commissioner, with the concurrence of the commissioner of agriculture and markets, shall promulgate regulations to establish such further qualification to determine eligibility for designation of such areas, including but not limited to, the level of New York crops, livestock and livestock products, utilized within production, processing, manufacturing or marketing functions in the state, and, provided further that such regulations will result in designation of acreage in at least four counties. Unused acreage may be carried forward for use by the commissioner in subsequent calendar years.""
- Page 67, Line 54, After "empire zone" insert "[" and before "from another" insert "]"
- Page 70, Line 51, After "paragraph" strike out "three" and insert "four"
- Page 70, Line 56, After "occurring" strike out "in a tax year starting"

- Page 71, Line 1, After "after" strike out "January" and insert "April"
- Page 71, Line 1, After "thousand" strike out "five" and insert "four"
- Page 71 Between lines 5 and 6 Insert "(m) Certify, for the purposes of paragraph four of subdivision (d) of section fifteen of the tax law, that a business entity is located within a flex acreage agribusiness opportunity empire zone designated pursuant to subdivision (g) of section nine hundred fifty-eight of this article."
- Page 81, Lines 55 and 56, After "article" strike out "or has an application pending with the department of economic development"
- Page 82, Line 43, After "cle." insert "If, however, there is a change in circumstances involving extenuating factors within the year (such as the attraction/retention of a major potential/area employer, which is consistent with the zone's development goals) the request will be considered."
- Page 84, Line 55, After "is" insert "first"
- Page 85, Line 18, After "is" insert "first"
- Page 85, Line 51, After "is" insert "first"
- Page 85, Line 53, After "is" insert "first"
- Page 85, Line 55, After "was" insert "first"
- Page 85, Line 56, After "four," insert "or (D) is first certified under such article eighteen-B before April first, two thousand four and is principally engaged in the business of owning real property or owning and managing real property"
- Page 86, Line 6, After "is" insert "first"
- Page 86, Line 12, After "is" insert "first"
- Page 86, Line 14, After "is" insert "first"
- Page 86, Line 16, After "was" insert "first"
- Page 86, Line 17, After "four," insert "or (D) is first certified under such article eighteen-B before April first, two thousand four and is principally engaged in the business of owning real property or of owning and managing real property"
- Page 87, Line 35, After "is" insert "first"
- Page 87, Line 50, After "is" insert "first"

- Page 87, Line 52, After "is" insert "first"
- Page 87, Line 54, After "was" insert "first"
- Page 87, Line 55, After "four," insert "or (D) is first certified under such article eighteen-B before April first, two thousand four and is principally engaged in the business of owning real property or of owning and managing real property"
- Page 88, Line 5, After "100." Strike out "For" and insert "Under this paragraph for"
- Page 88, Between lines 18 and 19, Insert "(5) For the purposes of this subdivision, where the commissioner of economic development certifies that the QEZE is located within a flex acreage agribusiness opportunity empire zone designated pursuant to subdivision (g) of section nine hundred fifty-eight of the general municipal law, then the QEZE's employment increase factor shall be 1.0. In this situation, the QEZE shall be required to submit proof to the department that the commissioner of economic development has made such certification."
- Page 89, Line 11, After "is" insert "first"
- Page 89, Line 19, After "is" insert "first"
- Page 89, Line 21, After "is" insert "first"
- Page 89, Line 23, After "was" insert "first"
- Page 89, Line 24, After "four," insert "or (iv) is first certified under such article eighteen-B before April first, two thousand four and is principally engaged in the business of owning real property or of owning and managing real property"
- Page 90, Between lines 7 and 8, Insert "(4) Notwithstanding any provision to the contrary, the credit limitation shall not be applicable to any business enterprise which is certified pursuant to subdivision (m) of section nine hundred fifty-nine of the general municipal law."
- Page 95, Line 36, After "facility" insert "or which is principally engaged in the business of owning real property or of owning and managing real property"
- Page 95, Line 51, After "2004" insert ","
- Page 95, Line 52, Strike out "and"



Page 95,	Line 55,	After "2002" insert ", and (iii) the amendments in section twelve for sales and use tax purposes shall apply to employment tests to determine eligibility for QEZE benefits which are measured by taxable years beginning on or after January 1, 2004 and to sales made, uses occurring and services rendered on or after the first day of the first such taxable year beginning on or after January 1, 2004, in accordance with applicable transition provisions in sections 1106 and 1217 of the tax law"
Page 96,	Before line 1,	Before "Section 2. Severability clause." insert new Part U (Insert A -- LBD 74026-01-4)
Page 96,	After New Part U	After New Part U (insert A -- LBD 74026-01-4), insert new Part V (insert B -- LBD 74027-01-4)
Page 96,	Line 11,	After "through" strike out "T" and insert "V"