

# ANNUAL REPORT ON NEW YORK STATE TAX EXPENDITURES

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# TAX EXPENDITURE REPORT

## Table of Contents

		<u>Page</u>
I.	Introduction	1
II.	Personal Income Tax	7
III.	Corporation Franchise Tax	31
IV.	Sales and Use Tax	53
V.	Corporation Tax	93
VI.	Bank Tax	115
VII.	Insurance Tax	129
VIII.	Petroleum Business Tax	145
IX.	Real Estate Transfer Tax	159
X.	Cross-Article Tax Expenditures	165
XI.	2005-2006 Executive Budget Tax Expenditure Proposals	169
	Appendix	A-1

## Tables

Table 1	2005 New York State Personal Income Tax Expenditure Estimates	10
Table 2	2005 New York State Article 9-A Tax Expenditure Estimates	33
Table 3	2005 New York State Sales and Use Tax Expenditure Estimates	55
Table 4	2005 New York State Corporation and Utilities (Article 9) Tax Expenditure Estimates	96
Table 5	2005 New York State Bank Tax Expenditure Estimates	117
Table 6	2005 New York State Insurance Tax Expenditure Estimates	132
Table 7	2005 New York State Petroleum Business Tax Expenditure Estimates	148
Table 8	2005 New York State Real Estate Transfer Tax Expenditure Estimates	160
Table 9	2005 Selected Cross-Article Tax Expenditure Estimates	165
Table 10	2005-2006 Executive Budget Proposals Affecting Tax Expenditures	169



## INTRODUCTION

The Division of the Budget and the Department of Taxation and Finance prepared this fifteenth annual New York State Tax Expenditure Report. This report contains information on historical and current taxable year tax expenditures associated with the personal income tax (Article 22), the franchise tax on business corporations (Article 9-A), the sales and compensating use tax (Article 28), the corporation and utility (Article 9) taxes (other than the organization tax under Section 180 of the Tax Law which the Department of State administers), the bank tax (Article 32), the insurance tax (Article 33), the petroleum business tax (Article 13-A), and the real estate transfer tax (Article 31).

Sections II through IX of this report contain the expenditures for each of the covered taxes. Section X highlights the tax expenditures that span more than one tax article. Finally, Section XI analyzes the tax expenditure proposals contained in the Governor's 2005-2006 Executive Budget.

### **Defining Tax Expenditures**

This report defines tax expenditures as features of the Tax Law that by exclusion, exemption, deduction, allowance, credit, deferral, preferential tax rate, or other statutory device reduce the amount of a taxpayer's liability 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." Nonetheless, significant differences of opinion exist (on both the State and federal levels) regarding the proper definition of a tax expenditure.

For example, statutory devices that may reduce a taxpayer's liability (but which are not considered tax expenditures in this report), are the provisions allowing for the formation of limited liability companies (LLCs). Basically, LLCs provide liability protection to their members without the entity level tax that corporations pay to achieve the same limited liability protection. Although a per-partner fee applies, in certain instances a revenue loss could occur. Many new firms could choose this form of business. Existing corporations became LLCs, in part, to reduce their tax liability.

This report does not propose to offer an official list of tax expenditures. Rather, it describes as many statutory "tax expenditures" as possible and provides revenue estimates for as many provisions as can be isolated and measured.

### **Technical Issues**

The purpose of the annual report is to provide estimates of the cost of tax expenditures. Tax expenditure cost refers to the estimated amount by which a tax expenditure reduces taxpayers' liabilities to the State for a taxable year or on a calendar year basis if a taxable year basis is not appropriate. The estimates generally cover five historical years. These estimates

## INTRODUCTION

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may differ from those published in previous reports because improved information on which to base the estimate has become available. Finally, the forecast projects the cost of the tax expenditure to the current calendar year.

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

	<u>Historical</u>	<u>Forecast</u>
Income Tax	1998, 1999, 2000, 2001, 2002	2005
Corporation Franchise Tax*	1997, 1998, 1999, 2000, 2001	2005
Sales Tax	1998, 1999, 2000, 2001, 2002	2005
Corporation & Utilities	1997, 1998, 1999, 2000, 2001	2005
Bank Tax*	1997, 1998, 1999, 2000, 2001	2005
Insurance Tax*	1997, 1998, 1999, 2000, 2001	2005
Petroleum Business Tax	1999, 2000, 2001, 2002, 2003	2005
Real Estate Transfer Tax	1998-1999, 1999-2000, 2000-2001, 2001-02, 2002-03	2005-2006

\* Tax year ending in December for calendar year filers and ending in January through November in the subsequent year for fiscal year filers.

The estimates represent the foregone revenue associated with each tax expenditure. This report defines foregone revenue as the difference between tax liability under the existing tax structure and the tax liability under an alternative tax regime. The alternative regime assumes that the particular tax provision does not exist in the Tax Law. Although conceptually straightforward, this approach involves implicit assumptions that influence the interpretation of the results.

Technical measurement problems prevent the summing of tax expenditures and the drawing of any precise conclusions about their aggregate value. The estimation process cannot always accurately capture these problems, which include the interaction of different tax provisions. In addition, tax expenditure estimates do not take into account how the elimination of a tax provision might alter taxpayer behavior. For example, the net revenue loss from the investment tax credit does not take into account the change in investment behavior that could result from the elimination of the investment tax credit. These important limitations of the methodology must be kept in mind when reviewing the cost of tax expenditures.

## INTRODUCTION

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In addition to the estimated cost of each tax expenditure, this report presents information about each relevant provision. This includes the legal citation from either the New York Tax Law or the Internal Revenue Code (IRC); enactment dates; termination dates, if applicable; major changes in the provisions between the historical years and the present time; and a brief description of each provision as it existed in the historical years. These descriptions provide only an overview and not detailed technical explanations of the provisions.

This report does not provide a detailed legislative history of each item. The description notes if a provision will terminate either by repeal or sunset. Repealing a provision means that legislation removed the section from the Tax Law or Internal Revenue Code. Sunsetting refers to the termination of the effect of certain provisions as of a date specified in the law.

### **Federal Exclusions**

The personal income (Article 22), corporate franchise (9-A), bank (Article 32) and life insurance (Article 33) taxes are all based, to some extent, on the federal tax structure. There are provisions in federal law which 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.

### **Changes to the Report**

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:

- Three new credits are available under the Brownfields Cleanup Program. The brownfield redevelopment credit, the remediated brownfield credit for real property taxes, and the environmental remediation insurance credit are all available to taxpayers under Articles 9, 9-A, 22, 32, and 33.
- An exclusion from federal adjusted gross income is available under the personal income tax for compensation for service in a New York state organized militia.
- The Empire State film production credit is available to Article 9-A and 22 taxpayers who meet a certain threshold level of film and television production activity in New York State.

## INTRODUCTION

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- A new PBT exemption for qualified airlines servicing four or more cities in the state with direct non-stop flights is effective June 1, 2005.
- A new sales and use tax exemption for services to private aircraft is effective December 1, 2004.
- A new sales and use tax exemption for amusement park admissions charges is effective July 27, 2004.
- A new credit is available under the sales and use tax for vessel operators providing local transit service.

### Modifications:

- The 2001 tax year is the first year for which data is available for the following tax credits: Qualified Empire Zone Enterprise credits; the credit for purchase of an automated external defibrillator; the low-income housing credit; and the green building credit.
- The amount of aggregate credit available under the low-income housing credit was increased from \$40 million to \$60 million. The credit is taken at ten percent per year over ten years.
- The amount of the long term care insurance credit was increased from ten percent of premiums paid during the taxable year to twenty percent of premiums paid during the taxable year effective for tax year 2004. Tax year 2002 represents the first year income tax data is available to estimate this provision.
- Sales tax is added to the "Taxes Paid" itemized deduction, under the income tax effective for tax year 2004.

### 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.

## INTRODUCTION

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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. Earlier Tax Department discussion papers contain a complete analysis of the reliability classification system.

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 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.



## PERSONAL INCOME TAX

This section provides revenue estimates of tax expenditures for 40 provisions of the 2005 New York State personal income tax. Tax expenditures are first estimated for the 2002 tax year (the latest year for which historical tax data are available) and then projected to the 2005 tax year. This section also provides historical estimates from 1998 through 2001 for comparison. Table 1 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 2002 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 is 7.7 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

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The descriptive paragraph on each income tax expenditure summarizes the provision as it appears in the Tax Law in effect as of January 1, 2005. It also includes any differences applicable between the 2002 and 2005 tax years. The listing does not include provisions repealed or sunsetted prior to 2005.

### Data Sources

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

- 2002 Personal Income Tax Study File - A data file based on a statistical sample of approximately 113,000 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.
- Personal Income Tax Clearing House (PITCH) - A data file containing income tax return information as data entered by bank sources, Tax Department data-entry staff, and taxpayers/preparers via electronic media and includes data from returns processed to date. These data do not undergo the rigorous control process and double-checking procedures like those used in the 2002 personal income tax study. The PITCH data are extrapolated to 2005 together with the personal income tax study.
- 2002 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 over 15,000 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 2005 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 2005-2009." The JCT publishes this pamphlet annually. Historical estimates are based on prior reports.

**Methodology**

For estimating tax expenditures in 2005, components of income, modifications, and itemized deductions on the 2002 sample return file are extrapolated to 2005 levels using growth assumptions based on the economic forecast provided by the Division of the Budget during December 2004. This data file is then used with the personal income tax model revised to simulate 2005 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 1**  
**2005 New York State Personal Income Tax Expenditure Estimates**  
**(2002 Total Personal Income Tax Liability = \$20,731 Million)**  
**(Millions of Dollars)**

Tax Item	History					Forecast 2005	Reliability Level
	1998	1999	2000	2001	2002		
<b>New York Modifications</b>							
1. Pension/Annuity Exclusion	317.6	365.0	390.5	368.7	349.1	410.0	1
2. Exclusion of Social Security and Tier I Railroad Retirement Benefits (Taxable Social Security for Federal Purposes but New York Exempt)	283.3	309.5	394.9	379.8	363.8	452.0	1
3. Exclusion of Interest on U.S. Obligations	184.9	173.0	203.8	191.5	123.6	162.0	1
4. Exclusion of Pensions, Annuities, Interest and Lump Sum Payments Received by New York State and Municipal Retirees	293.4	314.1	372.3	405.3	427.7	500.0	1
5. Exclusion of Pensions, Annuities, Interest and Lump Sum Payments by Federal Retirement Systems	64.8	68.9	79.0	85.4	89.2	106.0	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	6.0	12.0	17.0	15.6	23.4	31.0	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 I/	--	--	--	--	--	*	
<b>New York Itemized Deductions and Exemptions</b>							
14. Value of Standard Deductions for Those Returns with Itemized Deductions in Excess of Standard Deduction	1,016.9	1,069.7	1,179.9	1,235.0	1,286.0	1,406.0	1
15. Itemized Deductions							
a. Medical/Dental Deduction	51.9	56.1	67.2	74.4	74.9	83.0	1
b. Interest Deduction	571.0	615.2	724.1	753.0	732.0	791.0	1
c. Charitable Contribution Deduction	315.3	379.7	447.9	438.5	424.1	470.0	1
d. Casualty/Theft Deduction	3.0	3.6	3.9	4.1	3.6	4.2	1

PERSONAL INCOME TAX

	History				Forecast				Reliability Level
	1998	1999	2000	2001	2002	2005			
e. Taxes Paid Deduction	353.6	375.2	416.7	430.2	444.0	490.0		1	
f. Miscellaneous Deductions Subject to 2 Percent of AGI Limitation	188.4	208.6	250.0	281.0	299.0	325.0		1	
g. Other Miscellaneous Deductions	16.8	21.8	21.3	22.8	26.3	30.0		1	
Dependent Exemptions	259.5	266.2	279.2	280.5	285.0	303.0		1	
<b>New York Credits</b>									
17. Household Credit	107.2	106.5	107.2	104.8	101.8	93.0		1	
18. Earned Income Credit	346.0	360.8	423.1	500.9	590.9	745.0		1	
19. Real Property Tax Credit (Circuit Breaker)	39.0	34.0	32.1	31.0	31.2	30.0		1	
20. Farmers' School Property Tax Credit	18.5	19.0	19.6	20.9	21.8	25.0		2	
21. Investment Credit	22.5	24.7	25.3	33.1	27.9	28.0		2	
22. Investment Credit for Financial Securities Industry	1.2	2.8	0.7	1.0	0.5	0.5		2	
23. Child and Dependent Care Credit	76.8	139.4	201.6	208.5	228.7	355.0		1	
24. Accumulation Distribution Credit	0.5	0.1	0.2	0.1	*	*		2	
25. Empire Zone and Zone Equivalent Areas Tax Credits	8.5	10.8	12.5	38.6	51.0	95.7		2	
26. Special Additional Mortgage Recording Tax Credit Carryforward	3.2	1.5	2.1	3.7	2.3	2.3		2	
27. Solar Electricity Generating Equipment Credit	0.3	0.2	0.2	0.1	0.5	0.8		2	
28. Credit for Employment of Persons with Disabilities	*	0.2	0.2	0.1	0.1	0.1		2	
29. Emerging Technology Companies Credits	--	--	0.3	0.9	0.9	1.1		2	
30. College Tuition Credit 2/	--	--	--	18.3	61.7	220.0		1	
31. Credit for Purchase of an Automated External Defibrillator	--	--	--	*	*	*		2	
32. Green Building Credit	--	--	--	*	0.3	0.9		2	
33. Low Income Housing Credit	--	--	*	*	*	*		2	
34. Credit for Transportation Improvement Contributions	--	--	--	0.0	0.0	0.0		2	
35. Qualified Empire Zone Credits	--	--	--	16.9	30.1	50.0		2	
36. Industrial or Manufacturing Business Credit	--	--	1.3	2.7	2.5	2.0		2	
37. Long-Term Care Insurance Credit	--	--	--	--	18.9	60.0		2	
38. Fuel Cell Electricity Generating Equipment Credit	--	--	--	--	--	*		4	
39. Empire State Film Production Credit 1/	--	--	--	--	--	25.0		4	
40. Brownfields Tax Credits 1/	--	--	--	--	--	*		4	

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/ Estimate includes value of itemized deduction and credit.  
\* Less than \$0.1 million.  
-- The tax expenditure was not applicable for these years.  
N/A No data available

## PERSONAL INCOME TAX

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### 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:** 2002: \$349.1 million - 2005: \$410.0 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:** 2002: \$363.8 million - 2005: \$452.0 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:** 2002: \$123.6 million - 2005: \$162.0 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:** 2002: \$427.7 million - 2005: \$500.0 million

**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:** 2002: \$89.2 million - 2005: \$106.0 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

## PERSONAL INCOME TAX

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**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:** 2002: Minimal - 2005: 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:** 2002: \$23.4 million - 2005: \$31.0 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:** 2002: Minimal - 2005: Minimal

**Data Source:** Industry Data

**Reliability:** Level 4

**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:** 2002: Minimal - 2005: 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)

**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.

**Estimates:** 2002: Not applicable - 2005: 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 deduction, and all taxpayers are allowed exemptions for dependents who qualify for the federal exemption.

**14. 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:** 2002: \$1,286.0 million - 2005: \$1,406.0 million

**Data Source:** PIT Simulation Model

**Reliability:** Level 1

## PERSONAL INCOME TAX

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### 15. 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 maximum percentage of disallowed deductions equals 50 percent for all taxpayers with NYAGI above \$525,000.

The federal itemized deduction limitation further reduces the value of the deductions. This limitation, to which New York mostly conforms, requires taxpayers to reduce their itemized deductions (other than medical expenses, gambling losses, casualty and theft and investment interest) by three percent of the amount by which their 2005 FAGI exceeds \$145,950 (\$72,975 for married filing separately). This threshold is indexed annually for inflation. Deductions subject to the limitation cannot be reduced by more than 80 percent. Because the interaction of the different itemized deductions cannot be accurately captured in the estimation process, the effect of the federal limitation cannot be itemized by deduction type.

#### 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:** 2002: \$74.9 million - 2005: \$83.0 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:** 2002: \$732.0 million - 2005: \$791.0 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:** 2002: \$424.1 million - 2005: \$470.0 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:** 2002: \$3.6 million - 2005: \$4.2 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, 2004 and expiring at the end of tax year 2005 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. Taxpayers who elected to deduct State and local sales and use taxes for federal tax purposes, in lieu of the deduction for State and local income taxes, may deduct those sales and use taxes paid during the year.  
**Estimates:** 2002: \$440.0 million - 2005: \$490.0 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, 198 (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

## PERSONAL INCOME TAX

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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:** 2002: \$299.0 million - 2005: \$325.0 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:** 2002: \$26.3 million - 2005: \$30.0 million

**Data Source:** PIT Simulation Model

**Reliability:** Level 1

### 16. Dependent Exemptions

**Citation:** Section 616

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

**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:** 2002: \$285.0 million - 2005: \$303.0 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.

### 17. Household Credit

**Citation:** Section 606(b)

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

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

## PERSONAL INCOME TAX

Single Filing Status			All Other Filing Statuses			
<u>Over</u>	But Not <u>Over</u>	The Credit <u>Is</u>	<u>Over</u>	But Not <u>Over</u>	The Credit <u>Is</u> +	For Each Federal <u>Exemption</u>
\$ 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:** 2002: \$101.8 million - 2005: \$93.0 million

**Data Source:** PIT Simulation Model

**Reliability:** Level 1

### 18. Earned Income Credit

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

**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:

<u>1994</u>	<u>1995</u>	<u>1996-1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
7.5%	10%	20%	22.5%	25%	27.5%

The credit is fully refundable to residents, nonrefundable to nonresidents, and partly refundable to part-year residents. The table below shows income eligibility parameters and maximum amounts for the 2005 tax year:

	Maximum Creditable <u>Earnings</u>	Federal Credit <u>Rate</u>	Maximum State <u>Credit</u>	Income for Start of Phase-out <u>(MFJ)*</u>	<u>Others</u>	Income Cut-off <u>(MFJ)*</u>	<u>Others</u>
Taxpayers With 1 Child	\$7,830	34%	\$799	\$16,370	\$14,370	\$33,030	\$31,030
Taxpayers With 2 or More Children	\$11,000	40%	\$1,320	\$16,370	\$14,370	\$37,263	\$35,263
Taxpayers Age 25-64 Without Children	\$5,220	7.65%	\$120	\$8,530	\$6,530	\$13,750	\$11,750

\* Earned income or federal adjusted gross income, whichever is greater.

## PERSONAL INCOME TAX

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

**Estimates:** 2002: \$590.9 million - 2005: \$745.0 million

**Data Source:** Earned Income Tax Credit Study

**Reliability:** Level 1

### 19. Real Property Tax Credit (Circuit Breaker)

**Citation:** Section 606(e)

**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. The credit is refundable.

**Estimates:** 2002: \$31.2 million - 2005: \$30.0 million

**Data Source:** Real Property Tax Credit Study

**Reliability:** Level 1

### 20. Farmers' School Property Tax Credit

**Citation:** Section 606(n)

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

**Description:** Taxpayers primarily engaged in farming may claim a refundable credit equal to 100 percent of total school property taxes paid on qualified New York agricultural property up to 250 acres, and 50 percent of the school taxes paid on acres in excess of 250. 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 phases out for taxpayers with NYAGI in excess of \$100,000, after subtracting principal on farm indebtedness. 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:** 2002: \$21.8 million - 2005: \$25.0 million

**Data Source:** Personal Income Tax Clearing House data file

**Reliability:** Level 2

### 21. Investment Credit

**Citation:** Sections 606(a), a-1

**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' investments in 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 expenditure 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 tax 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,

or

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,

or

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, only excess credit may be received as a refund.

An 8 percent credit 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:** 2002: \$27.9 million - 2005: \$28.0 million

**Data Source:** Personal Income Tax Clearing House data file

**Reliability:** Level 2

## **22. Investment Credit for Financial Securities Industry**

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

**Effective Date:** Effective for property placed in service on or after October 1, 1998, and before October 1, 2008

**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);

## PERSONAL INCOME TAX

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- 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, or national securities exchange or board of trade, or property leased by a taxpayer to an affiliated regulated broker, dealer, 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 all or substantially all 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.

**Estimates:** 2002: \$0.5 million - 2005: \$0.5 million

**Data Source:** Personal Income Tax Clearing House data file

**Reliability:** Level 2

### 23. Child and Dependent Care Credit

**Citation:** Section 606(c)

**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 rates schedule was enriched. 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 is refundable for New York State residents, and 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

## PERSONAL INCOME TAX

For tax years before 2000, different credit percentages and incomes applied, as shown below:

	<u>Tax Year</u>					
	Before <u>1996</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	After <u>1999</u>
Maximum Percentage	20%	30%	60%	100%	100%	110%
NYAGI Range of Phase- Down to 20%	NA	10,000 - 14,000	10,000 - 14,000	17,000 - 30,000	35,000 - 50,000	50,000 - 65,000
Refundability	No	Yes	Yes	Yes	Yes	Yes

**Estimates:** 2002: \$228.7 million - 2005: \$355.0 million

**Data Source:** PIT Simulation Model

**Reliability:** Level 1

### 24. Accumulation Distribution Credit

**Citation:** Sections 621 and 635

**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:** 2002: Minimal - 2005: Minimal

**Data Source:** Personal Income Tax Clearing House data file

**Reliability:** Level 2

### 25. Empire Zone and Zone Equivalent Areas Tax Credits

**Citation:** Sections 606(j), (j-1), (k), (l)

**Effective Date:** Effective for tax years beginning on or after January 1, 1986. ("Empire Zone" renamed from "Economic Development Zone" effective May 15, 2000.) However, the methods for computing the wage tax credit and the capital corporation credit were amended for tax years beginning on or after January 1, 1994. Amendments providing that taxpayers located in Zone Equivalent Areas (ZEAs) can take a modified Empire Zone wage tax credit were effective January 1, 1994.

**Description:** Taxpayers may qualify for credit for investments in zone capital corporations, 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 \$300,000 and cannot exceed one half of the taxpayer's pre-credit tax.

In addition, effective for property placed in service on or after January 1, 1997, an employment incentive credit applies. This credit applies in addition to the regular Empire Zone ITC, for taxpayers that increase their average number of employees by at least one percentage point over the preceding base year. This credit is 50 percent refundable to new businesses.

A taxpayer may also claim a wage tax credit for doing business and creating jobs

## PERSONAL INCOME TAX

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in economic development 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 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. Taxpayers must take the credit during the five year period following designation as a ZEA. The credit equals \$3,000 times the average number of targeted employees and \$1,500 times the average number of nontargeted employees hired during the first year. The total wage tax credit cannot exceed 50 percent of tax due before credits.

Taxpayers may also 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 economic development zone.

Qualifying new businesses may request a refund of 50 percent of the unused wage (both Empire Zone and ZEA) and investment credits in lieu of carrying those credits over to future tax years. Unused capital credits may be carried over to future tax years.

**Estimates:** 2002: \$51.0 million - 2005: \$95.7 million

**Data Source:** Personal Income Tax Clearing House data file

**Reliability:** Level 2

### 26. Special Additional Mortgage Recording Tax Credit Carryforward

**Citation:** Section 606(I)

**Effective Date:** The credit is effective for taxable years beginning after December 31, 1978. Carryforward applies for tax years beginning after December 31, 1993

**Description:** Prior to tax year 1994, S corporation shareholders may claim a credit equal to their prorata share of the special additional mortgage recording tax paid by the corporation pursuant to Section 253(1-a) of Article 11 of the New York Tax Law. The amount of any credit which exceeded tax liability could be carried forward and used in subsequent years. Beginning after 1993, the credit is available only to the S corporation, not at the shareholder level. However, shareholders may claim credits earned, but not used, before tax year 1994.

**Estimates:** 2002: \$2.3 million - 2005: \$2.3 million

**Data Source:** Personal Income Tax Clearing House data file

**Reliability:** Level 2

### 27. Solar Electricity Generating Equipment Credit

**Citation:** Section 606(g-1)

**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 electric generating equipment expenditures, which are expenditures for the purchase and installation of equipment used at a principal residence in New York, and meeting requirements set forth in Section 66-j of the Public Service Law. Qualified expenditures

are capped at the product of 1) \$6.00 and 2) the number of watts in the rated capacity of the solar electric generating equipment, up to 10,000 watts. However, the maximum credit is \$3,750. If the credit exceeds tax liability, taxpayers may carry over the credit for five years.

Taxpayers sharing a principal residence may prorate the credit between them. In addition, interest and other finance charges, and government grants, are not included in qualified expenditures.

**Estimates:** 2002: \$0.5 million - 2005: \$0.8 million

**Data Source:** Personal Income Tax Clearing House data file

**Reliability:** Level 2

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

**Citation:** Section 606(o)

**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. Taxpayers may carry over unused credit amounts to subsequent tax years.

**Estimates:** 2002: \$0.1 million - 2005: \$0.1 million

**Data Source:** Personal Income Tax Clearing House data file

**Reliability:** Level 2

**29. Emerging Technology Companies Credits**

**Citation:** Sections 606(q), (r)

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

**Description:** The New York State Emerging Industry Jobs Act provides tax credits for qualified emerging technology companies that create new jobs, or for certain corporate taxpayers that invest in emerging technology companies located in New York State. The credits include an employment tax credit of \$1,000 for each individual employed over a base year level and a capital tax credit that varies in amount depending on how long the investment is held.

**Estimates:** 2002: \$0.9 million - 2005: \$1.1 million

**Data Source:** Personal Income Tax Clearing House data file

**Reliability:** Level 2

**30. College Tuition Credit**

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

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

**Description:** A refundable 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.

## PERSONAL INCOME TAX

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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:** 2002: \$61.7 million - 2005: \$220.0 million

**Data Source:** PIT Simulation Model

**Reliability:** Level 1

### 31. Credit for Purchase of an Automated External Defibrillator

**Citation:** Section 606(s)

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

**Estimates:** 2002: Minimal - 2005: Minimal

**Data Source:** Personal Income Tax Clearing House data file

**Reliability:** Level 1

### 32. Green Building Credit

**Citation:** Sections 19, 606(y)

**Effective Date:** Effective for costs incurred on or after June 1, 1999 and certified by the Department of Environmental Conservation prior to 2004. The credit is allowable for tax years 2001 through 2009.

**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.

**Estimates:** 2002: \$0.3 million - 2005: \$0.9 million

**Data Source:** Personal Income Tax Clearing House data file

**Reliability:** Level 2

### 33. Low Income Housing Credit

**Citation:** Sections 18, 606(x)

**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. Unused credits may be carried forward indefinitely. The total amount of credit available is \$60 million, or \$6 million each year.

**Estimates:** 2002: Minimal - 2005: Minimal

**Data Source:** Personal Income Tax Clearing House data file

**Reliability:** Level 2

**34. Credit for Transportation Improvement Contributions**

**Citation:** Sections 20, 606(z)

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

**Description:** Taxpayers may claim a credit for qualified transportation improvement contributions. The taxpayer must make a certified contribution of at least \$10 million to a qualified transportation improvement project in a prior tax year. The projects must enhance a qualified business facility, and may include the construction or improvement of transportation infrastructure and related facilities and systems, including bridges, ramps, highways, and mass transit facilities. In addition, the taxpayer must create, by the third full tax year after the tax year during which the contribution was made, more than 1,000 jobs in connection with the qualified business facility. The credit equals 6 percent of the taxpayer's increased qualified business facility payroll for the tax year. Recapture applies if, after the third full tax year after the contribution is made, the employment increase test is not met.

**Estimates:** 2002: \$0.0 million - 2005: \$0.0 million

**Data Source:** Personal Income Tax Clearing House data file

**Reliability:** Level 2

**35. Qualified Empire Zone Credits**

**Citation:** Sections 15, 16, 606(bb), (cc)

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

**Description:** Taxpayers may claim credits under the "The Empire Zones Program Act." These include Qualified Empire Zone Enterprise (QEZE) tax credits for real property taxes and tax reduction credits. Qualified empire zone enterprises include business enterprises certified as EZ businesses prior to July 1, 2005. Allowances of credit are for taxpayers that are sole proprietors of a qualified Empire Zone enterprise, or a member of a partnership which is a QEZE. The QEZE credit for real property taxes and the QEZE tax reduction credit may be claimed for 15 years and the credit for real property taxes is refundable.

**Estimates:** 2002: \$30.1 million - 2005: \$50.0 million

**Data Source:** Personal Income Tax Clearing House data file

**Reliability:** Level 2

**36. Industrial or Manufacturing Business Credit**

**Citation:** Sections 14-a, 606(t-1)

**Effective Date:** Effective for tax years ending after January 1, 2000 and prior to January 1, 2007

## PERSONAL INCOME TAX

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**Description:** Industrial or manufacturing businesses (IMBs), sole proprietors of IMBs, and partners in an IMB are allowed a credit for taxes paid or passed through to the IMB under the provisions of Tax Law Sections 186-a, 186-c, 189 and 189-a of Article 9 for gas, electricity, steam, water or refrigeration, or the services of providing such, where they are used or consumed in New York.

Businesses qualifying for the IMB credit include any that meet the definition of such businesses under the ITC. That is, any business which during the taxable year is principally engaged in: manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture, commercial fishing or research and development; or is an industrial waste treatment facility or an air pollution control facility; or is principally engaged in a combination of such activities.

**Estimates:** 2002: \$2.5 million - 2005: \$2.0 million

**Data Source:** Personal Income Tax Clearing House data file

**Reliability:** Level 2

### 37. Long-Term Care Insurance Credit

**Citation:** Section 606(aa)

**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. Unused credit may be carried forward to future tax years.

**Estimates:** 2002: \$18.9 million - 2005: \$60.0 million

**Data Source:** Personal Income Tax Clearing House data file

**Reliability:** Level 2

### 38. Fuel Cell Electricity Generating Equipment Credit

**Citation:** Section 606(g-2)

**Effective Date:** Effective for tax years beginning on or after January 1, 2003

**Description:** Taxpayers may claim a credit equal to 20 percent of qualified fuel cell electric generating equipment expenditures. Qualifying expenditures are associated with the purchase of on-site electricity generation systems utilizing proton exchange membrane fuel cells of up to 25 kilowatts of rated capacity, and used in the taxpayer's principal residence in New York. The maximum credit is \$1,500, and taxpayers may carry over any unused credit for five years.

**Estimates:** 2002: Not applicable - 2005: Minimal

**Data Source:** Industry Data

**Reliability:** Level 4

### 39. Empire State Film Production Credit

**Citation:** Sections 24, 606(gg)

**Effective Date:** Effective for taxable years beginning on or after January 1, 2004. Expires on August 20, 2008.

**Description:** Taxpayers may claim a tax credit for film production activity in New York State. If the taxpayer satisfies certain criteria regarding a threshold level of film production activity in the State, then the credit equals ten percent of qualified production costs incurred in the production of films and certain television shows. Fifty percent of

excess credit is refundable, and any credit carried forward is fully refundable in the following year. The aggregate amount of credit available in any year equals \$25 million. Credit is awarded on a first come - first served basis with application made to the New York State Governor's Office for Motion Picture and Television Development. Applications received after the full allocation of credit will be treated as having applied first in the following year.

**Estimates:** 2002: Not applicable - 2005: \$25.0 million

**Data Sources:** Empire State Development Corporation, Industry Data

**Reliability:** Level 4

**40. Brownfields Tax Credits**

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

**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. 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 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, 2006.

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:** 2002: Not Applicable - 2005: Minimal

**Data Source:** New York State Department of Environmental Conservation

**Reliability:** Level 4



## CORPORATION FRANCHISE TAX

This section of the report provides tax expenditure estimates for 29 separate provisions of the corporation franchise tax on general business corporations. It contains estimates of the tax expenditures for tax years 1997 through 2001 (2001 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, 2005. The estimates are also extrapolated to the 2005 tax year. The tax year refers to both the 2005 calendar year and fiscal years ending in 2006. Table 2 summarizes the tax expenditure estimates. It also includes total Article 9-A corporate franchise tax liability for the 2001 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 both 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:

- 7.5 percent of allocated entire net income; or
- 2.5 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 0.178 percent tax rate applies to allocated capital, and the maximum tax under this base is capped at \$350,000.

## **CORPORATION FRANCHISE TAX**

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The fixed dollar minimum ranges from \$100 to \$1,500 depending on the gross payroll for the taxable year. However, for tax years beginning in 2004 and 2005, the \$1,500 amount has been replaced by two amounts, \$5,000 and \$10,000, depending on the gross payroll. Taxpayers with gross payroll of \$500,000 or less pay \$100. Prior to the law change, taxpayers with gross payroll between \$500,000 and \$250,001 paid \$225.

### **Data Sources**

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

- 2001 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 2001 to 2005 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.

**Table 2**  
**2005 New York State Article 9-A Tax Expenditure Estimates**  
**(2001 Total Corporate Franchise Tax Liability = \$1,255.0 Million)**  
**(Millions of Dollars)**

Tax Law	History					Forecast 2005	Reliability Level
	1997	1998	1999	2000	2001		
<b>New York Modifications to Federal Taxable Income</b>							
1. Exclusion of Interest, Dividends and Capital Gains from Subsidiary Capital	1,141.7	1,423.3	1,560.0	2,585.7	2,290.0	2,149.0	1
2. Deduction of Fifty Percent of Dividends from Non-Subsidiary Corporations	19.8	21.9	45.5	53.6	36.4	35.4	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	*	*	*	*	*	*	2
<b>Allocation Percentages</b>							
6. Optional Treatment of Cash	4.1	3.9	4.9	6.3	5.0	5.0	1
7. Exclusion of Wages of Executive Officers in Allocation Percentage	N/A	N/A	N/A	N/A	N/A	N/A	5
<b>Credits</b>							
8. Investment and Retail Enterprise Tax Credit, Employment Incentive Credit and Rehabilitation Credit for Historic Barns	142.1	119.5	101.5	110.8	94.9	75.6	1
9. Investment Tax Credit for the Financial Services Industry	--	6.3	56.7	30.8	17.4	17.3	1
10. Special Additional Mortgage Recording Tax Credit	0.3	0.7	0.7	0.8	0.8	0.8	1
11. Empire Zone and QEZE Credits							
a. Empire Zone and Zone Equivalent Areas Tax Credits	6.3	36.5	50.9	14.2	79.6	98.0	1
b. Qualified Empire Zone Enterprise Tax Credits	--	--	--	--	45.1	98.3	1
12. Credit for Servicing SONYMA Mortgages	0.0	*	*	0.0	0.0	0.0	1
13. Farmers' School Property Tax Credit	*	*	*	*	0.1	*	1
14. Credit for Employment of Persons with Disabilities	--	*	0.2	0.2	0.2	0.1	1
15. Emerging Technology Companies Credits	--	--	*	0.1	0.1	0.1	1
16. Industrial or Manufacturing Business Credit (IMB)	--	--	0.4	5.4	4.2	3.1	1
17. Credit for Transportation Improvement Contributions	--	--	--	0.0	0.0	0.0	1
18. Low Income Housing Credit	--	--	--	0.0	*	6.0	1

# CORPORATION FRANCHISE TAX

	History					Forecast 2005	Reliability Level
	1997	1998	1999	2000	2001		
19. Credit for Purchase of an Automated External Defibrillator	--	--	--	--	*	*	1
20. Green Building Credit	--	--	--	--	0.0	5.0	1
21. Long-Term Care Insurance Credit	--	--	--	--	--	*	4
22. Brownfields Tax Credits 1/	--	--	--	--	--	61.5	4
23. Empire State Film Production Credit 1/	--	--	--	--	--	*	4
<b>Corporate Exemptions</b>							
24. Exempt Companies	N/A	N/A	N/A	N/A	N/A	N/A	5
25. Companies Whose Income "Passes Through" to Shareholders							
a. Real Estate Investment Trusts (REITs)	N/A	N/A	N/A	N/A	N/A	N/A	5
b. Regulated Investment Companies (RICs)	N/A	N/A	N/A	N/A	N/A	N/A	5
26. Businesses Using Fulfillment Services	N/A	N/A	N/A	N/A	N/A	N/A	5
27. Corporate Parent with Bank and Insurance Subsidiaries and Gas and Electric Subsidiaries	--	--	--	10.1	3.2	17.0	2
28. Homeowners Association Exemption from Fixed Dollar Minimum Tax	--	--	--	*	*	*	2
<b>Preferential Tax Rates</b>							
29. Qualifying Small Business Corporations	11.5	12.3	13.2	12.1	4.5	7.0	1

1/ 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.

\* 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 (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:** Taxpayers may subtract dividends, interest, and gains derived from subsidiary corporations from federal taxable income in the computation of New York entire net income.

**Estimates:** 2001: \$2,290 million - 2005: \$2,149.0 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 from federal taxable income 50 percent of dividend income received from non-subsidiary corporations (other than DISCs). For tax years beginning on or after January 1, 1989, New York conforms with IRC Section 246(c); stock must be held for 45 days or more to qualify for the deduction.

**Estimates:** 2001: \$36.4 million - 2005: \$35.4 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 alternative 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

## CORPORATION FRANCHISE TAX

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received from school districts and nonprofit religious, charitable or 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:** Foreign airlines may exclude from entire net income 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. Certain foreign airlines may exclude from the capital based tax business and investment assets connected with such exempt income. These tax benefits apply provided the "home country" provides similar treatment to United States airlines.

**Estimates:** 2001: Minimal - 2005: Minimal

**Data Source:** Research File

**Reliability:** Level 2

### 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 that 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:** 2001: \$5.0 million - 2005: \$5.0 million

**Data Source:** Corporation Franchise Tax Study File

**Reliability:** Level 1

### 7. Exclusion of Wages of Executive Officers in Allocation Percentage

**Citation:** Section 210(3)(a)(3)

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

**Description:** The payroll factor portion of a corporation's business allocation percentage does not include wages, salaries and other personal service compensation paid to general executive officers. As a consequence of this exclusion, a taxpayer's

## CORPORATION FRANCHISE TAX

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proportion of total income or capital allocated to New York for State tax purposes could be reduced or increased, depending on the particular corporate circumstances.

**Estimate:** No data available

**Reliability:** Level 5

### 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.

### Description of Credits

The following table presents data for Article 9-A tax credits and their various components. Where applicable, the summary table presents total credit amounts by the following components of each credit:

Credit Earned -	The amount of credit generated in the current tax year.
Credit Claimed -	The amount of credit which the taxpayer could use, including carryforwards from prior years.
Credit Used -	The amount of credit the taxpayer actually used to reduce tax liability.
Credit Carried Forward -	Any unused amount of credit allowed to offset tax liability in future years.

The credit used 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 2001."

## CORPORATION FRANCHISE TAX

Component	Article 9-A Tax Credits in 2001 (\$ in millions)							
	Total Credit Earned	Unused Credit from the Prior Year	Total Credit Available	Recaptured Credit	Credit Claimed	Credit Used	Refundable Credit 1/	Credit Carried Forward
Investment Tax Credit	\$172.8	\$1,492.2	\$1,665.0	\$25.7	\$1,639.3	\$56.9	\$27.2	\$1,555.2
Investment Tax Credit for the Financial Services Industry	83.4	50.5	133.9	2.2	131.6	17.4	0.1	114.1
Special Additional Mortgage Recording Tax Credit	4.0	3.2	7.2	0.0	7.2	0.8	3.6	2.8
EZ/QEZE Credits	239.5	225.9	465.4	6.4	459.0	61.4	58.3	339.3
Mortgage Servicing Tax Credit	0.0	--	0.0	--	0.0	0.0	--	--
Farmers' School Tax Credit	0.7	0.1	0.7	0.0	0.7	0.1	0.5	0.1
Credit for Employment of Persons with Disabilities	0.2	0.1	0.3	0.0	0.3	0.2	0.0	0.2
QETC Employment Credit	1.0	0.6	1.6	0.0	1.6	0.1	0.4	1.1
QETC Capital Tax Credit 2/	d/	d/	d/	d/	d/	d/	d/	d/
IMB Credit	12.2	--	12.2	--	12.2	4.2	8.0	--
Credit for Purchase of an Automated External Defibrillator	0.0	--	0.0	--	0.0	0.0	--	--
Green Building Credit	0.0	0.0	0.0	0.0	0.0	0.0	--	0.0
Low-Income Housing Credit 2/	d/	d/	d/	d/	d/	d/	d/	d/
Total 3/	\$513.8	\$1,772.5	\$2,286.3	\$34.3	\$2,252.0	\$141.2	\$98.1	\$2,012.7

1/ Refundable credit 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/ In 2001, the credit was claimed, but disclosure provisions prohibit listing credit component amounts.

3/ Total row reflects the vertical summation of the individual credit components. Horizontal calculations within the column are not valid.

### 8. Investment Tax Credit, Retail Enterprise Tax Credit, Additional Investment Tax Credit, Employment Incentive Credit, and Rehabilitation Credit for Historic Barns

#### a. Investment Tax Credit (ITC)

**Citation:** Section 210(12)

**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 disqualifies the

## CORPORATION FRANCHISE TAX

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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.

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 or a representative.

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 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 investment tax credit.

For credits generated on or after 1987, the allowable carryforward of the investment tax credit is 15 years. The cut-off of pre-1987 investment tax credit carryforwards was 2002. Companies who have lost ITC credits due to mergers or acquisitions could file amended returns 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. Taxpayers earned \$172.8 million of ITC in 2001.

NOTE: ITC recapture refers to the difference between credit taken and credit allowed for actual use when qualified ITC property is disposed of or ceases to be in qualified use prior to the end of its useful life. Any ITC recapture may be added to the tax otherwise due in the year of disposition or disqualification.

An ITC refund is available to new businesses which are eligible to claim the ITC. They may elect to receive a refund of their unused ITC instead of carrying the credit forward.

### **b. Retail Enterprise Tax Credit**

**Citation:** Section 210(12)(k)

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

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

## CORPORATION FRANCHISE TAX

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### c. **Additional Investment Tax Credit**

**Citation:** Section 210(12-A)

**Effective Date:** Effective for tax years beginning on or after January 1, 1976 and prior to January 1, 1987

**Description:** A corporation, which has been allowed an investment tax credit with respect to property, the acquisition, construction, reconstruction or erection of which commenced after January 1, 1976 and before January 1, 1987, may receive an additional 50 percent of the investment tax credit for each of the three years following the year in which the original credit was allowed provided:

- The taxpayer's average number of employees in New York (except general executive officers) in the subsequent year equals at least 101 percent of the average number of employees in New York (except general executive officers) during the year immediately preceding the year in which the original credit was allowed.
- For tax years 1982 and after, if a taxpayer is not subject to tax and does not have a tax year immediately preceding the tax year in which the investment tax credit is allowed, the additional investment tax credit may be claimed so long as the average number of employees is at least 101 percent of the average number during the tax year immediately preceding the year in which the original credit was allowed.

The additional investment tax credit may not reduce the tax liability to an amount less than the greater of the minimum taxable base or the fixed dollar minimum. The amount of the credit not deducted may be carried over to the following year or years and may be deducted from the taxpayer's tax. The additional investment tax credit may be carried forward to tax years beginning before January 1, 2002.

### d. **Employment Incentive Credit (EIC)**

**Citation:** Section 210(12-D)

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

**Description:** Taxpayers who increase their number of employees may be eligible for the employment incentive tax credit with respect to property acquired or constructed on or after January 1, 1987. This credit applies to property that is eligible for the investment tax credit.

The taxpayer is allowed a credit for each of the two years next succeeding the taxable year for which the investment tax credit is allowed. The credit may be carried forward 15 years. Where an investment tax credit was allowed for a taxable year beginning after 1990, the amount of the credit 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.

Taxpayers earned \$20.9 million in EIC in 2001.

**e. Rehabilitation Credit for Historic Barns**

**Citation:** Section 210(12)(L)

**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 be first placed in service before 1936 and would only qualify for the credit based on substantial rehabilitation. Generally, a building will have been considered substantially rehabilitated only if the expenditures exceed the greater of the adjusted basis of the barn or \$5,000. A taxpayer may not claim both the regular investment tax credit on manufacturing property and the investment tax credit for rehabilitation of historic barns on the same property.

**Estimates:** 2001: \$94.9 million - 2005: \$75.6 million; Information on the ITC and EIC credits used in any year is not separately available

**Data Source:** Corporation Franchise Tax Study File

**Reliability:** Level 1

**9. Investment Tax Credit for the Financial Services Industry**

**Citation:** Section 210(12)

**Effective Date:** Effective for property placed in service on or after October 1, 1998 and before October 1, 2008

**Description:** An investment tax 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.

## CORPORATION FRANCHISE TAX

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Property purchased by a taxpayer affiliated with a regulated broker, dealer, or national securities exchange or board of trade, or property leased by a taxpayer to an affiliated regulated broker, dealer, 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 all or substantially all 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.

**Estimates:** 2001: \$17.4 million - 2005: \$17.3 million

**Data Source:** Corporation Franchise Tax Study File

**Reliability:** Level 1

### 10. Special Additional Mortgage Recording Tax Credit

**Citation:** Section 210(17), (21)

**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. A taxpayer may carry forward any unused mortgage recording tax credit for use in subsequent years.

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 the metropolitan commuter transportation district, recorded on or after May 1, 1987, are ineligible for the credit. The same restriction applies to mortgages on real property in Erie County.

**Estimates:** 2001: \$0.8 million - 2005: \$0.8 million

**Data Source:** Corporation Franchise Tax Study File

**Reliability:** Level 1

### 11. Empire Zone and Qualified Empire Zone Enterprise Credits

#### a. Empire Zone and Zone Equivalent Areas Tax Credits

**Citation:** Section 210(12-B), (12-C), (19), (20)

**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 applied towards 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 your 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.

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 newly hired targeted EZ employees receiving EZ wages multiplied by \$3,000. The corresponding credit amount for other employees equals the product of the average number of newly hired nontargeted EZ employees receiving EZ wages multiplied by \$1,500.

Taxpayers employing individuals in areas that met EZs eligibility criteria but were not so designated - Zone Equivalent Areas (ZEAs) - may take 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 the full term of the credit if claimed prior to expiration. The credit equals \$3,000 multiplied by the average number of targeted employees and \$1,500 multiplied by the average number of nontargeted employees. The total wage tax credit in any tax year cannot exceed 50 percent of tax due (before credits). The EZ-WTC and the ZEA-WTC are available to the taxpayer for five years.

Finally, taxpayers may qualify for a credit for investments in zone capital corporations, direct equity investments in certified zone businesses and contributions to community development projects (EZ capital tax credit). 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 \$300,000 and cannot exceed one half of the taxpayer's pre-credit tax.

Taxpayers may carry unused credits forward indefinitely. "New business" taxpayers may elect to have 50 percent of their unused EZ-WTC or ZEA-WTC or their EZ-ITC for the tax year refunded, in lieu of carryover. The EZ-EIC may be taken against the alternative minimum tax for tax years beginning on or after January 1, 2001.

**Estimates:** 2001: \$79.6 million - 2005: \$98.0 million

**Data Source:** Corporation Franchise Tax Study File

**Reliability:** Level 1

### **b. Qualified Empire Zone Enterprise (QEZE) Credits**

**Citation:** Section 210(27), (28)

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

**Description:** The Empire Zones Program Act created a tax credit for real property taxes and a tax reduction credit for Qualified Empire Zone Enterprises (QEZEs). QEZEs include business enterprises certified as EZ businesses that meet an annual employment test. The QEZE tax credit for real property taxes and the tax reduction credit may be claimed for 15 years. The credit for real property taxes is refundable. The tax reduction credit can be applied against the alternative minimum tax and the fixed dollar minimum, potentially reducing a taxpayer's liability to zero.

**Estimates:** 2001: \$45.1 million - 2005: \$98.3 million

## CORPORATION FRANCHISE TAX

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**Data Source:** Corporation Franchise Tax Study File

**Reliability:** Level 1

### 12. Credit for Servicing SONYMA Mortgages

**Citation:** Section 210(21-a)

**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 that meet 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 their 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 their liability to zero. There is no carryforward of any excess credit.

**Estimates:** 2001: \$0.0 million - 2005: \$0.0 million

**Data Source:** Corporation Franchise Tax Study File

**Reliability:** Level 1

### 13. Farmers' School Property Tax Credit

**Citation:** Section 210(22)

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

**Description:** Eligible farmers may claim a real property tax credit against the corporate franchise tax. The credit is available to an eligible farmer defined as a taxpayer whose gross income from farming is at least 2/3 of total gross income. Eligible farmers also include those who paid school district property taxes on qualified agricultural property pursuant to a land contract. The credit equals the total school property taxes paid on qualified agricultural property in the State up to the 250 acre limitation, and 50 percent of the school taxes paid on acres in excess of the limitation. The credit is phased out for taxpayers with New York adjusted gross income (entire net income) in excess of \$100,000. Recapture provisions provide for an add back of the credit if the taxpayer converts the property to a nonqualified use in the two years subsequent to the first year of the credit.

**Estimates:** 2001: \$0.1 million - 2005: Minimal

**Data Source:** Corporation Franchise Tax Study File

**Reliability:** Level 1

### 14. Credit for Employment of Persons with Disabilities

**Citation:** Section 210(23)

**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. Unused credits are not refundable but they may be carried forward indefinitely.

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:** 2001: \$0.2 million - 2005: \$0.1 million

**Data Source:** Corporation Franchise Tax Study File

**Reliability:** Level 1

### 15. Emerging Technology Companies Credits

**Citation:** Section 210 12(E)(F)

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

**Description:** The New York State Emerging Industry Jobs Act provides corporate franchise tax credits for qualified emerging technology companies that create new jobs, or for certain corporate taxpayers that invest in emerging technology companies located in New York State. The credits include an employment tax credit of \$1,000 for each individual employed over a base year level and a capital tax credit that varies in amount depending on how long the investment is held.

**Estimates:** 2001: \$0.1 million - 2005: \$0.1 million

**Data Source:** Corporation Franchise Tax Study File

**Reliability:** Level 1

### 16. Industrial or Manufacturing Business Credit (IMB)

**Citation:** Section 210(26-a)

**Effective Date:** Effective for tax years ending after January 1, 2000

**Description:** Industrial or manufacturing businesses (IMBs) are allowed a credit to be taken against taxes due under Article 9-A. The credit is the sum of taxes paid during the taxable year, due under the provisions of Tax Law Sections 186-a, 186-c, 189 and 189-a of Article 9 for gas, electricity, steam, water or refrigeration; or the services of providing such, where they are used or consumed in New York. Energy providers will provide taxpayers, on request, information on the amounts due and paid for these taxes during the taxpayer's liability year.

Businesses qualifying for the IMB include those that meet the definition of such businesses under the ITC. That is, any business which during the taxable year is principally engaged in: manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture, commercial fishing or research and development; or is an industrial waste treatment facility or an air pollution control facility; or is principally engaged in a combination of such activities.

**Estimates:** 2001: \$4.2 million - 2005: \$3.1 million

**Data Source:** Corporation Franchise Tax Study File

**Reliability:** Level 1

## CORPORATION FRANCHISE TAX

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### 17. Credit for Transportation Improvement Contributions

**Citation:** Section 210(32)

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

**Description:** The taxpayer must make a certified contribution of at least \$10 million to a qualified transportation improvement project in a prior tax year. The projects must enhance a qualified business facility, and may include the construction or improvement of transportation infrastructure and related facilities and systems, including bridges, ramps, highways, and mass transit facilities. In addition, the taxpayer must create, by the third full tax year after the tax year during which the contribution was made, more than 1,000 jobs in connection with the qualified business facility. The credit is equal to 6 percent of a taxpayer's payroll at the facility in excess of the average base year payroll. After the third full tax year after the contribution is made the employment increase test is not met, then there is a recapture of the credit. The new law applies to contributions made on or after January 1, 2000. In addition to taxpayers under the corporate franchise tax, taxpayers under the personal income tax, the utilities tax, the bank tax and the insurance tax are also eligible for this credit.

**Estimates:** 2001: \$0.0 million - 2005: \$0.0 million

**Data Source:** Research File

**Reliability:** Level 2

### 18. Low-Income Housing Credit

**Citation:** Section 210(30)

**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. Legislation enacted with the SFY 2004-05 budget increased the aggregate credit to \$60 million, or \$6 million each year.

**Estimates:** 2001: Minimal - 2005: \$6.0 million

**Data Source:** Corporation Franchise Tax Study File

**Reliability:** Level 1

### 19. Credit for Purchase of an Automated External Defibrillator

**Citation:** Section 210(25)

**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:** 2001: Minimal - 2005: Minimal

**Data Source:** Corporation Franchise Tax Study File

**Reliability:** Level 1

**20. Green Building Credit**

**Citation:** Section 210(31)

**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. The credit applies to costs incurred on or after June 1, 1999, for property placed in service or that has received a final certificate of occupancy in tax years beginning on or after January 1, 2001.

**Estimates:** 2001: \$0.0 million - 2005: \$5.0 million

**Data Source:** Corporation Franchise Tax Study File

**Reliability:** Level 1

**21. Long-Term Care Insurance Credit**

**Citation:** Section 210(25-a)

**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 two years beginning after 2003. Any unused credit may be carried forward.

**Estimates:** 2001: Not Applicable - 2005: Minimal

**Data Source:** New York State Department of Insurance

**Reliability:** Level 4

**22. Brownfields Tax Credit**

**Citation:** Sections 21, 22, 23, 210 (33) (34) (35)

**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 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, 2006.

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

## CORPORATION FRANCHISE TAX

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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:** 2001: Not Applicable—2005: \$61.5 million

**Data Source:** New York State Department of Environmental Conservation

**Reliability:** Level 4

### 23. Empire State Film Production Tax Credit

**Citation:** Section 210 (36)

**Effective Date:** Effective for tax years beginning on or after January 1, 2004, and expires on August 20, 2008.

**Description:** Taxpayers may claim a tax credit for film production activity in New York State. If the taxpayer satisfies certain criteria regarding a threshold level of film production activity in the State, then the credit equals ten percent of qualified production costs incurred in the production of films and certain television shows. Fifty percent of excess credit is refundable, and any credit carried forward is fully refundable in the following year. The aggregate amount of credit available in any year equals \$25 million. Credit is awarded on a first come - first served basis with application made to the New York State Governor's Office for Motion Picture and Television Development. Applications received after the full allocation of credit will be treated as having applied first in the following year

**Estimates:** 2001: Not Applicable - 2005: Minimal

**Data Source:** Empire State Development Corporation, Industry Representatives

**Reliability:** Level 4

## Corporate Exemptions

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

### 24. 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 are noted in parenthesis 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)
- Beginning January 1, 1995, 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.

**Estimate:** No data available

**Reliability:** Level 5

### 25. Companies Whose Income “Passes Through” to Shareholders

**Citation:** Sections 209(5), (7), (8); 210(1)

**Effective Date:** Effective for tax years beginning after December 31, 1972 (Section 209(5)); after December 31, 1980 (Section 209(7)); after December 31, 1982 (Section 209(8)); after December 31, 1989 (Section 210(1))

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

**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.

**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

## CORPORATION FRANCHISE TAX

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the franchise tax.

**Estimate:** No data available

**Reliability:** Level 5

### 26. **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 this State for the 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.

**Estimates:** No data available

**Reliability:** Level 5

### 27. **Corporate Parent with Bank and Insurance Subsidiaries or with 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:** Allows the corporate parent to exclude from its subsidiary capital tax base, capital attributable to subsidiaries taxable under Article 32 (bank) or 33 (insurance) taxes. Also allows the corporate parent to exclude from its subsidiary capital tax base, capital attributable to gas and electric subsidiaries taxable under Section 186 of the Tax Law. The provision is phased in by allowing a 30 percent exclusion of this subsidiary capital for tax years beginning on or after January 1, 2000 and a 100 percent exclusion for tax years beginning on or after January 1, 2001.

**Estimates:** 2001: \$3.2 million - 2005: \$17.0 million

**Data Source:** Research File

**Reliability:** Level 2

### 28. **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 is amended to exempt qualified homeowners associations which have no homeowner's taxable income from payment of the fixed dollar minimum tax. The associations would still be subject of the other taxable bases under Article 9-A, if applicable. This provision applies to tax years beginning on or after January 1, 2000.

**Estimates:** 2001: Minimal - 2005: Minimal

**Data Source:** Research File

**Reliability:** Level 2

### Preferential Tax Rates

#### 29. Qualifying Small Business Corporations

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

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

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

**Estimates:** 2001: \$4.5 million - 2005: \$7.0 million

**Data Source:** Corporation Franchise Tax Study File

**Reliability:** Level 1



## SALES AND USE TAX

This section of the report provides tax expenditure descriptions and estimates for 133 provisions of the sales and use tax law. The list of expenditures is based on the Tax Law in effect as of January 1, 2005. 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 1998 through 2002. Table 3 lists the tax expenditures and provides historical year and projected 2005 estimates of their "cost." 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 and by 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 excluded services (e.g., accounting services, engineering services, etc.) as tax expenditures.

Also, 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 coincide with the estimated value herein.

The New York State 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 4.25 percent. Local rates range from 3.0 percent to 4.5 percent. Communities within the Metropolitan Commuter Transportation District are subject to an additional 1/4 of 1 percent tax rate. In State fiscal year 2003-2004, the Department collected about \$9.7 billion for the State and approximately \$9.9 billion for local governments from sales and use taxes.

## **SALES AND USE TAX**

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### **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. Sales and use tax returns report only the seller's taxable receipt. Thus, the estimates are only suggestive of the revenue loss associated with each of the provisions and are rounded to the nearest million dollars.

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

- government publications and surveys such as the Economic Census;
- data compiled by individual New York State agencies such as information from the Department of Transportation and the Department of Environmental Conservation; and
- industry surveys and information, such as the information provided by the Cornell University School of Hotel and Food Service Management.

### **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 1997 represents the latest year for which relevant data are available, the 1997 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 2005 levels. Historical estimates are projected to 2005 levels using the New York State Division of the Budget's December 2004 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.

**Table 3**  
**2005 New York State Sales and Use Tax Expenditure Estimates**  
**(2003-04 Total NY Sales and Use Tax Liability = \$9,649 Million)**  
**(Millions of Dollars)**

Tax Item	Data Source Year(s)	History				Forecast 3/			Reliability Level
		1998	1999	2000	2001	2002	2005		
<b>Services</b>									
1. Certain Information Services		N/A	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	N/A	5
3. Services Performed on a Non-Trade Basis	1997	N/A	N/A	N/A	N/A	N/A	N/A	N/A	5
4. Laundering, Tailoring, Shoe Repair and Similar Services	1997 through 2001	52.0	53.0	55.0	57.0	59.0	68.0	68.0	4B
5. Capital Improvement Installation Services	1996 through 1998	249.0	267.0	284.0	427.0	440.0	518.0	518.0	4C
6. Services Related to Railroad Rolling Stock		2.0	2.0	2.0	2.0	2.0	3.0	3.0	4B
7. Services to Property Delivered Outside New York	1997	N/A	N/A	N/A	N/A	N/A	N/A	N/A	5
8. Municipal Parking Services	1997	3.0	3.0	3.0	3.0	3.0	4.0	4.0	4A
9. Certain Parking and Garaging Services	1998	*	*	*	*	*	*	*	4A
10. Certain Protective and Detective Services	1997	*	*	*	*	*	*	*	4A
11. Medical Emergency Alarm Call Services	1997 through 2001	*	*	*	*	*	1.0	1.0	4C
12. Coin-Operated Car Wash Services		2.0	2.0	2.0	2.0	2.0	2.0	2.0	4C
<b>Food</b>									
13. Certain Food Products	1997 through 2000	1,033.0	1,076.0	1,144.0	1,189.0	1,243.0	1,508.0	1,508.0	4B
14. Food Sold to Airlines	1995 through 1997	9.0	9.0	9.0	8.0	8.0	8.0	8.0	4B
15. Food Sold at School Cafeterias	1995 and 1999	50.0	51.0	54.0	56.0	58.0	65.0	65.0	4A
16. Food Purchased with Food Stamps	1995 through 1997	14.0	15.0	16.0	17.0	19.0	22.0	22.0	4A
17. Water Delivered Through Mains or Pipes	1996 and 1997	87.0	87.0	88.0	90.0	90.0	96.0	96.0	4B
18. Mandatory Gratuity Charges	1997 through 2001	16.0	16.0	17.0	15.0	15.0	17.0	17.0	4A
19. Wine Used for Wine Tastings 2/	1997 and 1998	*	*	*	*	*	*	*	4A
20. Vending Machine Sales of Hot Drinks and Certain Foods	1995,1997,2001	7.0	7.0	7.0	7.0	8.0	9.0	9.0	4C
21. Vending Machine Sales of Candy, Juice and Soft Drinks	1995,1997,2001	--	--	1.0	5.0	5.0	5.0	5.0	4B
22. Food Sold at Senior Citizen Housing Communities	1996 through 1998	--	--	*	*	*	*	*	4B
<b>Medical</b>									
23. Drugs, Medicine and Medical Supplies	1997 through 2001	314.0	357.0	401.0	496.0	548.0	745.0	745.0	4C
24. Eyeglasses, Hearing Aids and Prosthetic Aids	1992 and 1997	58.0	60.0	61.0	64.0	66.0	73.0	73.0	4C

# SALES AND USE TAX

Tax Item	Data Source	History					Forecast 3/		Reliability Level
		1998	1999	2000	2001	2002	2005	Level	
25. Veterinarian Services	1997 through 2001	23.0	26.0	29.0	22.0	22.0	25.0	4B	
26. Service Dogs	1998	*	*	*	*	*	*	4B	
<b>Energy</b>									
27. Energy Sources for Residential Purposes	1996 through 2000	352.0	414.0	474.0	505.0	497.0	627.0	4A	
28. Fuel, Gas, Electricity, Refrigeration and Steam Used in Research & Development and Production	1996 through 1999	123.0	133.0	159.0	148.0	141.0	170.0	4B	
29. Fuel, Gas, Electricity, Refrigeration and Steam Used in Farming and Commercial Horse Boarding	1996 through 1999	6.0	6.0	7.0	7.0	7.0	7.0	4B	
30. Reduced Rate on Gas and Electric Delivery	1998	--	--	*	1.0	7.0	55.0	4B	
31. Gas and Electricity Used in Transmission, Distribution and Storage		--	--	N/A	N/A	N/A	N/A	5	
<b>Transportation</b>									
32. Commercial Vessels	1996	2.0	2.0	2.0	2.0	2.0	2.0	4C	
33. Barge Repairs	1997	*	*	*	*	*	*	4C	
34. Commercial Aircraft	1996 and 1997	19.0	20.0	20.0	20.0	20.0	22.0	4C	
35. Fuel Sold to Airlines	1996 through 1998	31.0	41.0	52.0	51.0	49.0	68.0	4A	
36. Parts for Foreign Aircraft		N/A	N/A	N/A	N/A	N/A	N/A	5	
37. Services to Private Aircraft 1/	2000	--	--	--	--	--	2.0	4C	
38. Intra-family Sales of Motor Vehicles		N/A	N/A	N/A	N/A	N/A	N/A	5	
39. Motor Vehicles and Vessels Sold to Nonresidents		N/A	N/A	N/A	N/A	N/A	N/A	5	
40. Alternative Fuel Vehicles	1997	*	*	*	*	*	*	4B	
41. Alternative Fuel Vehicle Refueling Equipment	1997	*	*	*	*	*	*	4C	
42. Rental of Trucks in Certain Cases		N/A	N/A	N/A	N/A	N/A	N/A	5	
43. Tractor-Trailer Combinations	1992 and 1996	11.0	12.0	11.0	10.0	10.0	12.0	4A	
44. Sales of Property by Railroads in Reorganization	1995 through 1997	*	*	*	*	*	*	4A	
45. Commercial Buses	1999	2.0	2.0	2.0	2.0	2.0	2.0	4A	
<b>Communication and Media</b>									
46. Interstate or International Telephone & Telegraph Service	1997 through 2000	234.0	255.0	260.0	283.0	285.0	318.0	4A	
47. Internet Access Service	1996 through 1998	15.0	23.0	26.0	31.0	34.0	42.0	4C	
48. Cable Television Service	1997 through 2000	95.0	104.0	113.0	120.0	124.0	140.0	4A	
49. Newspapers and Periodicals	1998 through 2000	66.0	69.0	69.0	68.0	67.0	72.0	4B	
50. Shopping Papers	1996 through 2000	2.0	2.0	2.0	2.0	2.0	2.0	4C	
51. Telephone Service Used by the Media	1995 through 1998	*	*	*	*	*	*	4C	
52. Certain Coin-Operated Telephone Charges	1996 through 2001	1.0	5.0	4.0	3.0	3.0	3.0	4B	

**SALES AND USE TAX**

	Tax Item	Data Source Year(s)	History				Forecast 3/		Reliability Level
			1998	1999	2000	2001	2002	2005	
53.	Telecommunications and Internet	1995 through 1999	39.0	44.0	50.0	43.0	41.0	56.0	4B
54.	Internet Data Centers 2/	1996 and 1997	--	--	2.0	9.0	9.0	9.0	4B
55.	Radio and Television Broadcasting 2/	1996 and 1997	--	--	1.0	3.0	3.0	3.0	4B
56.	Film Production		--	--	--	--	N/A	N/A	5
57.	Certain Mobile Telecommunication Services	1999	--	--	--	--	--	14.0	4C
<b>Industry</b>									
58.	Tools and Supplies Used in Production		N/A	N/A	N/A	N/A	N/A	N/A	5
59.	Farm Production and Commercial Horse Boarding	1996 through 1999	51.0	51.0	54.0	60.0	61.0	68.0	4B
60.	Research and Development Property	1998	98.0	107.0	114.0	124.0	122.0	140.0	4B
61.	Machinery and Equipment Used in Production	1992, 1994, 1997	244.0	247.0	253.0	247.0	239.0	256.0	4B
62.	Services to Machinery and Equipment Used in Production	1994 through 1998	14.0	14.0	15.0	14.0	14.0	15.0	4A
63.	Wrapping and Packaging Materials		N/A	N/A	N/A	N/A	N/A	N/A	5
64.	Commercial Fishing Vessels	1995 through 1997	*	*	*	*	*	*	4B
65.	Certain Services Used in Gas or Oil Production 2/	1998	*	*	*	*	*	*	4B
66.	Pollution Control Equipment	1997	--	--	--	5.0	6.0	6.0	4B
67.	Property Manufactured by the User	1996	--	--	--	*	*	*	4A
<b>Miscellaneous</b>									
68.	Certain Property Sold Through Vending Machines	1996 through 2001	*	*	*	*	*	*	4A
69.	Trade-in Allowance	1997 through 2000	449.0	542.0	640.0	625.0	653.0	702.0	4B
70.	Certain Hotel Room Rent		N/A	N/A	N/A	N/A	N/A	N/A	5
71.	Dues for Fraternal Societies	1995 through 1997	9.0	9.0	10.0	10.0	11.0	12.0	4C
72.	Homeowner Association Dues		N/A	N/A	N/A	N/A	N/A	N/A	5
73.	Homeowner Association Parking Services	1995 and 1999	5.0	5.0	5.0	5.0	5.0	6.0	4B
74.	Store Coupons	1996 and 1997	3.0	3.0	3.0	3.0	3.0	3.0	4C
75.	Excise Taxes Imposed on the Consumer	1996 through 2000	33.0	35.0	35.0	35.0	33.0	34.0	4A
76.	Property Sold by Morticians	1995 through 1997	9.0	9.0	10.0	9.0	10.0	10.0	4B
77.	Flags		N/A	N/A	N/A	N/A	N/A	N/A	5
78.	Garage Sales		N/A	N/A	N/A	N/A	N/A	N/A	5
79.	New Mobile Homes	1995 through 1997	2.0	2.0	2.0	2.0	2.0	2.0	4A
80.	Used Mobile Homes		N/A	N/A	N/A	N/A	N/A	N/A	5
81.	Registered Race Horses		N/A	N/A	N/A	N/A	N/A	N/A	5
82.	Race Horses Purchased Through Claiming Races		N/A	N/A	N/A	N/A	N/A	N/A	5
83.	Race Horses Purchased Out of State		N/A	N/A	N/A	N/A	N/A	N/A	5

# SALES AND USE TAX

Tax Item	Data Source Year(s)	History				Forecast 3/2005	Reliability Level
		1998	1999	2000	2001		
84. Training and Maintaining Race Horses	1994 and 1998	3.0	3.0	3.0	3.0	3.0	4C
85. Property Sold to Contractors for Capital Improvements or Repairs for Exempt Organizations	1998	35.0	48.0	50.0	51.0	48.0	4C
86. Property Donated by a Manufacturer to an Exempt Organization		N/A	N/A	N/A	N/A	N/A	5
87. Sales and Use Tax Paid to Other States		N/A	N/A	N/A	N/A	N/A	5
88. Precious Metal Bullion and Coins	1997	89.0	91.0	95.0	97.0	99.0	4C
89. Computer Software Transferred to Affiliated Corporations		N/A	N/A	N/A	N/A	N/A	5
90. Services to Computer Software		N/A	N/A	N/A	N/A	N/A	5
91. Self-use of Prewritten Software by its Author		N/A	N/A	N/A	N/A	N/A	5
92. Computer System Hardware 2/	1998	4.0	8.0	9.0	7.0	7.0	4C
93. Promotional Materials Mailed Out of State		N/A	N/A	N/A	N/A	N/A	5
94. Printed Promotional Materials	1997	27.0	27.0	29.0	27.0	27.0	4C
95. U.S. Postage Used in the Distribution of Promotional Materials		N/A	N/A	N/A	N/A	N/A	5
96. Clothing and Footwear Holiday		--	--	--	--	--	4B
97. Clothing and Footwear 2/	2000	--	--	442.0	602.0	612.0	4B
98. Coin-Operated Photocopying Machines	1996, 1997, 2001	*	*	*	*	*	4C
99. Luggage Carts	1997	*	*	*	*	*	4C
100. Emissions Testing Equipment 2/	1998	6.0	*	*	*	*	4A
101. College Textbooks 2/	1997	11.0	23.0	24.0	24.0	24.0	4B
102. Live Dramatic or Musical Arts Production	1998 and 1999	--	--	--	2.0	3.0	4A
103. Qualified Empire Zone Enterprises	1998	--	--	--	31.0	50.0	4C
<b>Exempt Organizations</b>							
104. New York State Agencies and Political Subdivisions	1996 through 1998	778.0	792.0	815.0	830.0	847.0	4C
105. Industrial Development Agencies	1997 through 2002	124.0	139.0	139.0	98.0	86.0	4A
106. Federal Agencies	1998	144.0	146.0	150.0	152.0	156.0	4B
107. United Nations		N/A	N/A	N/A	N/A	N/A	5
108. Diplomats and Foreign Missions		N/A	N/A	N/A	N/A	N/A	5
109. Charitable Organizations	1995 through 1997	233.0	240.0	245.0	251.0	256.0	4C
110. Veteran Posts or Organizations	1999	*	*	*	*	*	4C
111. Indian Nations and Members of Such Indian Nations	1999	1.0	1.0	2.0	2.0	2.0	4C
112. U.S. Military Base Post Exchanges	1996 through 2001	7.0	6.0	7.0	7.0	7.0	4A
113. Nonprofit Health Maintenance Organizations	1997	3.0	3.0	3.0	3.0	3.0	4A

## SALES AND USE TAX

	Tax Item	Data Source Year(s)	History				Forecast 3/		Reliability Level
			1998	1999	2000	2001	2002	2005	
114.	Nonprofit Medical Expense Indemnity or Hospital Service Corporations	1996, 1997, 1999, 2000	7.0	7.0	8.0	8.0	8.0	9.0	4A
115.	Nonprofit Property/Casualty Insurance Companies	1996 through 1999	--	--	--	--	N/A	N/A	4A
116.	Rural Electric Cooperatives	All Years	32.0	32.0	32.0	34.0	34.0	36.0	4B
<b>Exempt Admission Charges</b>									
118.	Certain Admission Charges	1997	43.0	45.0	46.0	48.0	50.0	57.0	4B
119.	Amusement Park Admissions 1/	2002	--	--	--	--	--	*	4A
120.	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
121.	Events Given for the Benefit of Certain Orchestras and Opera Companies		N/A	N/A	N/A	N/A	N/A	N/A	5
122.	National Guard Organization Events		N/A	N/A	N/A	N/A	N/A	N/A	5
123.	Municipal Police and Fire Department Events		N/A	N/A	N/A	N/A	N/A	N/A	5
124.	Certain Athletic Games		N/A	N/A	N/A	N/A	N/A	N/A	5
125.	Carnivals or Rodeos for Certain Charitable Organizations	1997	*	*	*	*	*	*	4B
126.	Agricultural Fairs	1997 through 2001	*	*	*	*	*	*	4A
127.	Historical Homes, Gardens, Sites and Museums		N/A	N/A	N/A	N/A	N/A	N/A	5
<b>Credits</b>									
128.	Sales Tax Vendor Credit	All Years	23.0	41.0	56.0	34.0	49.0	53.0	3
129.	Tangible Property Sold by Contractors in Certain Situations		N/A	N/A	N/A	N/A	N/A	N/A	5
130.	Veterinary Drugs		N/A	N/A	N/A	N/A	N/A	N/A	5
131.	Construction Materials Used in Empire Zones		N/A	N/A	N/A	N/A	N/A	N/A	5
132.	Bus Companies Providing Local Transit Service	All Years	*	*	*	*	*	*	4A
133.	Vessel Operators Providing Local Transit Service 1/	2004	--	--	--	--	--	--	4B
1/	A new tax expenditure item or a revision of the methodology, data or data sources resulting in an estimate which better reflects the tax expenditure value.								
2/	First estimate in history is a partial calendar year estimate.								
3/	The 2005 forecast reflects the scheduled decrease from the current 4.25% State sales tax rate to a rate of 4.00%. As a result, the forecasts are computed at a blended June 1, 2005 State sales tax rate of 4.105%.								
--	The tax expenditure was not applicable for these years.								
*	Less than \$1 million.								
N/A	No data available								

## SALES AND USE TAX

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### 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 #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:** Any receipts from laundering, dry cleaning, tailoring, weaving, pressing, shoe repairing and shoe shining are excluded from tax.

**Estimates:** 2002: \$59.0 million - 2005: \$68.0 million

**Data Source:** U.S. Department of Commerce, Economic Census

**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:** 2002: \$440.0 million - 2005: \$518.0 million

**Data Source:** U.S. Department of Commerce, Census of Construction; U.S. Department of Commerce, Statistical Abstract of the United States

**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:** 2002: \$2.0 million - 2005: \$3.0 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:** 2002: \$3.0 million - 2005: \$4.0 million

**Data Source:** New York State Office of the Comptroller; City of New York Department of Transportation

**Reliability:** Level 4A

**9. Certain Parking and Garaging Services**

**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:** 2002: Minimal - 2005: Minimal

**Data Source:** New York State Department of Taxation and Finance

**Reliability:** Level 4A

**10. Certain Protective and Detective Services**

**Citation:** Section 1105(c)(8)

**Effective Date:** June 1, 1990

## SALES AND USE TAX

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**Description:** Protective and detective services provided by a portwatchman licensed by the Waterfront Commission of New York Harbor are exempt from tax.

**Estimates:** 2002: Minimal - 2005: Minimal

**Data Source:** New York Shipping Association, Inc.

**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 that would otherwise be taxable as protective services under Section 1105(c)(8).

**Estimates:** 2002: Minimal - 2005: \$1.0 million

**Data Source:** New York State Department of Taxation and Finance

**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.

**Description:** The sales tax exempts the service of washing, waxing or vacuuming a motor vehicle, or other property by means of self-service coin-operated equipment.

**Estimates:** 2002: \$2.0 million - 2005: \$2.0 million

**Data Source:** New York State Car Wash Association

**Reliability:** Level 4C

## Food

### 13. 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:** 2002: \$1,243.0 million - 2005: \$1,508.0 million

**Data Source:** Sales and Marketing Management, 2000 Survey of Buying Power: Supermarket Business, 52nd Annual Consumer Expenditure Study

**Reliability:** Level 4B

### 14. 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 which is sold to an airline for consumption by passengers while in flight.

**Estimates:** 2002: \$8.0 million - 2005: \$8.0 million

**Data Source:** Air Transport Association

**Reliability:** Level 4B

**15. 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:** 2002: \$58.0 million - 2005: \$65.0 million

**Data Source:** New York State Department of Education

**Reliability:** Level 4A

**16. 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.

**Estimates:** 2002: \$19.0 million - 2005: \$22.0 million

**Data Source:** New York State Office of Temporary and Disability Assistance

**Reliability:** Level 4A

**17. 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:** 2002: \$90.0 million - 2005: \$96.0 million

**Data Source:** New York State Department of Public Service; Office of the State Comptroller; New York City Department of Finance

**Reliability:** Level 4B

**18. Mandatory Gratuity Charges**

**Citation:** Section 1105(d) and Regulation Section 527.8(l)

**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:** 2002: \$15.0 million - 2005: \$17.0 million

**Data Source:** Cornell University School of Hotel and Food Service Management

**Reliability:** Level 4A

## SALES AND USE TAX

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- 19. 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:** 2002: Minimal - 2005: Minimal  
**Data Source:** New York State Department of Taxation and Finance  
**Reliability:** Level 4A
- 20. 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:** 2002: \$8.0 million - 2005: \$9.0 million  
**Data Source:** U.S. Department of Commerce, Economic Census - Retail Trade; Vending Times  
**Reliability:** Level 4C
- 21. Vending Machine Sales of Candy, Juice and Soft Drinks**  
**Citation:** Section 1115(a)(1)  
**Effective Date:** September 1, 2000  
**Description:** This provision exempts candy, fruit drinks and soft drinks sold for 75 cents or less through a vending machine.  
**Estimates:** 2002: \$5.0 million - 2005: \$5.0 million  
**Data Source:** U.S. Department of Commerce, Economic Census - Retail Trade; Vending Times; New York State Automatic Vending Association  
**Reliability:** Level 4B
- 22. 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:** 2002: Minimal - 2005: Minimal  
**Data Source:** New York State Division of the Budget  
**Reliability:** Level 4B

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**Medical****23. 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:** 2002: \$548.0 million - 2005: \$745.0 million**Data Source:** U.S. Department of Commerce, Survey of Current Business**Reliability:** Level 4C**24. 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:** 2002: \$66.0 million - 2005: \$73.0 million**Data Source:** U.S. Department of Commerce, Survey of Current Business**Reliability:** Level 4C**25. 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. Thus, only the markup on these items is tax exempt.**Estimates:** 2002: \$22.0 million - 2005: \$25.0 million**Data Source:** American Veterinary Medical Association; The Nelson A. Rockefeller Institute of Government, New York State Statistical Yearbook**Reliability:** Level 4B**26. Service Dogs****Citation:** Section 1115(s)**Effective Date:** September 24, 1995**Description:** This provision exempts the sales 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.

## SALES AND USE TAX

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**Estimates:** 2002: Minimal - 2005: 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

#### 27. Energy Sources for Residential Purposes

**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:** 2002: \$497.0 million - 2005: \$627.0 million

**Data Source:** New York State Department of Taxation and Finance; New York State Energy Research and Development Authority

**Reliability:** Level 4A

#### 28. Fuel, Gas, Electricity, Refrigeration and Steam Used in Research & 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:** 2002: \$141.0 million - 2005: \$170.0 million

**Data Source:** New York State Energy Research and Development Authority, Patterns and Trends 1998; U.S. Department of Energy, Energy Information Administration; U.S. Department of Commerce, Economic Census - Manufacturing

**Reliability:** Level 4B

#### 29. 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. Prior to September 1, 2000, energy used directly and exclusively in farm production was

exempt by Tax Law Section 1115(c)(1) and is now included here.

**Estimates:** 2002: \$7.0 million - 2005: \$7.0 million

**Data Source:** U.S. Department of Agriculture; New York State Department of Agriculture and Markets

**Reliability:** Level 4B

**30. 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 is 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:** 2002: \$7.0 million - 2005: \$55.0 million

**Data Source:** New York State Department of Taxation and Finance

**Reliability:** Level 4B

**31. Gas and Electricity Used in Transmission, Distribution and Storage**

**Citation:** Section 1115(w)

**Effective Date:** June 1, 2000

**Description:** This provision exempts 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.

**Estimates:** No data available

**Reliability:** Level 5

**Transportation**

**32. 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 as well as services rendered with respect to commercial vessels.

**Estimates:** 2002: \$2.0 million - 2005: \$2.0 million

**Data Source:** U.S. Department of Energy, Energy Information Administration; New York State Department of Taxation and Finance, PBT Master File

**Reliability:** Level 4C

**33. Barge Repairs**

**Citation:** Section 1115(q)

**Effective Date:** December 1, 1993

## SALES AND USE TAX

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**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:** 2002: Minimal - 2005: Minimal

**Data Source:** U.S. Department of Commerce

**Reliability:** Level 4C

### 34. 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:** 2002: \$20.0 million - 2005: \$22.0 million

**Data Source:** U.S. Department of Commerce, Annual Capital Expenditures Report

**Reliability:** Level 4C

### 35. 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:** 2002: \$49.0 million - 2005: \$68.0 million

**Data Source:** New York State Energy Research and Development

**Reliability:** Level 4A

### 36. 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

### 37. Services to Private Aircraft

**Citation:** Section 115(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.

**Termination Date:** Expires December 1, 2009

**Estimate:** 2002: Not applicable - 2005: \$2.0 million

**Data Source:** General Aviation Manufacturers Association

**Reliability:** 4C

**38. Intra-family Sales of Motor Vehicles**

**Citation:** Section 1115(a)(14)

**Effective Date:** September 1, 1969 for transactions between spouses; 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

**39. 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

**40. Alternative Fuel Vehicles**

**Citation:** Section 1115(p)(1), (2), (4)

**Effective Date:** September 1, 1992

**Description:** The additional cost of new alternative fuel vehicles (attributable to the alternative fuel equipment) above the sale price of comparable gasoline or diesel powered vehicles is exempt from tax. Also exempt are the parts and labor charges related to converting a gasoline or diesel vehicle to alternative fuel. Alternative fuel vehicles include vehicles fueled by alcohol, natural gas, propane or hydrogen, or electric powered vehicles as well as hybrid-electric and dual-fuel vehicles. The exemption does not apply to electric vehicles used by regulated gas or electric companies.

**Termination Date:** Expires February 29, 2005

**Estimates:** 2002: Minimal - 2005: Minimal

**Data Source:** U.S. Department of Energy, Energy Information Administration, New York State Department of Motor Vehicles

**Reliability:** Level 4B

**41. Alternative Fuel Vehicle Refueling Equipment**

**Citation:** Section 1115(p)(3)

**Effective Date:** March 1, 1998

**Description:** Receipts from the sale of commercial alternative fuel vehicle refueling

## SALES AND USE TAX

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property, including electric vehicle recharging equipment, and from the service of installing such property are exempt from tax.

**Termination Date:** Expires February 29, 2005

**Estimates:** 2002: Minimal - 2005: Minimal

**Data Source:** U.S. Department of Energy, Energy Information Administration; New York State Energy Research Development Authority

**Reliability:** Level 4C

### 42. 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

### 43. 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:** 2002: \$10.0 million - 2005: \$12.0 million

**Data Source:** New York State Department of Motor Vehicles; Federal Highway Administration; U.S. Department of Commerce

**Reliability:** Level 4A

### 44. 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 plan of reorganization and restructuring.

**Estimates:** 2002: Minimal - 2005: Minimal

**Data Source:** New York State Department of Transportation

**Reliability:** Level 4A

### 45. 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:** 2002: \$2.0 million - 2005: \$2.0 million

**Data Source:** The Bus Association of New York State

**Reliability:** Level 4A

## **Communication and Media**

### **46. 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:** 2002: \$285.0 million - 2005: \$318.0 million

**Data Source:** New York State Department of Taxation and Finance

**Reliability:** Level 4A

### **47. 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, news headlines, space for a Web site and certain other Web site services, when offered in conjunction with Internet access and merely incidental to the access service, are considered part of the exempt service.

**Estimates:** 2002: \$34.0 million - 2005: \$42.0 million

**Data Source:** U.S. Department of Commerce, Statistical Abstract of the United States

**Reliability:** Level 4C

### **48. Cable Television Service**

**Citation:** Section 1105(c)(9)

**Effective Date:** September 1, 1990

**Description:** The provision of cable television service is exempt from tax.

**Estimates:** 2002: \$124.0 million - 2005: \$140.0 million

**Data Source:** New York State Department of Public Service

**Reliability:** Level 4A

### **49. 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 is exempt.

**Estimates:** 2002: \$67.0 million - 2005: \$72.0 million

## SALES AND USE TAX

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**Data Source:** U.S. Department of Commerce, Survey of Current Business and U.S. Industrial Outlook  
**Reliability:** Level 4B

### 50. 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 tax-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:** 2002: \$2.0 million - 2005: \$2.0 million

**Data Source:** U.S. Department of Commerce, U.S. Industrial and Trade Outlook

**Reliability:** Level 4C

### 51. 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:** 2002: Minimal - 2005: Minimal

**Data Source:** New York State Department of Taxation and Finance

**Reliability:** Level 4C

### 52. Certain Coin-Operated Telephone Charges

**Citation:** Section 1115(e)

**Effective Date:** June 1, 1966 for 10 cent exemption; September 1, 1998 for 25 cent exemption

**Description:** Coin-operated telephone charges of 25 cents or less are tax-exempt.

**Estimates:** 2002: \$3.0 million - 2005: \$3.0 million

**Data Source:** New York State Department of Public Service; New York State Telephone Association

**Reliability:** Level 4B

### 53. Telecommunications and Internet

**Citation:** Sections 1115(a)(12-a), 1105(c)(3)(x)

**Effective Date:** September 1, 2000

**Description:** These provisions exempt tangible personal property used directly and predominantly in the receiving, initiating, amplifying, processing, transmitting, re-transmitting, switching or monitoring or switching of telecommunications services for sale or Internet access services for sale. Prior to September 1, 2000 telephone central office equipment and telephone station apparatus were exempt by Tax Law Section 1115 (a)(12) and is now included here. Installing, maintaining, servicing or repairing the exempt items is also exempt.

**Estimates:** 2002: \$41.0 million - 2005: \$56.0 million

**Data Source:** New York State Public Service Commission; Federal Communications

Commission

**Reliability:** Level 4B

**54. 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:** 2002: \$9.0 million - 2005: \$9.0 million

**Data Source:** New York State Division of the Budget

**Reliability:** Level 4B

**55. 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:** 2002: \$3.0 million - 2005: \$3.0 million

**Data Source:** New York State Division of the Budget

**Reliability:** Level 4B

**56. 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

**57. Certain Mobile Telecommunication Services**

**Citation:** Section 1115(cc)

**Effective Date:** August 1, 2002

## SALES AND USE TAX

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**Description:** The sales of mobile telecommunication services by a home service provider is exempt from tax if the mobile telecommunications customer's place of primary use is within a taxing jurisdiction outside of New York State.

**Estimate:** 2002: Not applicable - 2005: \$14.0 million

**Data Source:** Cellular Telecommunications and Internet Association; New York State Department of Taxation and Finance

**Reliability:** 4C

### Industry

#### 58. 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

#### 59. 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. Prior to September 1, 2000 this exemption was limited to property used directly and predominantly in farm production, not including property incorporated in a building or structure.

**Estimates:** 2002: \$61.0 million - 2005: \$68.0 million

**Data Source:** U.S. Department of Agriculture, Agricultural Survey; New York State Department of Agriculture and Markets

**Reliability:** Level 4B

#### 60. 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:** 2002: \$122.0 million - 2005: \$140.0 million

**Data Source:** National Science Foundation

**Reliability:** Level 4B

**61. 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:** 2002: \$239.0 million - 2005: \$256.0 million

**Data Source:** U.S. Department of Commerce, New York State Public Service Commission

**Reliability:** Level 4B

**62. Services to Machinery and Equipment Used in Production**

**Citation:** Section 1105-B(b)

**Effective Date:** March 1, 1981

**Description:** Receipts from the services of installing, repairing, maintaining or servicing exempt production machinery and equipment or exempt parts, tools and supplies are exempt.

**Estimates:** 2002: \$14.0 million - 2005: \$15.0 million

**Data Source:** New York State Department of Taxation and Finance

**Reliability:** Level 4A

**63. 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

**64. 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:** 2002: Minimal - 2005: Minimal

**Data Source:** National Marine Fisheries; Cornell Cooperative Extension of Suffolk County, Marine Program

**Reliability:** Level 4B

## SALES AND USE TAX

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### 65. 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:** 2002: Minimal - 2005: Minimal

**Data Source:** New York State Department of Taxation and Finance; New York State Department of Environmental Conservation

**Reliability:** Level 4B

### 66. Pollution Control Equipment

**Citation:** Section 1115(a)(40)

**Effective Date:** March 1, 2001

**Description:** Machinery or equipment used in the control, prevention, or abatement of pollution or contaminants from manufacturing or industrial facilities are exempt from sales and use taxes.

**Estimates:** 2002: \$6.0 million - 2005: \$6.0 million

**Data Source:** U.S. Department of Commerce

**Reliability:** Level 4B

### 67. 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:** 2002: Minimal - 2005: Minimal

**Data Source:** New York State Department of Taxation and Finance

**Reliability:** Level 4A

## Miscellaneous

### 68. 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 December 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 coin-operated bulk vending machines at 50 cents or less, provided the retailer is primarily engaged in making such sales.

**Estimates:** 2002: Minimal - 2005: Minimal

**Data Source:** U.S. Department of Commerce, Census of Retail Trade; Vending Times

**Reliability:** Level 4A

**69. Trade-in Allowance**

**Citation:** Section 1101(b)(3)

**Effective Date:** August 1, 1965

**Description:** An allowance 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:** 2002: \$653.0 million - 2005: \$702.0 million

**Data Source:** National Automobile Dealers Association; Motor Vehicle Manufacturers Association, Facts and Figures

**Reliability:** Level 4B

**70. 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

**71. 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:** 2002: \$11.0 million - 2005: \$12.0 million

**Data Source:** U.S. Department of Commerce, Survey of Current Business

**Reliability:** Level 4C

**72. 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

**73. 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:** 2002: \$5.0 million - 2005: \$6.0 million

## SALES AND USE TAX

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**Data Source:** U.S. Department of Commerce; Federation of New York Housing Cooperatives; New York City Association of Realtors  
**Reliability:** Level 4B

### 74. Store Coupons

**Citation:** Regulation Section 526.5(c)

**Effective Date:** August 26, 1976

**Description:** Coupons issued by a retailer, for which there is no reimbursement by a manufacturer or distributor, are deducted from the price for sales tax purposes.

**Estimates:** 2002: \$3.0 million - 2005: \$3.0 million

**Data Source:** New York State Department of Taxation and Finance

**Reliability:** Level 4C

### 75. 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 federal tax on telephone service and the State tax on motor fuels are both excluded from the sales tax base.

**Estimates:** 2002: \$33.0 million - 2005: \$34.0 million

**Data Source:** New York State Department of Taxation and Finance; U.S. Department of Commerce, Statistical Abstract of the United States

**Reliability:** Level 4A

### 76. 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. Thus, only the markup on those items is tax-exempt.

**Estimates:** 2002: \$10.0 million - 2005: \$10.0 million

**Data Source:** The Nelson A. Rockefeller Institute of Government, New York State Statistical Yearbook; National Funeral Directors Association

**Reliability:** Level 4B

### 77. 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 tax-exempt.

**Estimate:** No data available

**Reliability:** Level 5

**78. Garage Sales**

**Citation:** Section 1115(a)(18)

**Effective Date:** September 1, 1973

**Description:** Sales of products 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, and if no member of the household conducts a trade or business selling similar products.

**Estimate:** No data available

**Reliability:** Level 5

**79. 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:** 2002: \$2.0 million - 2005: \$2.0 million

**Data Source:** Manufactured Housing Institute

**Reliability:** Level 4A

**80. 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

**81. 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

**82. 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

## SALES AND USE TAX

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**Reliability:** Level 5

**83. 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

**84. 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:** 2002: \$3.0 million - 2005: \$3.0 million

**Data Source:** American Horse Council; Barents Group, LLC

**Reliability:** Level 4C

**85. 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:** 2002: \$48.0 million - 2005: \$54.0 million

**Data Source:** U.S. Department of Commerce, Statistical Abstract of the United States and Census of Construction - 1997

**Reliability:** Level 4C

**86. Property Donated by a Manufacturer to an Exempt Organization**

**Citation:** Section 1115(l)

**Effective Date:** September 1, 1986

**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

**87. 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**88. 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:** 2002: \$99.0 million - 2005: \$108.0 million**Data Source:** Commodities and Mercantile Exchange**Reliability:** Level 4C**89. 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**90. 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 when the charge for such services is reasonable and separately stated on an invoice or other statement of the price given to the purchaser.**Estimate:** No data available**Reliability:** Level 5**91. 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

## SALES AND USE TAX

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**92. 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:** 2002: \$7.0 million - 2005: \$10.0 million

**Data Source:** U.S. Department of Commerce

**Reliability:** Level 4C

**93. 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

**94. 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:** 2002: \$27.0 million - 2005: \$32.0 million

**Data Source:** U.S. Department of Commerce, Economic Census

**Reliability:** Level 4C

**95. 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 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

**96. Clothing and Footwear Holiday**

**Citation:** Section 1115(a)(30)

**Effective Date:** For sales occurring during the period commencing January 31, 2005 and ending February 6, 2005

**Description:** During the one-week period, items of clothing and footwear costing less than \$110 are exempt. The exemption 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:** 2002: Not Applicable - 2005: \$38.0 million

**Data Source:** New York State Division of the Budget

**Reliability:** Level 4B

**97. Clothing and Footwear**

**Citation:** Section 1115(a)(30)

**Effective Date:** March 1, 2000; Suspended June 1, 2003 through May 31, 2005

**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:** 2002: \$612.0 million - 2005: \$429.0 million

**Data Source:** New York State Division of the Budget; *The New York State Clothing Exemption*, New York State Department of Taxation and Finance, September 2003.

**Reliability:** Level 4B

**98. 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:** 2002: Minimal - 2005: Minimal

**Data Source:** Vending Times

**Reliability:** Level 4C

**99. 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:** 2002: Minimal - 2005: Minimal

**Data Source:** New York State Department of Taxation and Finance

**Reliability:** Level 4C

**100. 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,

## SALES AND USE TAX

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where such equipment is purchased and used by an official inspection station authorized to conduct the enhanced emissions inspections.

**Estimates:** 2002: Minimal - 2005: Minimal

**Data Source:** New York State Department of Environmental Conservation

**Reliability:** Level 4A

### 101. 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:** 2002: \$24.0 million - 2005: \$26.0 million

**Data Source:** New York State Department of Education

**Reliability:** Level 4B

### 102. 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:** 2002: \$3.0 million - 2005: \$3.0 million

**Data Source:** New York State Division of the Budget

**Reliability:** Level 4A

### 103. Qualified Empire Zone Enterprises

**Citation:** Section 1115(z)(1), (z)(2)

**Effective Date:** March 1, 2001

**Description:** Tangible personal property and certain services purchased by a Qualified Empire Zone Enterprise (QEZE) and used directly and predominantly by the QEZE in the empire zone in which the QEZE has qualified for benefits are exempt from sales and use tax. Also exempt is 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, adding to, or altering the real property of a QEZE located within an empire zone.

**Estimates:** 2002: \$50.0 million - 2005: \$80.0 million

**Data Source:** New York State Division of the Budget

**Reliability:** Level 4C

## Exempt Organizations

### 104. 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:** 2002: \$847.0 million - 2005: \$913.0 million

**Data Source:** New York State Division of the Budget; U.S. Department of Commerce

**Reliability:** Level 4C

**105. 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:** 2002: \$86.0 million - 2005: \$100.0 million

**Data Source:** New York State Department of Taxation and Finance

**Reliability:** Level 4A

**106. 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:** 2002: \$156.0 million - 2005: \$167.0 million

**Data Source:** U.S. Department of Commerce, Bureau of the Census Governments Division

**Reliability:** Level 4B

**107. 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

**108. 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.

## SALES AND USE TAX

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**Estimate:** No data available

**Reliability:** Level 5

### 109. 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:** 2002: \$256.0 million - 2005: \$282.0 million

**Data Source:** U.S. Department of Commerce, Survey of Current Business

**Reliability:** Level 4C

### 110. 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:** 2002: Minimal - 2005: Minimal

**Data Source:** New York State Department of Taxation and Finance; Food Institute, Food Industry Review

**Reliability:** Level 4C

### 111. 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:** 2002: \$2.0 million - 2005: \$2.0 million

**Data Source:** U.S. Bureau of the Census; U.S. Bureau of Indian Affairs

**Reliability:** Level 4C

- 112. 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:** 2002: \$7.0 million - 2005: \$9.0 million  
**Data Source:** Regional sales offices of U.S. Armed Services  
**Reliability:** Level 4A
- 113. 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:** 2002: \$3.0 million - 2005: \$3.0 million  
**Data Source:** New York State Health Department  
**Reliability:** Level 4A
- 114. 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:** 2002: \$8.0 million - 2005: \$9.0 million  
**Data Source:** New York State Insurance Department  
**Reliability:** Level 4A
- 115. 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
- 116. 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:** 2002: Minimal - 2005: Minimal  
**Data Source:** Rural Electric Cooperatives Association; U.S. Department of Agriculture  
**Reliability:** Level 4A

## SALES AND USE TAX

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### 117. 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:** 2002: \$34.0 million - 2005: \$36.0 million

**Data Source:** Office of the State Comptroller

**Reliability:** Level 4B

### Admission Charges

### 118. 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:** 2002: \$50.0 million - 2005: \$57.0 million

**Data Source:** U.S. Department of Commerce, Economic Census

**Reliability:** Level 4B

### 119. 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.

**Termination Date:** Expires April 1, 2005

**Estimate:** 2002: Not applicable - 2005: Minimal

**Data Source:** New York State Department of Taxation and Finance

**Reliability:** 4A

### 120. Events Given for the Benefit of Charitable Organizations, Veterans Posts and Indian Nations

**Citation:** Section 1116(d)(1)(A)

**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

- 121. 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
- 122. 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
- 123. 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
- 124. 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
- 125. 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:** 2002: Minimal - 2005: Minimal  
**Data Source:** U.S. Department of Commerce, Economic Census - Services Industries  
**Reliability:** Level 4B

## SALES AND USE TAX

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### 126. 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:** 2002: Minimal - 2005: Minimal

**Data Source:** New York State Department of Agriculture

**Reliability:** Level 4A

### 127. 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

## Credits

### 128. Sales Tax Vendor Credit

**Citation:** Section 1137(f)

**Effective Date:** September 1, 1994; March 1, 1999 for increased rate

**Description:** A vendor allowance credit is provided to vendors who collect sales tax and remit the tax with their timely filed and fully paid quarterly or annual returns. The credit is equal to three and one-half percent of the State sales tax collected, up to a maximum credit of \$150 per return. Prior to March 1, 1999 the credit equaled one and one-half percent up to \$100 per return.

**Estimates:** 2002: \$49.0 million - 2005: \$53.0 million

**Data Source:** New York State Department of Taxation and Finance

**Reliability:** Level 3

### 129. 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

**130. 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

**131. 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

**132. 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:** 2002: Minimal - 2005: Minimal

**Data Source:** New York State Department of Taxation and Finance

**Reliability:** Level 4A

**133. Vessel Operators Providing Local Transit Service**

**Citation:**

**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:** 2002: Not applicable - 2005: Minimal

**Data Source:** New York City Department of Transportation

**Reliability:** 4B



## CORPORATION TAX

This section of the report provides descriptions of 48 separate tax expenditure provisions of the Article 9 tax. The list of tax expenditures is based on the Tax Law as of January 1, 2005. Total tax liability of Article 9 has been included to provide perspective.

### Description of Tax

Article 9 of the Tax Law imposes initial taxes and annual fees on domestic and foreign corporations. It also imposes gross receipts-based taxes on a variety of specialized businesses. The temporary Metropolitan Transit Authority business surcharge applies, based on the taxpayer's business activities in the Metropolitan Commuter Transportation District (MCTD).

Section 180 imposes an organization tax, at a rate of 1/20th of 1 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 tax also applies to any subsequent change in authorized stock or capital structure.

Section 181.1 imposes a license fee on foreign (out-of-state) corporations (but not most insurance corporations or corporations taxed under separate Articles). The rate is the same as for the organization tax but only applies to registered out-of-state corporations exercising a franchise or carrying on business in New York State.

Section 181.2 of the Tax Law requires an additional annual maintenance fee of \$300 from all foreign corporations, including S corporations (but not most insurance corporations or certain banking corporations). Foreign corporations may credit the maintenance fee against any tax due under Articles 9 or 9-A and against taxes paid under other Articles.

Section 183 of the Tax Law imposes a franchise tax on transportation and transmission companies and associations (excluding aviation companies which are taxable under Article 9-A) at the highest of three alternatives. Businesses must pay 1.5 mills on each dollar of net value of their issued capital stock in New York State. However, if the dividends paid on their capital stock are 6 percent or more, the tax rate is 0.375 mills per dollar of par value for each 1 percent of dividends paid. The third alternative is a fixed minimum 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 under Article 9. Effective January 2000, gas pipelines became taxable under Article 9-A.

Section 184 imposes an additional franchise tax on transportation and transmission corporations and associations. The rate was 0.6 percent on gross earnings for trucking companies and railroads and 0.75 percent on gross earnings from all sources within New York for other such corporations. The rate for all companies subject to Section 184 dropped to 3/8 percent as of July 1, 2000.

Beginning in 1995, Section 184 applies only to those telecommunications corporations or associations principally engaged in a local telephone business. Companies principally

## CORPORATION TAX

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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 long distance carriers. Excluded from Section 184 are receipts from sales for ultimate consumption from interLATA, interstate, or international services (effective January 1, 1995), and 30 percent of intraLATA toll services, including interregion regional calling plan services (effective January 1, 1996). In January 1998, trucking and railroad companies formerly taxable under Section 184 became taxable under Article 9-A unless they elected to remain under Article 9. In January 2000, gas pipelines became taxable under Article 9-A.

The franchise tax on agricultural cooperatives imposed by Section 185 is the highest of three alternatives. The first is a tax at 1 mill per dollar on the value of issued capital stock allocated to New York. The second alternative is a tax at a rate based on dividends of 6 percent or more, paid on the value of issued capital stock allocated to New York. A \$10 minimum tax is the other alternative.

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 3/4 of 1 percent on gross earnings and 4 1/2 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. 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. 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 covered in the History portion of the following Table 4, in 1997, the tax rate that applied was 3.5 percent. That rate was reduced effective October 1, 1998 to 3.25 percent and further reduced to 2.5 percent effective January 1, 2000. For taxable years beginning on or after January 1, 2000 separate additional rate reduction schedules will apply 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:

<u>Calendar Year</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005 and After</u>
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%

## CORPORATION TAX

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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.

Section 189 formerly imposed a tax at a rate of 4.25 percent, equivalent to the combined 186 and 186-a rates, on the value of natural gas purchased out-of-state and imported into New York for consumption within the State. Section 189 is now subject to the same phase-out schedule as the 186-a tax on receipts from the sale of an energy commodity. For calendar quarters in 2005 the rate will be 0 percent and no further returns will be filed after the partial return including December 2004.

Most of the revenue from the Article 9 tax resulted from the gross receipts-based taxes (Sections 184, 186, 186-a and 186-e). Section 186 was repealed effective January 1, 2000. The tax expenditures are minor relative to the revenue base but include the allowance of credits against the tax. In addition, tax expenditures result from the exemption of some businesses from the gross receipts taxes.

### **Data Sources**

The major source of data used to compute the tax expenditure estimates under Article 9 is the 2000-2001 Business Tax Files. This is an unverified file of all taxpayers filing a return under Article 9.

### **Methodology**

The projections of the tax expenditures from 2001 to 2005 use a variety of economic forecast variables. The expenditure estimates were computed using historical trends.

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

**CORPORATION TAX**

**Table 4**  
**2005 New York State Corporation and Utilities (Article 9) Tax Expenditure Estimates**  
**(2001 Corporation and Utilities Tax Liability = \$839.1 Million)**  
**(Millions of Dollars)**

Tax Item	History					Forecast 2005	Reliability Level
	1997	1998	1999	2000	2001		
<b>Section 181 - License and Maintenance Fees on Foreign Corporations</b>							
<u>Corporate Exemptions</u>							
1. Certain Banking and Insurance Companies	N/A	N/A	N/A	N/A	N/A	N/A	5
<b>Section 183 - Franchise Tax on Transportation and Transmission Corporations and Associations</b>							
<u>Credits</u>							
2. Special Additional Mortgage Recording Tax Credit	*	*	*	*	0.0	*	2
3. Credit for Employment of Persons with Disabilities	--	0.0	*	*	0.0	*	4
4. Green Building Credit	--	--	--	--	0.0	*	4
5. Credit for Transportation Improvement Contributions	--	--	--	0.0	0.0	*	2
6. Long-Term Care Insurance Credit	--	--	--	--	--	*	4
7. Brownfields Tax Credits 1/	--	--	--	--	--	*	4
<u>Corporate Exemptions</u>							
8. Ferry Companies	N/A	N/A	N/A	N/A	N/A	N/A	5
9. Taxicabs and Omnibuses	*	*	*	*	*	*	2
10. Railroads and Vessels Engaged in Interstate or Foreign Commerce	N/A	N/A	N/A	N/A	N/A	N/A	5
11. 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
<b>Section 184 - Additional Franchise Tax on Transportation and Transmission Corporations and Associations</b>							
<u>New York Modifications to Gross Income</u>							
12. Exclusion of Interstate and Foreign Income	N/A	N/A	N/A	N/A	N/A	N/A	5
13. Exclusion of Receipts from InterLATA, Interstate, and International Telephone Services	1.3	2.7	2.3	1.1	7.8	8.5	2
14. Exclusion of Thirty Percent of Receipts from IntraLATA Toll Telephone Services	2.2	2.5	2.5	2.0	2.3	2.5	2

**CORPORATION TAX**

Tax Item	History				Forecast 2005	Reliability Level
	1997	1998	1999	2000		
<u>Credits</u>						
15. Special Additional Mortgage Recording Tax Credit	*	*	0.0	0.0	0.0	2
16. Credit for Employment of Persons with Disabilities	--	0.0	0.0	0.0	*	4
17. Green Building Credit	--	--	--	0.0	0.0	4
18. Credit for Transportation Improvement Contributions	--	--	--	0.0	0.0	2
19. Long-Term Care Insurance Credit	--	--	--	--	--	4
20. Brownfields Tax Credits 1/	--	--	--	--	--	4
<u>Corporate Exemptions</u>						
21. Foreign Commerce	N/A	N/A	N/A	N/A	N/A	5
22. Ferry Companies	N/A	N/A	N/A	N/A	N/A	5
23. Railroad Leasing	N/A	N/A	N/A	N/A	N/A	5
24. Foreign Taxicabs and Omnibuses	*	*	*	*	*	3
25. Corporations Principally Engaged in Providing Telecommunications for Air Safety and Navigation	N/A	N/A	N/A	N/A	N/A	5
<b>Section 185 - Franchise Tax on Farmers, Fruit Growers, and Other Like Agricultural Corporations Organized and Operated on a Cooperative Basis</b>						
<u>Credits</u>						
26. Special Additional Mortgage Recording Tax Credit	*	*	*	*	0.0	2
27. Credit for Employment of Persons with Disabilities	--	0.0	0.0	0.0	0.0	4
28. Green Building Credit	--	--	--	--	0.0	4
29. Credit for Transportation Improvement Contributions	--	--	--	0.0	0.0	2
30. Long-Term Care Insurance Credit	--	--	--	--	--	4
31. Brownfields Tax Credits 1/	--	--	--	--	--	4
<b>Section 186 - Franchise Tax on Water-Works Companies, Gas Companies and Electric or Steam Heating, Lighting and Power Companies</b>						
<u>Credits</u>						
32. Special Additional Mortgage Recording Tax Credit	1.6	1.3	1.3	0.0	0.0	2
33. Credit for Employment of Persons with Disabilities	--	0.0	0.0	0.0	0.0	2
<u>Corporate Exemptions</u>						
34. Water Pollution Facilities	N/A	N/A	N/A	--	--	5
<b>Section 186-a - Ta2 on the Furnishing of Utility Services</b>						
<u>Credits</u>						
35. Power for Jobs Tax Credit 1/	4.8	18.7	65.8	90.1	79.9	4
36. Long-Term Care Insurance Credit	--	--	--	--	--	4

# CORPORATION TAX

	<u>Tax Item</u>	<u>History</u>					<u>Forecast</u>	<u>Reliability</u>
		<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>		
<u>Exemptions</u>								
	37. Exempt Companies	N/A	N/A	N/A	N/A	N/A	N/A	5
	38. Exempt Organizations	N/A	N/A	N/A	N/A	N/A	N/A	5
	39. Water Pollution Facilities	N/A	N/A	N/A	N/A	N/A	N/A	5
	40. Commercial, Industrial, and Not-For-Profit Relief	--	--	--	--	--	--	4
	<b>Section 186-e - Excise Tax on Telecommunications Services</b>							
	<u>New York Modifications to Gross Income</u>							
	41. Exclusion of Cable Television Service	71.9	72.2	79.4	65.4	72.5	80.0	3
	42. Exclusion of Receipts from Certain Services for Air Safety and Navigation Purposes	N/A	N/A	N/A	N/A	N/A	N/A	5
	<u>Credits</u>							
	43. Credit for Tax Paid in Another Jurisdiction	*	*	*	*	*	*	2
	44. Long-Term Care Insurance Credit	--	--	--	--	--	*	4
	45. Exempt Organizations	N/A	N/A	N/A	N/A	N/A	N/A	5
	<b>Section 189 - Franchise Tax on Businesses Importing Natural Gas into New York State</b>							
	<u>Corporate Exemptions</u>							
	46. Co-Generation Facilities	4.3	4.8	4.7	3.1	2.9	*	2
	47. Credit for Tax Paid in Another Jurisdiction	*	N/A	N/A	N/A	N/A	N/A	5
	48. Long-Term Care Insurance Credit	--	--	--	--	--	*	4
I/	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.							
*	Less than \$0.1 million.							
--	The tax expenditure was not applicable for these years.							
N/A	No data available							

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**Article 9**  
**Section 181**  
**License and Maintenance Fees on Foreign Corporations**

**Corporate Exemptions**

Certain entities are exempt from the license fee and banking and insurance annual maintenance fee.

**1. 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 not subject to the license fee or the annual maintenance fee.

**Estimate:** No data available

**Reliability:** Level 5

**Section 183**  
**Franchise Tax on Transportation and**  
**Transmission Corporations and Associations**

Section 183 taxes transportation and transmission corporations and associations 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 (exclusive of U.S. obligations and cash on hand and on deposit) employed in business in the State bear to gross assets (exclusive of U.S. obligations, cash on hand and on deposit) employed in business everywhere. Effective January 1, 2000, gas pipelines became taxable under Article 9-A.

**Credits**

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

**Citation:** Section 187

**Effective Date:** December 8, 1978

**Description:** The credit is permitted against all taxes except Sections 180, 181, 186-a, 186-e and 189 taxes and fees. It 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.

**Estimates:** 2001: \$0.0 million - 2005: Minimal

**Data Source:** Business Tax Files

**Reliability:** Level 2

## CORPORATION TAX

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### 3. Credit for Employment of Persons with Disabilities

**Citation:** Section 187-a

**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. Taxpayers may carry over unused credit amounts to subsequent tax years.

**Estimates:** 2001: \$0.0 million - 2005: Minimal

**Data Source:** Federal credit data

**Reliability:** Level 4

### 4. Green Building Credit

**Citation:** Section 187-d

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

**Description:** The credits would provide 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. The credits apply to costs incurred on or after June 1, 1999, for property placed in service or that has received a final certificate of occupancy in tax years beginning on or after January 1, 2001.

**Estimates:** 2001: \$0.0 million - 2005: Minimal

**Data Source:** Statutory limitation

**Reliability:** Level 4

### 5. Credit for Transportation Improvement Contributions

**Citation:** Section 187-e

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

**Description:** The taxpayer must make a certified contribution of at least \$10 million to a qualified transportation improvement project in a prior tax year. The projects must enhance a qualified business facility, and may include the construction or improvement of transportation infrastructure and related facilities and systems, including bridges, ramps, highways, and mass transit facilities. In addition, the taxpayer must create, by the third full tax year after the tax year during which the contribution was made, more than 1,000 jobs in connection with the qualified business facility. The credit equals 6 percent of the taxpayer's increased qualified business facility payroll for the tax year. After the third full tax year after the contribution is made the employment increase test is not met, then there is a recapture of the credit. The new law applies to contributions made on or after January 1, 2000.

**Estimates:** 2001: \$0.0 million - 2005: Minimal

**Data Source:** Research File

**Reliability:** Level 2

**6. Long-Term Care Insurance Credit**

**Citation:** Section 190

**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 cost of purchasing long-term care insurance, as defined in the Insurance Law. Any unused credit may be carried forward.

**Estimates:** 2001 Not Applicable - 2005: Minimal

**Data Source:** New York State Department of Insurance

**Reliability:** Level 4

**7. Brownfields Tax Credit**

**Citation:** Sections 21, 22, 23, 187-g, 187-h, 187-i

**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 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, 2006.

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:** 2001: Not Applicable - 2005: Minimal

**Data Source:** New York State Department of Environmental Conservation

**Reliability:** Level 4

**Corporate Exemptions**

Certain entities are exempt from the Section 183 franchise tax on capital stock.

**8. Ferry Companies**

**Citation:** Section 183.1(b)

**Effective Date:** April 14, 1914

## CORPORATION TAX

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**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 this section.

**Estimate:** No data available

**Reliability:** Level 5

### 9. 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 exempt from the tax imposed by Section 183.

**Estimates:** 2001: Minimal - 2005: Minimal

**Data Source:** Article 9-A Study File

**Reliability:** Level 2

### 10. 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 or a 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 they maintain an office or otherwise employ capital in New York.

**Estimate:** No data available

**Reliability:** Level 5

### 11. Corporations Principally Engaged in Providing Telecommunications for Air Safety and Navigation Purposes

**Citation:** Section 183.1(b)

**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. 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).

**Estimate:** No data available

**Reliability:** Level 5

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**Section 184**  
**Additional Franchise Tax on Transportation and  
Transmission Corporations and Associations**

Section 184 imposes an additional franchise tax on transportation and transmission corporations and associations based on their gross earnings within the State. Beginning in 1995, the tax on telecommunications companies under Section 184 applies only to those telecommunications corporations or associations principally engaged in a local telephone business. Effective January 1, 2000, gas pipelines became taxable under Article 9-A.

**New York Modifications to Gross Income**

**12. 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 a railroad business, and 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.

**Estimate:** No data available

**Reliability:** Level 5

**13. 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 receipts from sales for ultimate consumption of interLATA, interstate and international services.

**Estimates:** 2001: \$7.8 million - 2005: \$8.5 million

**Data Source:** Business Tax Files

**Reliability:** Level 2

**14. Exclusion of Thirty Percent of Receipts from IntraLATA Toll Telephone Services**

**Citation:** Section 184.1

**Effective Date:** January 1, 1996

**Description:** Telephone companies subject to the tax may exclude 30 percent of receipts from sales for ultimate consumption of intraLATA toll services, including interregion regional calling plan services, other than carrier access services.

**Estimates:** 2001: \$2.3 million - 2005: \$2.5 million

**Data Source:** Business Tax Files

**Reliability:** Level 2

## CORPORATION TAX

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### Credits

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

**Citation:** Section 187

**Effective Date:** March 31, 1987

**Description:** The credit is permitted against all taxes except Sections 180, 181, 186-a, 186-e and 189 taxes and fees. It 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 Commuter Transportation District or Erie County.

**Estimates:** 2001: \$0.0 million - 2005: Minimal

**Data Source:** Business Tax Files

**Reliability:** Level 2

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

**Citation:** Section 187-a

**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. Taxpayers may carry over unused credit amounts to subsequent tax years.

**Estimates:** 2001: Minimal - 2005: Minimal

**Data Source:** Federal credit data

**Reliability:** Level 4

**17. Green Building Credit**

**Citation:** Section 187-d

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

**Description:** The credits would provide 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. The credits apply to costs incurred on or after June 1, 1999, for property placed in service or that has received a final certificate of occupancy in tax years beginning on or after January 1, 2001.

**Estimates:** 2001: \$0.0 million - 2005: Minimal

**Data Source:** Statutory limitation

**Reliability:** Level 4

**18. Credit for Transportation Improvement Contributions**

**Citation:** Section 187-e

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

**Description:** The taxpayer must make a certified contribution of at least \$10 million to a qualified transportation improvement project in a prior tax year. The projects must

enhance a qualified business facility, and may include the construction or improvement of transportation infrastructure and related facilities and systems, including bridges, ramps, highways, and mass transit facilities. In addition, the taxpayer must create, by the third full tax year after the tax year during which the contribution was made, more than 1,000 jobs in connection with the qualified business facility. The credit equals 6 percent of the taxpayer's increased qualified business facility payroll for the tax year. After the third full tax year after the contribution is made the employment increase test is not met, then there is a recapture of the credit. The new law applies to contributions made on or after January 1, 2000.

**Estimates:** 2001: \$0.0 million - 2005: Minimal

**Data Source:** Research File

**Reliability:** Level 2

**19. Long-Term Care Insurance Credit**

**Citation:** Section 190

**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 cost of purchasing long-term care insurance, as defined in the Insurance Law. Any unused credit may be carried forward.

**Estimates:** 2001: Not Applicable - 2005: Minimal

**Data Source:** New York State Department of Insurance

**Reliability:** Level 4

**20. Brownfields Tax Credits**

**Citation:** Sections 21, 22, 23, 187-g, 187-h, 187-i

**Effective Date:** Effective date 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. 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, 2006.

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.

## CORPORATION TAX

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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:** 2001: Not Applicable—2005: Minimal

**Data Source:** New York State Department of Environmental Conservation

**Reliability:** Level 4

### Corporate Exemptions

Certain companies are exempt from the Section 184 tax.

#### 21. Foreign Commerce

**Citation:** Tax Law Article 1, 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.

**Estimate:** No data available

**Reliability:** Level 5

#### 22. Ferry Companies

**Citation:** Section 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 Section 184 tax.

**Estimate:** No data available

**Reliability:** Level 5

#### 23. Railroad Leasing

**Citation:** Section 184.3

**Effective Date:** June 1, 1917

**Description:** In lieu of the tax on gross earnings, a corporation involved in leasing railroad property to a railroad operating company 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.

**Estimate:** No data available

**Reliability:** Level 5

#### 24. 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 that makes fewer than 12 trips into New York State on an annual basis, but not otherwise owning or leasing property in State or otherwise doing business so as to become subject to tax, pays a tax equal to \$15 per trip.

**Estimates:** 2001: Minimal - 2005: Minimal

**Data Source:** Article 9-A Study File

**Reliability:** Level 3

**25. Corporations Principally Engaged in Providing Telecommunications for Air Safety and Navigation Purposes**

**Citation:** Section 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. 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).

**Estimate:** No data available

**Reliability:** Level 5

**Section 185**

**Franchise Tax on Farmers, Fruit Growers, and  
Other Like Agricultural Corporations Organized and  
Operated on a Cooperative Basis**

Section 185 imposes a tax on farmers, fruit growers and other like agricultural corporations organized and operated on a cooperative basis. The measure of tax is capital stock within the State during the preceding year allocated by the ratio that gross assets employed in business in New York bear to gross assets employed in business everywhere.

**Credits**

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

**Citation:** Section 187

**Effective Date:** March 31, 1987

**Description:** The credit is permitted against all taxes except Sections 180, 181, 186-a, 186-e and 189 taxes and fees. It is based on the amount of special additional mortgage recording taxes paid by the taxpayer, with certain restrictions. No credit is currently allowed for special additional mortgage recording taxes paid on certain mortgages recorded in the Metropolitan Commuter Transportation District or Erie County.

**Estimates:** 2001: \$0.0 million - 2005: Minimal

**Data Source:** Business Tax Files

**Reliability:** Level 2

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

**Citation:** Section 187-a

**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

## CORPORATION TAX

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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. Taxpayers may carry over unused credit amounts to subsequent tax years.

**Estimates:** 2001: \$0.0 million - 2005: Minimal

**Data Source:** Federal credit data

**Reliability:** Level 4

### 28. Green Building Credit

**Citation:** Section 187-d

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

**Description:** The credits would provide 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. The credits apply to costs incurred on or after June 1, 1999, for property placed in service or that has received a final certificate of occupancy in tax years beginning on or after January 1, 2001.

**Estimates:** 2001: \$0.0 million - 2005: Minimal

**Data Source:** Statutory limitation

**Reliability:** Level 4

### 29. Credit for Transportation Improvement Contributions

**Citation:** Section 187-e

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

**Description:** The taxpayer must make a certified contribution of at least \$10 million to a qualified transportation improvement project in a prior tax year. The projects must enhance a qualified business facility, and may include the construction or improvement of transportation infrastructure and related facilities and systems, including bridges, ramps, highways, and mass transit facilities. In addition, the taxpayer must create, by the third full tax year after the tax year during which the contribution was made, more than 1,000 jobs in connection with the qualified business facility. The credit equals 6 percent of the taxpayer's increased qualified business facility payroll for the tax year. After the third full tax year after the contribution is made the employment increase test is not met, then there is a recapture of the credit. The new law applies to contributions made on or after January 1, 2000.

**Estimates:** 2001: \$0.0 million- 2005: Minimal

**Data Source:** Research File

**Reliability:** Level 2

### 30. Long-Term Care Insurance Credit

**Citation:** Section 190

**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 cost of purchasing long-term care insurance, as defined in the Insurance Law. Any unused credit may be carried forward.

**Estimates:** 2001: Not Applicable - 2005: Minimal

**Data Source:** New York State Department of Insurance

**Reliability:** Level 4

**31. Brownfields Tax Credits**

**Citation:** Sections 21, 22, 23, 187-g, 187-h, 187-i

**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. 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, 2006.

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:** 2001: Not Applicable - 2005: Minimal

**Data Source:** New York State Department of Environmental Conservation

**Reliability:** Level 4

**Section 186**

**Franchise Tax on Water-Works Companies, Gas Companies and Electric or Steam Heating, Lighting and Power Companies**

Section 186 repealed effective January 1, 2000 imposed a franchise tax on water-works companies, gas companies and electric or steam heating, lighting and power companies. 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. The tax is computed as a percentage of gross earnings (without any deduction) from New York sources. An additional excess dividends tax may have also applied.

## CORPORATION TAX

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### Credits

#### 32. Special Additional Mortgage Recording Tax Credit

**Citation:** Article 9, Section 187

**Effective Date:** March 31, 1987

**Description:** The credit is permitted against all taxes except Sections 180, 181, 186-a and 189 taxes and fees. It is based on the amount of special additional mortgage recording taxes paid by the taxpayer, with certain restrictions. No credit is currently allowed for special additional mortgage recording taxes paid on certain mortgages recorded in the Metropolitan Commuter Transportation District or Erie County.

**Estimates:** 2001: \$0.0 million - 2005: \$0.0 million

**Data Source:** Business Tax Files

**Reliability:** Level 2

#### 33. Credit for Employment of Persons with Disabilities

**Citation:** Section 187-a

**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. Taxpayers may carry over unused credit amounts to subsequent tax years.

**Estimates:** 2001: \$0.0 million - 2005: \$0.0 million

**Data Source:** Business Tax Files

**Reliability:** Level 2

### Corporate Exemptions

#### 34. Water Pollution Facilities

**Citation:** Section 186.3

**Effective Date:** January 1, 1919

**Description:** Section 186 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.

**Estimate:** 2001: Not Applicable - 2005: Not Applicable

**Reliability:** Level

### Section 186-a Tax on the Furnishing of Utility Services

Section 186-a imposes a tax on the gross income of businesses furnishing certain utility services, whether or not such businesses are subject to supervision by the Public Service Commission.

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**Credits****35. Power for Jobs Tax Credit****Citation:** Article 9, Section 186-a subdivision 9**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.**Termination Date:** December 31, 2005**Estimates:** 2001: \$79.9 million - 2005: \$50.2 million**Data Source:** Public Service Commission staff**Reliability:** Level 4**36. Long-Term Care Insurance Credit****Citation:** Section 190**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 cost of purchasing long-term care insurance, as defined in the Insurance Law. Any unused credit may be carried forward.**Estimates:** 2001: Not Applicable - 2005: Minimal**Data Source:** New York State Department of Insurance**Reliability:** Level 4**Exemptions****37. Exempt Companies****Citation:** Section 186-a.2(a)(I)**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.**Estimate:** No data available**Reliability:** Level 5**38. Exempt Organizations****Citation:** Section 186-a.2(b)**Effective Date:** 1937**Description:** 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-a tax.**Estimate:** No data available**Reliability:** Level 5

## CORPORATION TAX

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### 39. 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.

**Estimate:** No data available

**Reliability:** Level 5

### 40. Commercial, Industrial, and Not-For-Profit Relief

<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%

**Citation:** Section 182-a.2(c)

**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 will be eliminated through a phased in exclusion according to the following schedule:

**Estimate:** 2001: Not Applicable - 2005: No Data Available

**Data Source:** Industry Data

**Reliability:** Level 4

## Section 186-e Excise Tax on Telecommunications Services

### New York Modifications to Gross Income

#### 41. 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.

**Estimates:** 2001: \$72.5 million - 2005: \$80.0 million

**Data Source:** Annual Reports to the New York State Public Service Commission

**Reliability:** Level 3

#### 42. 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).

**Estimate:** No data available

**Reliability:** Level 5

## **Credits**

### **43. Credit for Tax Paid in Another Jurisdiction**

**Citation:** Section 186-e(4)(a)(2)

**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.

**Estimates:** 2001: Minimal - 2005: Minimal

**Data Source:** Business Tax Files

**Reliability:** Level 2

### **44. Long-Term Care Insurance Credit**

**Citation:** Section 190

**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 cost of purchasing long-term care insurance, as defined in the Insurance Law. Any unused credit may be carried forward.

**Estimates:** 2001: Not Applicable - 2005: Minimal

**Data Source:** New York State Department of Insurance

**Reliability:** Level 4

## **Exemptions**

### **45. Exempt Organizations**

**Citation:** Section 186-e(1)(c)

**Effective Date:** January 1, 1995

**Description:** 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.

**Estimate:** No data available

**Reliability:** Level 5

## CORPORATION TAX

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### Section 189 Franchise Tax on Businesses Importing Natural Gas into New York State

Section 189 imposed a franchise tax effective August 1, 1991, on businesses purchasing natural gas outside New York and importing the gas into the State for their own consumption. The tax was imposed at the rate of 4.25 percent on the consideration given for natural gas imported into New York State. The rate will be phased down for taxable years beginning in 2000, at the same rate as the commodity receipts rate in Section 186-a. The tax is fully eliminated for tax years beginning on or after January 1, 2005.

#### Corporate Exemptions

Certain companies are exempt from the Section 189 tax.

#### 46. Co-Generation Facilities

**Citation:** Section 189.6

**Effective Date:** August 1, 1991

**Description:** Gas services sold to a co-generation facility, as defined under subdivision two-a of section two of the public service law or section two hundred one of the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617), that are used to generate electricity and/or steam that is supplied to (and used by) a thermal energy host located at or near the project site are exempt from the Section 189 tax.

**Estimates:** 2001: \$2.9 million - 2005: Minimal

**Data Source:** Business Tax Files

**Reliability:** Level 2

#### Credits

#### 47. Credit for Tax Paid in Another Jurisdiction

**Citation:** Section 189.7

**Effective Date:** August 1, 1991

**Description:** To prevent actual multijurisdictional taxation of purchases of natural gas, importers of natural gas may claim a credit for a like tax paid in another jurisdiction. The amount of the credit is the amount of tax lawfully due and paid to the other jurisdiction not exceeding the tax due to New York.

**Estimates:** No data available

**Reliability:** Level 5

#### 48. Long-Term Care Insurance Credit

**Citation:** Section 190

**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 cost of purchasing long-term care insurance, as defined in the Insurance Law. Any unused credit may be carried forward.

**Estimates:** 2001: Not Applicable - 2005: Minimal

**Data Source:** New York State Department of Insurance

**Reliability:** Level 4

## **BANK TAX**

This section of the report provides tax expenditure estimates for 25 separate provisions of the franchise tax on banking corporations. The list of expenditures contained in Table 5 is based on the Tax Law as of January 1, 2005. The estimates are based on data from the 2001 tax year, the latest year for which Article 32 tax return data are available. They are also extrapolated to the 2005 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 2001 and 2005 calendar tax years and fiscal tax years ending in 2002 and 2006.

### **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:

- 7.5 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 3 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.

## **BANK TAX**

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

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 Article 32 Bank Tax include:

- 2001 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 2001 to 2005 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 5**  
**2005 New York State Bank Tax Expenditure Estimates**  
**(2001 Total Bank Tax Liability = \$461.2 Million)**  
**(Millions of Dollars)**

Tax Item	History					Forecast 2005	Reliability Level
	1997	1998	1999	2000	2001		
<b>New York Modifications to Federal Taxable Income</b>							
1. Bad Debt Deduction for Commercial Banks	N/A	N/A	N/A	N/A	N/A	N/A	5
2. Bad Debt Deduction for Thrift Institutions	N/A	N/A	N/A	N/A	N/A	N/A	5
3. Deduction of Money Received from the FDIC and FSLIC	0.0	0.0	0.2	0.0	0.0	*	1
4. Deduction for Eligible Net Income of IBFs	32.6	25.5	20.8	26.0	8.0	7.1	1
5. Deduction of 17 Percent of Interest Income from Subsidiary Capital	14.1	23.6	24.6	35.5	31.3	23.7	1
6. Deduction of 60 Percent of Dividend Income and Excess Gains from Subsidiary Capital	104.7	120.7	86.4	106.1	118.1	92.8	1
7. Deduction of 22.5 Percent of Interest Income from Government Obligations	40.4	32.4	28.2	29.2	21.4	15.0	1
<b>Alternative Bases</b>							
8. Reduced Rate of Asset-Based Tax for Banks Meeting Net Worth and Mortgage Holdings Criteria	*	*	*	*	*	*	1
9. Exclusion of Money Received from FDIC and FSLIC from Asset Based Tax	0.0	0.0	*	0.0	0.0	*	1
<b>Allocation Percentages</b>							
10. Discounting of the Wage Factor in the Calculation of Entire Net Income and Taxable Assets Allocation Percentages	26.4	21.4	18.6	19.1	18.5	16.4	1
11. 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
12. IBF Formula Allocation Election	41.5	32.2	29.7	33.6	19.5	17.4	1

# BANK TAX

Tax Item	History				Forecast		Reliability Level
	1997	1998	1999	2000	2001	2005	
<b>Credits</b>							
13. Mortgage Servicing Tax Credit	8.8	6.2	8.0	8.3	9.9	9.7	1
14. Special Additional Mortgage Recording Tax Credit	11.3	15.2	12.0	12.5	17.3	12.0	1
15. Empire Zone and Zone Equivalent Areas Tax Credits							
a. Empire Zone and Zone Equivalent Areas Tax Credits	0.0	1.1	2.2	3.0	5.5	7.2	1
b. Qualified Empire Zone Enterprise Tax Credits	--	--	--	--	3.8	8.3	1
16. Credit for Employment of Persons with Disabilities	--	0.0	0.0	*	0.0	*	1
17. Investment Credit for Financial Services Industry	--	0.6	2.4	5.3	6.1	10.0	1
18. Credit for Transportation Improvement Contributions	--	--	--	0.0	0.0	*	1
19. Low Income Housing Credit	--	--	--	0.0	0.0	*	1
20. Credit for Purchase of Automated External Defibrillator	--	--	--	--	0.0	*	1
21. Green Buildings Credit	--	--	--	--	0.0	*	1
22. Long-Term Care Insurance Credit	--	--	--	--	--	*	4
23. Brownfields Tax Credits 1/	--	--	--	--	--	*	4
<b>Corporate Exemptions</b>							
24. Exemption of Trust Companies Whose Capital Stock is Owned by Twenty or More New York Savings Banks	*	*	*	*	*	*	*
25. Exemption of Federal and State Chartered Credit Unions	18.1	16.1	18.1	16.1	14.0	28.1	4

1/ A new tax expenditure item.

\* Less than \$0.1 million.

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

N/A No data available

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## New York Modifications to Federal Taxable Income

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

### 1. **Bad Debt Deduction for Commercial Banks**

**Citation:** Section 1453(I)

**Effective Date:** Tax years beginning after December 31, 1986

**Description:** The Federal Tax Reform Act of 1987 required “large banks” (those with more than \$500 million in assets) to use the specific charge off method in calculating the bad debt deduction. Commercial banks with less than \$500 million in assets may use the reserve method in calculating the bad debt deduction. Effective for tax years beginning after December 31, 1986, New York State decoupled from the federal calculation of the bad debt deduction by continuing to allow large commercial banks to calculate the bad debt deduction based on the reserve method. For both large and small commercial banks the difference between the bad debt deduction under the reserve method and the direct write-off method is a tax expenditure item.

**Termination Date:** Expires for tax years beginning on or after January 1, 2006

**Estimate:** 2001: No data available - 2005: No data available

**Reliability:** Level 5

### 2. **Bad Debt Deduction for Thrift Institutions**

**Citation:** Section 1453(h)

**Effective Date:** Tax years beginning after December 31, 1986

**Description:** Thrift institutions may use the reserve method in calculating their deduction for bad debts on certain qualifying property. The difference between the bad debt deduction under the reserve method and the actual amount of direct write-offs is a tax expenditure item.

**Estimate:** 2001: No data available - 2005: No data available

**Reliability:** Level 5

### 3. **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.

**Termination Date:** Expires for commercial banks on January 1, 2006

**Estimates:** 2001 \$0.0 million - 2005: Minimal

**Data Source:** Bank Tax Study File

**Reliability:** Level 1

### 4. **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 31, 1981

**Description:** An International Banking Facility is a separate set of asset and liability

## BANK TAX

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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:** 2001: \$8.0 million - 2005: \$7.1 million

**Data Source:** Bank Tax Study File

**Reliability:** Level 1

### 5. 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.

**Termination Date:** Expires for commercial banks on January 1, 2006

**Estimates:** 2001: \$31.3 million - 2005: \$23.7 million

**Data Source:** Bank Tax Study File

**Reliability:** Level 1

### 6. 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 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.

**Termination Date:** Expires for commercial banks on January 1, 2006

**Estimates:** 2001: \$118.1 million - 2005: \$92.8 million

**Data Source:** Bank Tax Study File

**Reliability:** Level 1

### 7. 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.

**Termination Date:** Expires for commercial banks on January 1, 2006

**Estimates:** 2001: \$21.4 million - 2005: \$15.0 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.

#### **8. 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.

**Termination Date:** Expires for commercial banks on January 1, 2006

**Estimates:** 2001: Minimal - 2005: Minimal

**Data Source:** Bank Tax Study File

**Reliability:** Level 1

#### **9. 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.

**Termination Date:** Expires for commercial banks on January 1, 2006

**Estimates:** 2001: \$0.0 million - 2005: Minimal

**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.

## BANK TAX

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**10. 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 is allocated to New York State for tax purposes could be reduced, depending on the particular corporation's circumstances.

**Termination Date:** Expires for commercial banks on January 1, 2006

**Estimates:** 2001: \$18.5 million - 2005: \$16.4 million

**Data Source:** Bank Tax Study File

**Reliability:** Level 1

**11. 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 is allocated to New York State for tax purposes could be reduced, depending on the particular corporation's circumstances.

**Termination Date:** Expires for commercial banks on January 1, 2006

**Estimate:** No data available

**Reliability:** Level 5

**12. 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 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.

**Termination Date:** Expires for commercial banks on January 1, 2006

**Estimates:** 2001: \$19.5 million - 2005: \$17.4 million

**Data Source:** Bank Tax Study File

**Reliability:** Level 1

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**Credits**

Credits are amounts, stipulated by Article 32, which banking corporations may subtract from their calculated New York tax liability.

**13. Mortgage Servicing Tax Credit**

**Citation:** Section 1456(a)

**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:** 2001: \$9.9 million - 2005: \$9.7 million

**Data Source:** Bank Tax Study File

**Reliability:** Level 1

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

**Citation:** Section 1456(c)

**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. The amount of any unused mortgage recording tax credit may be carried forward and used in subsequent years. Certain mortgages on property in the Metropolitan Commuter Transportation District recorded on or after May 1, 1987, are ineligible for the credit. The same restriction applies to mortgages on real property in Erie County.

**Estimates:** 2001: \$17.3 million - 2005: \$12.0 million

**Data Source:** Bank Tax Study File

**Reliability:** Level 1

**15. Empire Zone and Zone Equivalent Areas Tax Credits****a. Empire Zone and Zone Equivalent Areas Tax Credits**

**Citation:** Section 1456(d)-(e)

**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 EZs (EZ-WTC). The wage tax credit has two components. This credit equals the product of the average number of newly hired targeted EZ employees receiving EZ wages multiplied by \$3,000. The corresponding credit amount for other employees equals the product of the average number of newly hired nontargeted EZ employees receiving EZ wages multiplied by \$1,500.

Taxpayers employing individuals in areas that met EZs eligibility criteria but were not so designated - Zone Equivalent Areas (ZEAs) - may take 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 the full term of the credit if claimed prior to expiration. The credit equals \$3,000 multiplied by the average number of targeted employees and \$1,500 multiplied by the average

## BANK TAX

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number of nontargeted employees. The total wage tax credit in any tax year cannot exceed 50 percent of tax due (before credits). The EZ-WTC and the ZEA-WTC are available to the taxpayer for five years.

Finally, taxpayers may qualify for a credit for investments in zone capital corporations, direct equity investments in certified zone businesses and contributions to community development projects (EZ capital corporation credit). 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 \$300,000 and cannot exceed one half of the taxpayer's pre-credit tax.

Taxpayers may carry unused credits forward indefinitely. "New business" taxpayers may elect to have 50 percent of their unused ZEA-WTC or EZ-WTC refunded, in lieu of carryover.

**Estimates:** 2001: \$5.5 million - 2005: \$7.2 million

**Data Source:** Bank Tax Study File

**Reliability:** Level 1

### b. **Qualified Empire Zone Enterprise Tax Credits**

**Citation:** Section 1456 (o)(p)

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

**Description:** The Empire Zones Program Act created a tax credit for real property taxes and a tax reduction credit for Qualified Empire Zone Enterprises (QEZE). Qualified Empire Zone Enterprises include business enterprises certified as EZ businesses that meet an annual employment test. The QEZE tax credit for real property taxes and the tax reduction credit may be claimed for 15 years. The credit for real property taxes is refundable. The tax reduction credit can be applied against the alternative minimum tax and the fixed dollar minimum, potentially reducing a taxpayer's liability to zero.

**Estimates:** 2001: \$3.8 million - 2005: \$8.3 million

**Data Source:** Bank Tax Study File

**Reliability:** Level 1

### 16. **Credit for Employment of Persons with Disabilities**

**Citation:** Section 1456(f)

**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:** 2001: \$0.0 million - 2005: Minimal

**Data Source:** Bank Tax Study File

**Reliability:** Level 1

### 17. **Investment Credit for Financial Services Industry**

**Citation:** Section 1456(i)

**Effective Date:** Effective for property placed in service on or after October 1, 1998 and before October 1, 2008

**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, or national securities exchange or board of trade, or property leased by a taxpayer to an affiliated regulated broker, dealer, 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 all or substantially all 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.

**Estimates:** 2001: \$6.1 million - 2005: \$10.0 million

**Data Source:** Bank Tax Study File

**Reliability:** Level 1

### 18. **Credit for Transportation Improvement Contributions**

**Citation:** Section 1456(n)

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

**Description:** The taxpayer must make a certified contribution of at least \$10 million to a qualified transportation improvement project in a prior tax year. The projects must enhance a qualified business facility, and may include the construction or improvement of transportation infrastructure and related facilities and systems, including bridges,

## **BANK TAX**

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ramps, highways, and mass transit facilities. In addition, the taxpayer must create, by the third full tax year after the tax year during which the contribution was made, more than 1,000 jobs in connection with the qualified business facility. The credit equals 6 percent of the taxpayer's increased qualified business facility payroll for the tax year. After the third full tax year after the contribution is made the employment increase test is not met, then there is a recapture of the credit. The new law applies to contributions made on or after January 1, 2000.

**Estimates:** 2001: \$0.0 million - 2005: Minimal

**Data Source:** Bank Tax Study File

**Reliability:** Level 1

### **19. Low Income Housing Credit**

**Citation:** Section 1456(l)

**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. The total amount of credit available is \$60 million, or \$6 million each year.

**Estimates:** 2001: \$0.0 million- 2005: Minimal

**Data Source:** Bank Tax Study File

**Reliability:** Level 1

### **20. Credit for Purchase of Automated External Defibrillator**

**Citation:** Section 456(j)

**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:** 2001: \$0.0 million - 2005: Minimal

**Data Source:** Bank Tax Study File

**Reliability:** Level 1

### **21. Green Building Credit**

**Citation:** Section 1456(m)

**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. The credit applies to costs incurred on or after June 1, 1999, for property placed in service or that has received a final certificate of occupancy in tax years beginning on or after January 1,

2001.

**Estimates:** 2001: \$0.0 million - 2005: Minimal

**Data Source:** Bank Tax Study File

**Reliability:** Level 1

**22. Long-Term Care Insurance Credit**

**Citation:** Section 1456(k)

**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:** 2001: Not Applicable - 2005: Minimal

**Data Source:** New York State Department of Insurance

**Reliability:** Level 4

**23. Brownfields Tax Credit**

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

**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. 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, 2006.

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:** 2001: Not Applicable - 2005: Minimal

**Data Source:** New York State Department of Environmental Conservation

**Reliability:** Level 4

## **BANK TAX**

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### **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:** 2001: Minimal - 2005: 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:** 2001: \$14.0 million - 2005: \$28.1 million

**Data Source:** JCT estimates prorated to New York

**Reliability:** Level 4

## INSURANCE TAX

This section of the report provides tax expenditure estimates for 25 separate provisions of the corporation franchise tax on insurance companies. The list of tax expenditures contained in Table 6 is based on the Tax Law as of January 1, 2005. The estimates are based on data from the 2001 tax year, the latest year for which Article 33 tax return data is available. They are also extrapolated to the 2005 tax year. The tax years refer to both the 2001 and 2005 calendar years and fiscal tax years ending in 2002 and 2006. Total insurance tax liability for the 2001 tax year has been included to provide some perspective to the tax expenditure estimates.

It should be noted that 2005 projections may differ from the pattern of historical estimates shown for 1997-2001. This is due to major revisions in the Article 33 tax enacted as part of the 2003-04 State Budget. For tax years beginning on or after January 1, 2003, non-life insurance corporations are no longer subject to the income tax component of the insurance franchise tax. In addition, a new “floor tax” amount has been added for life insurance corporations. Historical estimates are based on the structure of Article 33 in 2001, while 2005 projections are based on the current structure of the tax.

### 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:

- 7.5 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

## **INSURANCE TAX**

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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 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:

- 2001 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 is available for federal items at the State level. Federal tax expenditure items estimated by the JCT are prorated to New York.
- Annual Statistical Tables, New York State Insurance Department.

**Methodology**

The projections of the tax expenditures from 2001 to 2005 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 6**  
**2005 New York State Insurance Tax Expenditure Estimates**  
**(2001 Total Insurance Tax Liability = \$555.1 Million)**  
**(Millions of Dollars)**

Tax Item	History				Forecast 2005	Reliability Level
	1997	1998	1999	2000		
<b>New York Modifications to Federal Taxable Income</b>						
1. Exclusion of Interest, Dividends and Capital Gains from Subsidiary Capital 2/	15.6	11.4	18.6	11.3	4.7	1.8
2. Deduction of 50 Percent of Dividends from Non-Subsidiary Corporations 2/	6.6	5.3	3.2	5.8	4.7	1.4
<b>Alternative Bases</b>						
3. Exclusion of Assets Held as Reserves Under NYS Insurance Law Sections 1303, 1304 and 1305 2/	*	*	*	*	*	*
<b>Exclusions from Premiums Based Tax</b>						
4. Exclusion of Annuities from the Tax on Premiums	41.4	20.6	6.0	5.4	11.7	6.2
5. Exclusion from the Premiums Tax of Premiums Written on Certain Joint Underwriting Policies	10.4	5.2	1.5	1.4	2.9	1.5
6. Exclusion from the Premiums Tax of Premiums Written on Marine Vessels	3.0	2.1	1.9	2.5	3.5	6.7
7. Exclusion from the Premiums Tax of Premiums Written on Certain Reinsurance Policies	N/L	N/L	N/L	36.7	50.8	185.1
8. Exclusion from the Premiums Tax for Certain Non-New York Property or Individuals	N/A	N/A	N/A	N/A	N/A	N/A
<b>Limitation on Tax</b>						
9. Limitation on Tax Liability 2/	193.9	230.2	171.8	227.5	134.7	43.2
<b>Credits</b>						
10. Fire Insurance Tax Credits - Credit for Taxes on Certain Fire Insurance Premiums	29.6	27.8	29.3	31.8	37.4	40.1
11. Retaliatory Tax Credit	45.3	33.2	30.6	27.3	19.1	58.4

	History					Forecast		Reliability Level
	1997	1998	1999	2000	2001	2005	2005	
12. Special Additional Mortgage Recording Tax Credit	*	*	*	0.0	0.0	*	*	1
13. Credit for Assessments Paid to the Life Insurance Company Guaranty Corporation 2/	0.0	0.0	0.0	0.0	0.0	*	*	4
14. Empire Zone Tax Credits								
a. Empire Zone and Zone Equivalent Areas Tax Credits	0.0	0.0	0.1	0.1	0.0	*	*	1
b. Qualified Empire Zone Enterprise Tax Credits	--	--	--	--	0.0	*	*	1
15. Credit for Employment of Persons with Disabilities	--	0.0	*	0.0	0.0	*	*	1
16. Credit for Investment in Certified Capital Companies	--	--	4.4	8.6	12.4	28.0	28.0	1
17. Credit for Transportation Improvement Contributions	--	--	--	0.0	0.0	*	*	1
18. Low Income Housing Credit	--	--	--	0.0	0.0	*	*	1
19. Credit for Purchase of Automated External Defibrillator	--	--	--	--	0.0	*	*	1
20. Green Buildings Credit	--	--	--	--	0.0	*	*	1
21. Investment Tax Credit for Insurers	--	--	--	--	--	10.0	10.0	4
22. Long-Term Care Insurance Credit	--	--	--	--	--	*	*	4
23. Brownfields Tax Credits 1/	--	--	--	--	--	*	*	4
<b>Corporate Exemptions</b>								
24. Exemption from Article 33 for Specific Types of Entities Engaged in an Insurance Business	236.1	244.9	271.2	277.2	262.5	271.8	271.8	4
<b>Preferential Tax Rates</b>								
25. Preferential Tax Treatment for Captive Insurance Companies	--	*	*	*	*	*	3.0	4

1/ 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.

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

\* Less than \$0.1 million.

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

N/A No data available

N/L Not previously listed as a tax expenditure

## INSURANCE TAX

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### 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:** 2001: \$4.7 million - 2005: \$1.8 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:** 2001: \$4.7 million - 2005: \$1.4 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:

- 1) 7.5 percent of allocated entire net income;
- 2) 0.0016 of allocated business and investment capital;
- 3) 9 percent on 30 percent of allocated entire net income plus salaries of certain officers and shareholders; and
- 4) 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:** 2001: Minimal - 2005: 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:** 2001: \$11.7 million - 2005: \$6.2 million

**Data Source:** Insurance Study File

**Reliability:** Level 1

**5. Exclusion from the Premiums Tax 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:** 2001: \$2.9 million - 2005: \$1.5 million

**Data Source:** Insurance Study File

**Reliability:** Level 1

**6. Exclusion from the Premiums Tax 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:** 2001: \$3.5 million - 2005: \$6.7 million

**Data Source:** Insurance Study File

**Reliability:** Level 1

## INSURANCE TAX

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### 7. Exclusion from the Premiums Tax 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 this state. It also does not include premiums received by way of reinsurance from corporations or other insurers not authorized to transact business in this state if such premiums are subject to the Excess Line Tax imposed under the Insurance Law.

**Estimates:** 2001: \$50.8 million - 2005: \$185.1 million

**Data Source:** Insurance Study File

**Reliability:** Level 1

### 8. Exclusion from the Premiums Tax 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 or “cap” of 2 percent for life insurance corporations. The total tax before credits may not exceed this amount. Taxpayers may apply all insurance corporation tax credits, except the empire zone wage tax credit and the empire zone capital corporation credit, to reduce the tax as determined by 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 (EZ) or Zone Equivalent Area (ZEA) credits.

**Estimates:** 2001: \$134.7 million - 2005: \$43.2 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, which insurance corporations may subtract from their calculated New York tax liability. The Empire Zone Wage Tax Credit and the Empire Zone Capital Corporation Credit may not be utilized by life insurance corporations to reduce the tax in instances where the tax is based on the limitation (or cap). Article 33 credits are available to both life and non-life insurance corporations unless otherwise noted.

### **10. Fire Insurance Tax Credits - Credit for Taxes on Certain Fire Insurance Premiums**

**Citation:** Section 1511(a)

**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. Insurance corporations may not carry forward unused credits to any other year.

**Estimates:** 2001: \$37.4 million - 2005: \$40.1 million

**Data Source:** Insurance Tax Study File

**Reliability:** Level 1

### **11. Retaliatory Tax Credit**

**Citation:** Section 1511(c)

**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:** 2001: \$19.1 million - 2005: \$58.4 million

**Data Source:** Insurance Tax Study File

**Reliability:** Level 1

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

**Citation:** Section 1511(e)

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

**Description:** An insurance corporation may claim a credit which is equal in amount to the special additional mortgage recording tax paid on mortgages recorded on or after January 1, 1979, on property which is located within New York. Taxpayers may carry forward the amount of any unused mortgage recording tax credit. Certain mortgages on property in a Metropolitan Commuter Transportation District or Erie County are ineligible for the credit.

## INSURANCE TAX

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**Estimates:** 2001: \$0.0 million - 2005: 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)

**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. Taxpayers may carry forward the amount of unused credits.

**Estimates:** 2001: \$0.0 million - 2005: Minimal

**Data Source:** State Insurance Department

**Reliability:** Level 4

### 14. **Empire Zone Tax Credits**

#### a. **Empire Zone Tax Credits**

**Citation:** Section 1511(g)(h)

**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 EZs (EZ-WTC). The wage tax credit has two components. This credit equals the product of the average number of newly hired targeted EZ employees receiving EZ wages multiplied by \$3,000. The corresponding credit amount for other employees equals the product of the average number of newly hired nontargeted EZ employees receiving EZ wages multiplied by \$1,500.

Taxpayers employing individuals in areas that met EZs eligibility criteria but were not so designated - Zone Equivalent Areas (ZEAs) - may take 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 the full term of the credit if claimed prior to expiration. The credit equals \$3,000 multiplied by the average number of targeted employees and \$1,500 multiplied by the average number of nontargeted employees. The total wage tax credit in any tax year cannot exceed 50 percent of tax due (before credits). The EZ-WTC and the ZEA-WTC are available to the taxpayer for five years.

Finally, taxpayers may qualify for a credit for investments in zone capital corporations, direct equity investments in certified zone businesses and contributions to community development projects (EZ capital corporation credit). 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 \$300,000 and cannot exceed one half of the taxpayer's pre-credit tax.

Taxpayers may carry unused credits forward indefinitely. "New business" taxpayers may elect to have 50 percent of their unused ZEA-WTC or EZ-WTC refunded, in lieu of carryover.

**Estimates:** 2001: \$0.0 million - 2005: Minimal  
**Data Source:** Insurance Tax Study File  
**Reliability:** Level 1

**b. Qualified Empire Zone Enterprise Tax Credits**

**Citation:** Section 1511(r), (s)

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

**Description:** The Empire Zones Program Act created a tax credit for real property taxes and a tax reduction credit for Qualified Empire Zone Enterprises (QEZE). Qualified Empire Zone Enterprises include business enterprises certified as EZ businesses that meet an annual employment test. The QEZE tax credit for real property taxes and the tax reduction credit may be claimed for 15 years. The credit for real property taxes is refundable. The tax reduction credit can be applied against the alternative minimum tax and the fixed dollar minimum, potentially reducing a taxpayer's liability to zero.

**Estimates:** 2001:\$0.0 million - 2005: Minimal

**Data Source:** Insurance Tax Study File

**Reliability:** Level 1

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

**Citation:** Section 1511(j)

**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:** 2001: \$0.0 million - 2005: Minimal

**Data Source:** Insurance Tax Study File

**Reliability:** Level 1

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

**Citation:** Section 1511(k)

**Effective Date:** Effective for tax years beginning after 1998, although the credit may be earned before 1999. The credit was expanded, with a second program, to a combined statewide cap of \$130 million, effective January 1, 2001. The credit was expanded again, with a third program, to a combined statewide cap for all three programs of \$280 million, effective January 1, 2002.

**Description:** Under the three programs, taxpayers may claim a credit for 100 percent of the amount invested in certified capital companies (CAPCOs). The credit can be claimed

## INSURANCE TAX

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over 10 years, at a rate of 10 percent per year. The combined statewide cap is \$280 million on the total amount of investments for which credits may be claimed (no more than \$50 million for 1999). The total for all three programs may not exceed \$28 million in any year.

**Estimates:** 2001: \$12.4 million- 2005: \$28.0 million

**Data Source:** Insurance Tax Study File

**Reliability:** Level 1

### 17. Credit for Transportation Improvement Contributions

**Citation:** Section 1511(p)

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

**Description:** The taxpayer must make a certified contribution of at least \$10 million to a qualified transportation improvement project in a prior tax year. The projects must enhance a qualified business facility, and may include the construction or improvement of transportation infrastructure and related facilities and systems, including bridges, ramps, highways, and mass transit facilities. In addition, the taxpayer must create, by the third full tax year after the tax year during which the contribution was made, more than 1,000 jobs in connection with the qualified business facility. The credit equals 6 percent of the taxpayer's increased qualified business facility payroll for the tax year. After the third full tax year after the contribution is made the employment increase test is not met, then there is a recapture of the credit. The new law applies to contributions made on or after January 1, 2000.

**Estimates:** 2001: \$0.0 million - 2005: Minimal

**Data Source:** Insurance Tax Study File

**Reliability:** Level 1

### 18. Low Income Housing Credit

**Citation:** Section 1511(n)

**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. The total amount of credit available is \$60 million, or \$6 million each year.

**Estimates:** 2001 \$0.0 million- 2005: Minimal

**Data Source:** Insurance Tax Study File

**Reliability:** Level 1

### 19. Credit for Purchase of Automated External Defibrillator

**Citation:** Section 1511(l)

**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:** 2001: \$0.0 million - 2005: Minimal

**Data Source:** Insurance Tax Study File

**Reliability:** Level 1

**20. Green Building Credit**

**Citation:** Section 1511(o)

**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. The credit applies to costs incurred on or after June 1, 1999, for property placed in service or that has received a final certificate of occupancy in tax years beginning on or after January 1, 2001.

**Estimates:** 2001: \$0.0 million - 2005: Minimal

**Data Source:** Insurance Tax Study File

**Reliability:** Level 1

**21. Investment Tax Credit for Insurers**

**Citation:** Section 1511(q)

**Effective Date:** Available for property placed in service between January 1, 2002 and October 1, 2008

**Description:** An insurance company which is a securities and commodities broker 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 September 30, 2008.

**Estimates:** 2001: Not Applicable - 2005: \$10.0 million

**Data Source:** Industry Representatives

**Reliability:** Level 4

**22. Long-Term Care Insurance Credit**

**Citation:** Section 1511(m)

**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:** 2001: Not Applicable - 2005: Minimal

## INSURANCE TAX

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**Data Source:** New York State Department of Insurance

**Reliability:** Level 4

### 23. **Brownfields Tax Credit**

**Citation:** Sections 21, 22, 23, 1511 (u)(v)(w)

**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. 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, 2006.

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:** 2001: Not Applicable - 2005: Minimal

**Data Source:** New York State Department of Environmental Conservation

**Reliability:** Level 4

## 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.

### 24. **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 corporation 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. (This exemption applies to health service corporations such as Blue Cross and Blue Shield.) (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))
- 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))
- Entities conducting insurance business as a member of the New York Insurance Exchange. (1512(c))

**Estimates:** 2001: \$262.5 million - 2005: \$271.8 million

**Data Source:** New York State Insurance Department Aggregate Data.

**Reliability:** Level 4

### Preferential Tax Rates

#### 25. 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 in lieu of the premiums and "income-based" taxes that apply 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 amount of premiums subject to tax increases, with the highest rate equaling 0.4 percent.

**Estimate:** 2001: Minimal - 2005: \$3.0 million

**Data Source:** New York State Insurance Department

**Reliability:** Level 4



## PETROLEUM BUSINESS TAX

This section provides tax expenditure estimates for 28 provisions of the Petroleum Business Tax. Table 7 provides a list of expenditures based on the Tax Law as of January 1, 2005. The estimates are based on data for the 2003 calendar year (the latest complete year for which tax return data is available) and then extrapolated to the 2005 calendar year. Total Petroleum Business Tax liability for calendar 2003 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, 2005. 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 15.2 cents per gallon consists of a 9.2 cents per gallon basic tax and a 6.0 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 1999-2003. 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 BUSINESS TAX**

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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 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 2003 to 2005 are based, where possible, on forecasted consumption of various petroleum products. These forecasts were produced by the U.S. Department of Energy. 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, 2005  
(Cents-Per-Gallon)

<u>Product</u>	<u>Base</u>	<u>Supplemental</u>	<u>Total</u>
<u>Taxes:</u>	<u>Tax</u>	<u>Tax</u>	<u>Tax</u>
Motor Fuel and Aviation Gasoline	9.2	6.0	15.2
Automotive Diesel Fuel	9.2	4.25	13.45
Railroad Diesel	7.9	—	7.9
Kero-jet Fuel	6.0	—	6.0
Non-automotive Type Diesel Fuel	8.2	6.0	14.2
Residual Petroleum Product	6.3	6.0	12.3
 <u>Credits/Reimbursements:</u>	 <u>Base</u>	 <u>Supplemental</u>	 <u>Total</u>
	 <u>Credit</u>	 <u>Credit</u>	 <u>Credit</u>
Electric Utility Credit/Reimbursement			
Unenhanced Diesel Fuel (Primarily No. 2 Fuel Oil)	5.51	—	5.51
Residual Fuel	5.48	—	5.48
Manufacturing Reimbursement 1/			
Unenhanced Diesel Motor Fuel (Primarily No. 2 Fuel Oil)	8.2	6.0	14.2
Residual Petroleum Product	6.3	6.0	12.3
Commercial Gallonage			
Unenhanced Non-automotive Type Diesel Fuel			
Residual Petroleum Product	—	6.0	6.0
Non-residential Heating 4/			
Unenhanced Diesel Motor Fuel	3.8		3.8
Residual Petroleum Product	2.9	—	2.9
Railroad Gallonage	1.3	4.25	5.55
Farm Use Reimbursement 2/			
Motor Fuel	9.2	6.0	15.2
Commercial Fisherman Reimbursement			
Motor Fuel	9.2	6.0	15.2
Diesel Motor Fuel	9.2	4.25	13.45
Distributor of Aviation Gasoline Reimbursement	3.2	6.0	9.2
Not-for-Profit and Veterans' Group Credit/Reimbursement 3/			
Unenhanced Diesel Motor Fuel	8.2	6.0	14.2
Residual Petroleum Product	6.3	6.0	12.3

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

4/ This reimbursement rate applies where the PBT commercial gallonage rate of 8.2 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 7**  
**2005 New York State Petroleum Business Tax Expenditure Estimates**  
**(2003 Calendar Year Total Petroleum Business Tax Liability = 1,007.5 Million)**  
**(Millions of Dollars)**

Tax Law	History				Forecast 2005	Reliability Level
	1999	2000	2001	2002		
<b>Exemptions</b>						
<u>Products</u>						
1. Kerosene	9.4	12.0	12.0	8.7	7.3	2
2. Bunker Fuel	6.7	1.1	23.8	33.8	30.5	2
3. Crude Oil and Liquid Petroleum Gases	36.5	43.0	38.1	48.3	45.5	4
<u>Sales</u>						
4. Governments	58.7	61.4	56.7	57.3	66.2	2
5. Residential Heating	262.6	255.5	276.1	252.3	274.7	2
6. Fuel Used for Manufacturing Purposes 1/	12.4	13.8	13.8	13.5	15.6	2
7. Fuel Used for Farm Production 2/	5.6	5.4	6.2	5.8	6.4	2
8. Not-for-Profit Organizations and Veterans Groups	10.8	12.2	12.6	10.5	14.5	2
9. Fuel Used for Railroad Purposes	3.1	2.8	2.3	2.0	2.0	2
10. Certain Commercial Gallonage	32.9	48.6	58.8	44.7	75.2	2
11. Fuel Used for Non-residential Heating Purposes	--	--	6.7	11.3	15.1	2
<u>Credit, Refund or Reimbursement</u>						
12. Residential Heating Fuel	*	*	*	*	*	2
13. Governments	2.7	1.5	1.5	1.8	1.7	2
14. Omnibus Carriers	2.6	4.5	4.5	5.6	5.5	2
15. Non-Public School Operators	*	0.1	0.1	*	*	2
16. Regulated Electric Utilities	33.6	13.3	9.6	*	*	2
17. Fuel Used for Manufacturing Purposes 3/	*	*	0.1	0.1	0.1	2
18. Certain Commercial Gallonage	0.1	1.6	2.5	2.5	2.7	2
19. Fuel Used by Commercial Fishers	0.3	0.6	0.6	0.6	0.5	2

	History					Forecast 2005	Reliability Level
	1999	2000	2001	2002	2003		
20. Fuel Used for Farm Production 4/	0.6	0.4	0.3	0.3	*	0.4	2
21. Fuel Used for Railroad Purposes	0.3	2.3	1.0	0.5	0.6	0.7	2
22. Fuel Used for Non-residential Heating Purposes 5/	--	--	*	*	*	*	2
23. Fuel Used for Mining or Extracting Purposes	--	--	*	0.2	0.5	0.6	2
24. Bad Debts	*	*	*	*	*	*	2
25. Not-for-Profit Organizations and Veterans Groups	*	*	*	*	*	*	2
26. Fuel Used by Passenger Commuter Ferries		0.1	0.3	0.2	0.3	0.5	2
<u>Exempt Entities</u>							
27. Governments, the United Nations and Certain Not-for-Profit Organizations	*	*	*	*	*	*	4
28. Certain Airlines 6/	--	--	--	--	--	0.5	2
* Less than \$0.1 million.							
N/A No data available							
-- The tax expenditure was not applicable for these years.							
1/ Non-automotive diesel fuel and residual petroleum product used and consumed directly and exclusively in the production of TPP for sale as part of a manufacturing process are fully exempt from the PBT, effective January 1, 1998.							
2/ Non-automotive diesel fuel used for farming was exempt from the supplemental portion of tax beginning July 1991. Non-automotive diesel fuel and residual fuel used for farming is exempt from entire tax beginning September 1, 1994.							
3/ Credit or refunds were available for the supplemental portion of non-automotive diesel or residual product purchased tax paid and subsequently used to produce TPP for manufacturing. Effective January 1, 1998, these products are now fully exempt from the petroleum business tax.							
4/ Refunds were available for the supplemental portion of non-automotive diesel product purchased tax paid and subsequently used for farming purposes. Full refunds are now available only for motor fuel used for farming purposes effective September 1, 1994.							
5/ Prior to September 1, 2002, refunds were available for the supplemental tax plus 20 percent of the base tax. Effective September 1, 2002, these refunds are available for the supplemental tax plus 46 percent of the base tax.							
6/ Effective June 1, 2005, airlines which service four or more cities in the state with direct non-stop flights between these cities are exempt from PBT.							

## PETROLEUM BUSINESS TAX

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### 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:** 2003: \$7.3 million - 2005: \$7.8 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:** 2003: \$30.5 million - 2005: \$30.0 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:** 2003: \$45.5 million - 2005: \$47.0 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

### Sales

#### 4. 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:** 2003: \$66.2 million - 2005: \$72.3 million

**Data Source:** PBT Master File and U.S. Department of Defense

**Reliability:** Level 2

**5. 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:** 2003: \$274.7 million - 2005: \$276.7 million

**Data Source:** PBT Master File

**Reliability:** Level 2

**6. 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 17. Fuel Used for Manufacturing Purposes for reimbursement if the tax was paid on subsequent sales.)

**Estimates:** 2003: \$15.6 million - 2005: \$16.9 million

**Data Source:** PBT Master File

**Reliability:** Level 2

**7. 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 20. 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:** 2003: \$6.4 million - 2005: \$6.9 million

## PETROLEUM BUSINESS TAX

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**Data Source:** PBT Master File

**Reliability:** Level 2

### 8. 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 or non-automotive diesel 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 25. 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:** 2003: \$14.5 million - 2005: \$15.6 million

**Data Source:** PBT Master File

**Reliability:** Level 2

### 9. 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 21. Fuel Used for Railroad Purposes for refund/reimbursement of tax.)

**Estimates:** 2003: \$2.0 million - 2005: \$2.2 million

**Data Source:** PBT Master File and refund data from the Department of Taxation and Finance's Audit Division

**Reliability:** Level 2

### 10. 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 18. Certain Commercial Gallonage for refund/reimbursement of tax.)

**Estimates:** 2003: \$75.2 million - 2005: \$86.0 million

**Data Source:** PBT Master File

**Reliability:** Level 2

**11. 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:** 2003: \$15.1 million - 2005: \$16.3 million

**Data Source:** PBT Master File

**Reliability:** Level 2

**Credit, Refund or Reimbursement**

A credit, refund or reimbursement is allowed against taxes paid by certain petroleum businesses for particular petroleum products.

**12. 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:** 2003: Minimal - 2005: Minimal

**Data Source:** Refund data from the Department of Taxation and Finance's Audit Division

**Reliability:** Level 2

**13. 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:** 2003: \$1.7 million - 2005: \$2.0 million

**Data Source:** Refund data from the Department of Taxation and Finance's Audit Division

**Reliability:** Level 2

**14. Omnibus Carriers**

**Citation:** Section 301-c(c)

**Effective Date:** April 1, 1992

## PETROLEUM BUSINESS TAX

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**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:** 2003: \$5.5 million - 2005: \$6.0 million

**Data Source:** Refund data from the Department of Taxation and Finance's Audit Division

**Reliability:** Level 2

### 15. 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:** 2003: Minimal - 2005: \$0.1 million

**Data Source:** Refund data from the Department of Taxation and Finance's Audit Division

**Reliability:** Level 2

### 16. Regulated Electric Utilities

**Citation:** Section 301-d

**Effective Date:** September 1, 1990

**Description:** These sections extend 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:** 2003: Minimal - 2005: Minimal

**Data Source:** PBT Master File

**Reliability:** Level 2

### 17. 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 6. 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:** 2003: \$0.1 million - 2005: \$0.1 million

**Data Source:** Refund data from the Department of Taxation and Finance's Audit Division

**Reliability:** Level 2

**18. 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 10. 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:** 2003: \$2.7 million - 2005: \$3.0 million

**Data Source:** Refund data from the Department of Taxation and Finance's Audit Division

**Reliability:** Level 2

**19. 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:** 2003: \$0.5 million - 2005: \$0.6 million

**Data Source:** Refund data from the Department of Taxation and Finance's Audit Division

**Reliability:** Level 2

**20. 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 7. 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.

## PETROLEUM BUSINESS TAX

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**Estimates:** 2003: Minimal - 2005: \$0.4 million

**Data Source:** Refund data from the Department of Taxation and Finance's Audit Division

**Reliability:** Level 2

### 21. 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 9. Fuel Used for Railroad Purposes for exemption from tax.)

**Estimates:** 2003: \$0.6 million - 2005: \$0.7 million

**Data Source:** Department of Taxation and Finance Audit Division

**Reliability:** Level 2

### 22. 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:** 2003: Minimal - 2005: Minimal

**Data Source:** Department of Taxation and Finance Audit Division

**Reliability:** Level 2

### 23. Fuel Used for Mining or Extracting Purposes

**Citation:** Section 301-c(l)

**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:** 2003: \$0.5 million - 2005: \$0.6 million

**Data Source:** Refund data from the Department of Taxation and Finance's Audit Division

**Reliability:** Level 2

**24. 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:** 2003: Minimal - 2005: Minimal

**Data Source:** Refund data from the Department of Taxation and Finance's Audit Division

**Reliability:** Level 2

**25. Not-for-Profit Organizations and Veterans Groups**

**Citation:** Section 301-c(h)

**Effective Date:** January 1, 1996

**Description:** Purchasers who subsequently sell residual fuel or non-automotive diesel 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 8. Not-for-Profit Organizations and Veterans Groups for the full up-front exemption.)

**Estimates:** 2003: Minimal - 2005: Minimal

**Data Source:** Refund data from the Department of Taxation and Finance's Audit Division

**Reliability:** Level 2

**26. 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:** 2003: \$0.3 million - 2005: \$0.5 million

**Data Source:** Refund data from the Department of Taxation and Finance's Audit Division

**Reliability:** Level 2

## PETROLEUM BUSINESS TAX

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### Exempt Entities

#### 27. 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, veteran's groups; certain Indian nations or tribes and certain not-for-profit health maintenance organizations.

**Estimates:** 2003: Minimal - 2005: Minimal

**Data Source:** PBT Master File

**Reliability:** Level 4

#### 28. 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 will become effective June 1, 2005.

**Estimates:** 2003: Not Applicable - 2005: \$0.5 million

**Data Source:** PBT Master File

**Reliability:** Level 2

## **REAL ESTATE TRANSFER TAX**

This section of the report provides tax expenditure estimates for 17 separate provisions of the real estate transfer tax. Table 8 provides a list of expenditures based on the Tax Law as of January 1, 2005. The estimates are based on liability data from the 2002-03 fiscal year. Base year 2002-03 liability is also extrapolated to the 2005-06 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 2002-03 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 all transfers of real property. It includes data items from the TP-584 tax return filed with each transfer and is an unverified data file.

### **Methodology**

Historical estimates are projected to Fiscal Year 2005-06 levels using various economic forecast variables. Several items were projected using economic data from Data Resources Incorporated (DRI). Others were projected with the use of the New York State Division of the Budget’s forecast of the U.S. and New York economies.

# REAL ESTATE TRANSFER TAX

**Table 8**  
**2005 New York State Real Estate Transfer Tax Expenditure Estimates**  
**(Fiscal Year 2003 Total Real Estate Transfer Tax Liability = \$447.6 Million)**  
**(Millions of Dollars)**

	Tax Law	History					Forecast 2005-06	Reliability Level
		1998-99	1999-00	2000-01	2001-02	2002-03		
<b>Exclusions</b>								
1.	Continuing Lien Deduction	3.3	2.6	2.4	2.2	2.6	2.6	2
<b>Exemptions</b>								
2.	State of New York	N/A	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	N/A	5
4.	Conveyances to the United Nations, United States of America, or State of New York	3.6	3.5	2.5	2.5	2.0	2.8	2
5.	Conveyances Which Secure a Debt or Other Obligation	0.4	0.2	0.2	0.2	0.3	0.3	2
6.	Conveyances that Confirm, Correct, Modify or Supplement Prior Conveyance	0.2	0.1	0.2	0.3	0.2	0.2	2
7.	Bona Fide Gifts and Conveyance Without Consideration	0.4	0.3	0.4	0.6	0.6	0.5	2
8.	Tax Sale	0.3	0.2	0.2	0.1	0.2	0.2	2
9.	Mere Changes of Identity	3.1	1.3	1.8	6.3	4.7	5.3	2
10.	Deeds of Partition	*	*	*	*	*	*	2
11.	Federal Bankruptcy Act	3.0	2.8	1.0	0.4	0.5	1.5	2
12.	Contract to Sell or Option to Purchase Without Use	0.2	0.5	0.2	0.1	0.2	0.2	2
13.	Option or Contract to Purchase With Right to Occupy	0.3	0.2	0.1	0.1	0.1	0.1	2
<b>Credit</b>								
14.	Credit for Prior Transfer Tax Paid	*	0.5	0.4	1.3	2.2	1.1	2
15.	Cooperative Housing Corporation Transfer Credit	0.8	0.6	0.7	0.5	0.9	0.7	2
<b>Preferential Tax Rates</b>								
16.	Real Estate Investment Trust Transfers (Initial Formation)	*	*	*	*	*	*	2
17.	Real Estate Investment Trust Transfers (Existing REITs)	1.4	A/	*	A/	A/	*	2
*	Minimal							
--	The tax expenditure was not applicable for these years.							
N/A	No data available							
A/	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:** FY2003: \$2.6 million - FY2006: \$2.6 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

## REAL ESTATE TRANSFER TAX

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States of America, the State of New York, or any of their agencies, political subdivisions, instrumentalities or any public corporation (including public corporations created pursuant to an agreement with another state or Dominion of Canada).

**Estimates:** FY2003: \$2.0 million - FY2006: \$2.8 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:** FY2003: \$0.3 million - FY2006: \$0.3 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:** FY2003: \$0.2 million - FY2006: \$0.2 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:** FY2003: \$0.6 million - FY2006: \$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:** FY2003: \$0.2 million - FY2006: \$0.2 million

**Data Source:** RETT Database

**Reliability:** Level 2

### 9. Mere Changes of Identity

**Citation:** Section 1405(b)(6)

**Effective Date:** July 1, 1989

## REAL ESTATE TRANSFER TAX

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**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:** FY2003: \$4.7 million - FY2006: \$5.3 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:** FY2003: Minimal - FY2006: 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:** FY2003: \$0.5 million - FY2006: \$1.5 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:** FY2003: \$0.2 million - FY2006: \$0.2 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:

- (i) the consideration is less than \$200,000;

## REAL ESTATE TRANSFER TAX

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- (ii) such property or at least one unit of a two- or three-family house was used solely as the grantor's personal residence; and
- (iii) 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:** FY2003: \$0.1 million - FY2006: \$0.1 million

**Data Source:** RETT Database

**Reliability:** Level 2

### Credit

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:** FY2003: \$2.2 million - FY2006: \$1.1 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:** FY2003: \$0.9 million - FY2006: \$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)

**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:** FY2003: Minimal - FY2006: Minimal

**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, 2005.

**Estimates:** FY2003: Not Disclosable - FY2006: Minimal

**Data Source:** New York State Department of Taxation and Finance

**Reliability:** Level 2



## 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 corporation franchise tax. Table 9 lists tax expenditure provisions common to the personal income, corporation franchise, bank, and insurance taxes for the 2005 tax year. The charts which 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 2005.

**Table 9**  
**2005 Tax Year**  
**Selected Cross-Article Tax Expenditure Estimates**  
**(Millions of Dollars)**

	Personal Income Tax	Corporation Franchise Tax	Bank Tax	Insurance Tax
Additional Holocaust Tax Exemption 1/	*	*	--	--
<i>Federal Flow-Through Provisions</i>				
MACRS/ACRS Depreciation	138.0	160.7	158.0	8.5
Deferred Tax on Installment Sales	11.3	6.8	30.0	*
Expensing on Certain Depreciable Business Property	17.5	2.5	*	*
Expensing of Research and Development Costs	*	74.3	--	--
Amortization of Business Start-Up Costs	0.5	0.2	N/A	N/A
Deductibility of Charitable Contributions	470.0	28.4	41.6	*
<i>State Credits</i>				
Investment Tax Credit	28.0	75.6	--	--
Investment Credit for Financial Services Industry	0.5	17.3	10.0	10.0
Special Additional Mortgage Recording Tax Credit 2/	2.3	0.8	12.0	*
Empire Zone and QEZE Credits 3/	145.7	196.3	15.5	*
Credit for Employment of Persons with Disabilities 2/	0.1	0.1	*	*
Emerging Technology Companies Credit	1.1	0.1	--	--
Credit for Purchase of an Automated External Defibrillator	*	*	*	*
Green Building Credit 2/	0.9	5.0	*	*
Low Income Housing Credit	*	6.0	*	*
Industrial/Manufacturing Business Credit	2.0	3.1	--	--
Credit for Transportation Improvement Contributions 2/	0.0	0.0	*	*
Long-Term Care Insurance Credit 2/	60.0	*	*	*
Brownfields Tax Credits /2	*	61.5	*	*
Empire State Film Production Credit	25.0	*	--	--

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/ These expenditures are also permitted under certain sections of the Corporation Tax (Article 9). See the Corporation Tax section of the report for more details.

3/ Also, there is a QEZE sales tax expenditure of \$80 million.

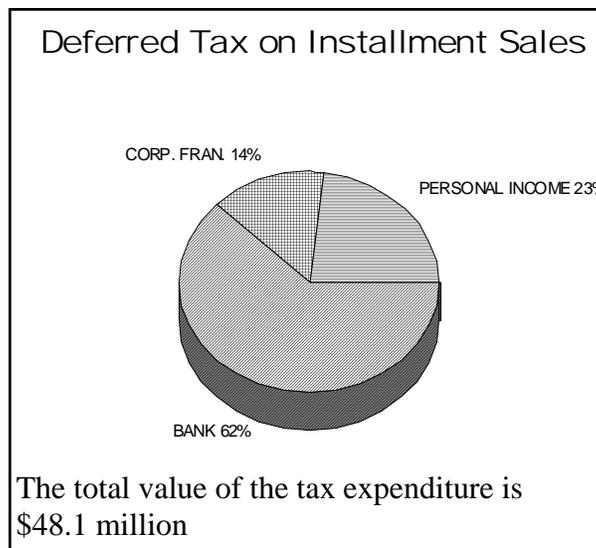
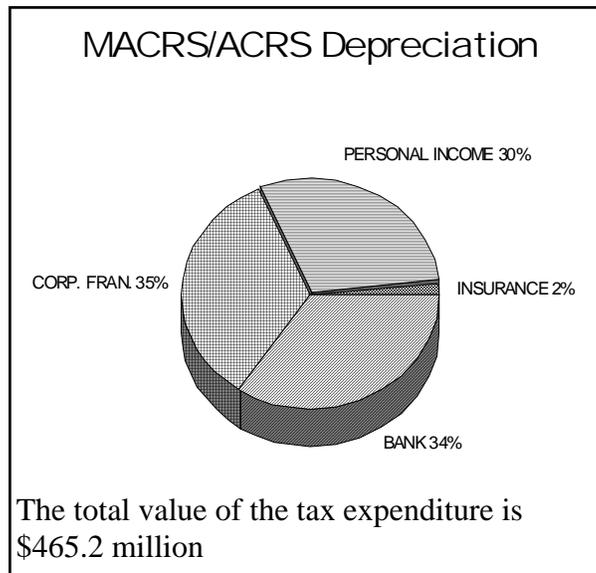
\* Less than \$0.1 million

N/A No data available

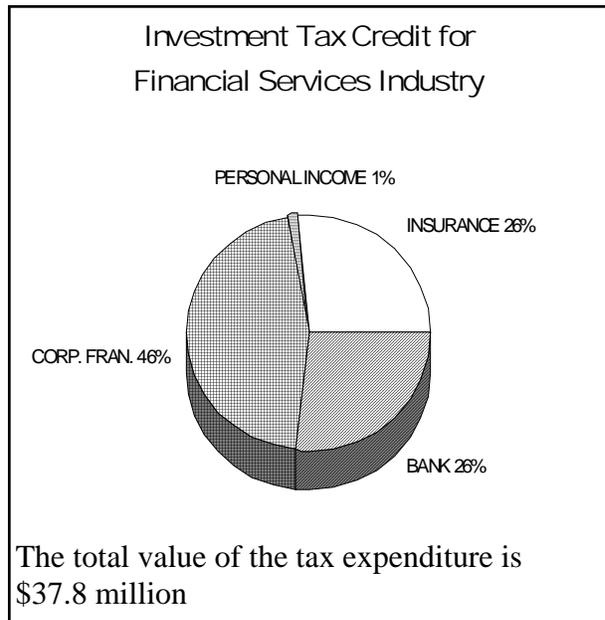
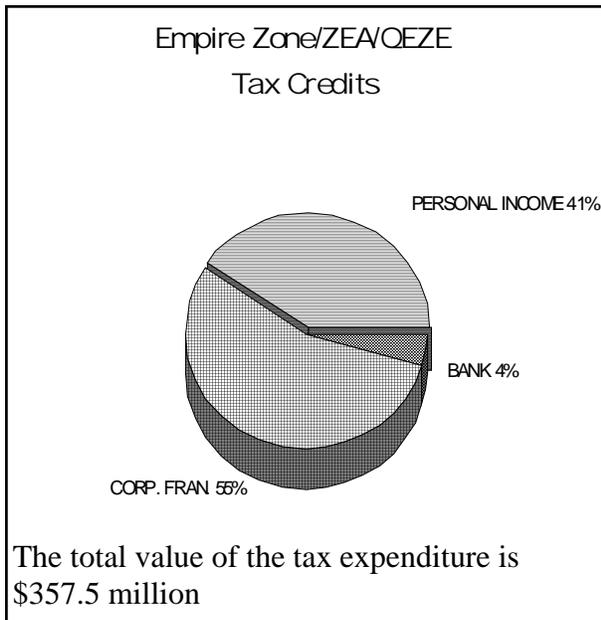
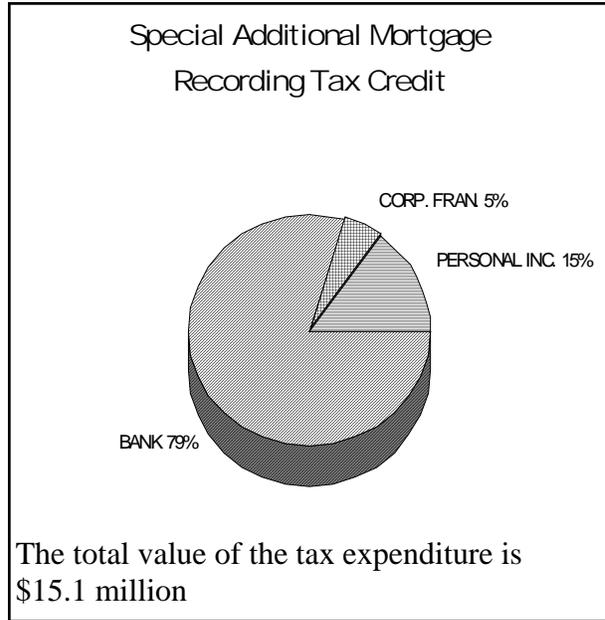
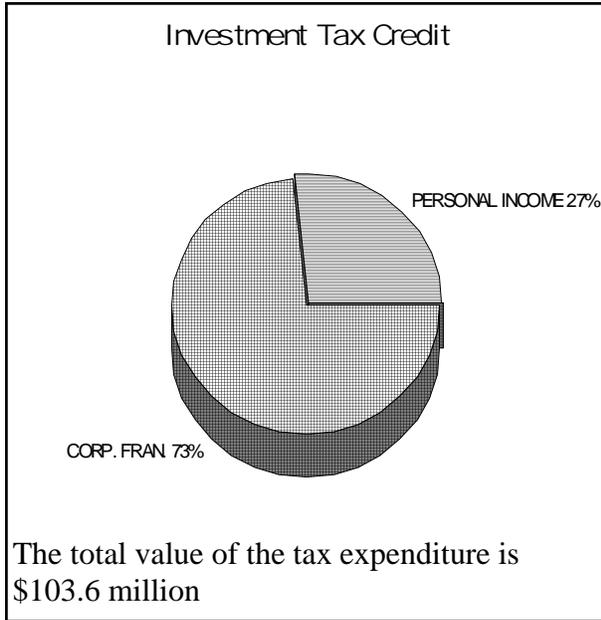
## CROSS-ARTICLE TAX EXPENDITURES

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### SHARE OF SELECTED STATE SPECIFIC TAX EXPENDITURES BY TAX ARTICLE FOR 2005-06 PROJECTIONS



SHARE OF SELECTED STATE SPECIFIC TAX EXPENDITURES  
BY TAX ARTICLE  
FOR 2005-06 PROJECTIONS





## 2005-2006 EXECUTIVE BUDGET TAX EXPENDITURE PROPOSALS

This section describes the proposals contained in the 2005-2006 Executive Budget that modify, add or repeal specific tax expenditures. Each description begins with background information on the tax expenditure proposal, a summary of the proposal, reasons for recommending the change, and a discussion of revenue implications. Table 10 provides a listing of these provisions.

**Table 10**  
**2005-2006 Executive Budget Proposals Affecting Tax Expenditures**

	2005-2006 Fiscal Year <u>Estimate</u> (\$ millions)
<u>Sales Tax</u>	
Amend the Clothing and Footwear Exemption	456
Exempt Certain Energy-Star Appliances during Two Weeks	(5.2)
<u>Personal Income Tax</u>	
Provide STAR-Plus Credit for STAR Cost-of-Living Adjustment	(12)
Enhance the New York State EITC for Certain Non-Custodial Parents	(4)
Change the Computation of the Long-Term Care Insurance Credit	1.5
Create a Subtraction Modification for the Nursing Home Assessment	(0.5)
<u>Corporation Tax</u>	
Extend the Power-for-Jobs Program	0
<u>Bank Tax</u>	
Close Loophole for REITS/RICS	50
<u>Insurance Tax</u>	
Remove Premiums Tax Exclusion for Certain Mutual Insurance Companies	18
<u>Corporate Franchise Tax</u>	
Enhance Low-Income Housing Credit 1/	0
Extend and Expand the Tax Credits for Alternative Fuel Vehicles and Property/2	0
Reform the Empire Zones/Qualified Empire Zone Enterprise Program 1/	0
Increase the Capital Base Tax Liability Cap	26
Enact Period Two of the Green Buildings Tax Credit 1/	0
Create the SPUR Center of Excellence Affiliation Credit	(1)
Create Single Sales Factor and Eliminate the AMT for Qualified SPUR Manufacturers	(9)
Create a SPUR Wage Tax Credit	(25)

1/ Applies also to the personal income, bank, and insurance taxes.

2/ Applies also to the personal income and sales taxes.

## EXECUTIVE BUDGET PROPOSALS

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### 1. **Proposal to Enhance the Low-Income Housing Credit**

**Background:** Chapter 63 of the Laws of 2000 created a new program entitled the “New York State Low-Income Housing Program.” Based on the federal program, taxpayers enter into agreements with the Division of Housing and Community Renewal for a long-term commitment to low-income housing. 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 credit currently available is \$60 million, or \$6 million per year. This was increased from \$40 million (\$4 million per year) in the enacted State budget for 2004-05

**Proposal:** The proposal increases the available pool of dollars available for credit from \$60 million to \$80 million, or from \$6 million to \$8 million per year.

**Discussion:** Increasing the allocation of credits would encourage developers and investors to devote greater resources to the program.

**Estimate:** The proposal would have no impact on SFY 2005-2006 revenues.

### 2. **Proposal to Create a “STAR-Plus” Credit**

**Background:** In 1997, the School Tax Relief Program, known as “STAR,” was enacted. All New York homeowners receive a minimum \$30,000 exemption against their school tax assessment for their primary residences. Persons age 65 and over with incomes under \$64,650 (adjusted annually for inflation) receive a minimum \$50,000 exemption. The exemption amounts are higher in counties with median selling prices in excess of the statewide median. However, the exemption amounts are not adjusted for inflation, which means that STAR savings change only when the exemption is adjusted for changes in house prices, or when school district tax rates change. In addition, the original STAR legislation and several subsequent proposals have included limitations on the growth of school spending. However, the Legislature has not enacted such reforms.

**Proposal:** Effective beginning in the 2005-06 school year, a refundable credit known as “STAR-Plus” will be available for cost-of-living adjustments made to homeowners’ STAR tax savings, as shown on their school tax bills. The adjustment will reflect the increase, if any, in the consumer price index ending with the month of June during the tax year. The credit will be allowed only for homeowners in school districts whose budgets are in compliance with the statutory spending cap proposed in the Governor’s 2005-06 Budget.

**Discussion:** This proposal will protect basic STAR savings from the effects of inflation. Also, the credit would ensure that the benefits of inflation-adjusted STAR savings are made clear to homeowners, as well as provide an incentive for school districts to control the growth of education spending.

**Estimate:** The proposed income tax credit will decrease revenues in SFY 2005-06 by \$12 million. Other parts of the STAR proposal will reduce STAR costs to the State by \$20 million in SFY 2005-06.

- 3. Proposal to Enhance the New York State EITC for Certain Non-Custodial Parents**  
**Background:** Current law allows taxpayers a New York State earned income tax credit (EITC) equal to 30 percent of the federal EITC. Taxpayers without qualifying dependents receive a far smaller federal credit than those with qualifying dependents. Moreover, the EITC for taxpayers without qualifying dependents is only available to taxpayers between the ages of 25 and 64.  
**Proposal:** The proposal provides an enhanced State EITC to certain non-custodial parents equal to 400 percent of the federal credit for taxpayers without qualifying dependents. To qualify, claimants must be New York State residents between the ages of 18 and 30 and the parent of a minor child with whom they do not reside. He or she must also have an order requiring the taxpayer to make child support payments payable through a support collection unit which must have been in effect for at least half of the taxable year. In addition, the taxpayer must have paid at least the amount of their current child support obligation due during the taxable year. Taxpayers claiming this credit cannot claim any other EITC for which they qualify.  
**Discussion:** The proposal is part of a broader package of initiatives designed to mirror welfare reform's combination of strict enforcement of work requirements, work supports, and increased incentives.  
**Estimate:** The proposal would decrease revenues in SFY 2005-2006 by \$4 million.
- 4. Proposal to Change the Computation of the Long Term Care Insurance Credit for Nonresident Taxpayers and Part-Year Resident Taxpayers**  
**Background:** Current law provides nonresidents and part-year residents with a nonrefundable credit equal to 20 percent of the amount they pay for long-term care insurance. Nonresidents and part-year residents currently calculate their credit and then apply it against their allocated tax liability without adjusting it by their New York income percentage.  
**Proposal:** The proposal requires nonresident and part-year taxpayers to include their long-term care insurance credit in the base tax they compute before applying the income percentage that allocates their tax to New York.  
**Discussion:** The proposal eliminates a significant tax advantage that nonresidents and part-year residents enjoy under current law because they receive the full credit while only their New York source income is subject to New York income tax.  
**Estimate:** The proposal would increase revenues in SFY 2005-2006 by \$1.5 million.
- 5. Proposal to Create a Subtraction Modification for Nursing Home Assessments Imposed on Individuals**  
**Background:** Public Health Law § 2807-d imposes an assessment on the gross receipts of residential health care facilities. These facilities, in turn, pass the costs of this assessment on to their clients. These costs are covered by Medicaid and private insurance, so the recipients of these are held harmless. However "third party purchasers", absent other reimbursement, are charged for this assessment directly on their bills and must pay for this on their own.  
**Proposal:** The proposal would allow individuals paying a nursing home assessment to deduct the assessment when calculating income subject to tax for purposes of the New York State personal income tax.

## EXECUTIVE BUDGET PROPOSALS

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**Discussion:** The proposal would help alleviate some of the burden on individual taxpayers who pay their own or another individual's residential health care facility bill.  
**Estimate:** The proposal would decrease revenues in SFY 2005-2006 by \$0.5 million.

### 6. **Proposal to Amend the Clothing and Footwear Sales and Use Tax Exemption**

**Background:** Clothing and footwear items priced under \$110 are exempt from State sales tax, effective June 1, 2005. Counties and cities have the option of providing the exemption from their local sales taxes.

**Proposal:** The proposal changes the sales tax exemption for clothing and footwear from a year-round exemption for items priced under \$110 to two recurring week-long exemptions for clothing and footwear items priced under \$250. These week-long sales tax holidays for clothing would apply to each of the seven-day periods that begin on the last Monday in January, and the Tuesday before Labor Day.

**Discussion:** This proposal exempts clothing for a total of only two weeks out of the year, consumers will benefit by the higher threshold of \$250 compared to the prior \$110 threshold. Moreover, the exemption periods are timed to cover busy shopping periods including the back-to-school period just before Labor Day. Limiting the exemption to two seven-day periods each year will likely make it possible for those localities that were not able to afford the year-round exemption to elect the amended exemption, thus improving the competitive position of the vendors throughout the State.

**Estimate:** The proposal would increase revenues in SFY2005-06 by \$456 million.

### 7. **Proposal to Amend the Energy Star Products Sales Tax Exemption**

**Background:** This proposal would add an exemption for certain Energy Star products during the same two individual weeks as clothing is exempted.

**Proposal:** The proposal provides the sales tax exemption for Energy Star clothes washers, dishwashers, refrigerators, room air conditioners and ceiling fans for two individual weeks every year. The week-long sales tax holidays for these Energy Star products would apply to each of the seven-day periods that begin on the last Monday in January and the Tuesday before Labor Day.

**Discussion:** This proposal exempts certain Energy Star products for a total of only two weeks out of the year. Consumers will save money on these products and their utility bills.

**Estimate:** The proposal would decrease revenues in SFY2005-06 by \$5.2 million.

### 8. **Proposal to Extend the Power for Jobs Program**

**Background:** The Power for Jobs (PFJ) program allows a tax credit under the gross receipts tax paid by delivering utility companies for lower cost power provided to qualifying businesses. Alternatively, as amended with the 2004-05 Budget, qualifying businesses may opt to receive direct reimbursement from the State in the amount of their prior savings under the program in lieu of being billed on an ongoing basis at the lower PFJ rate.

**Proposal:** This proposal extends by one year the program sunset date. Under current law the program would end on December 31, 2005, the proposal would extend this to December 31, 2006.

**Discussion:** This proposal will continue to provide lower cost power to some 700 employers in the State, supporting an estimated 300,000 jobs.

**Estimate:** The proposal extends tax credits of approximately \$75.0 million in SFY 2005-06 and further provides for a voluntary contribution by the New York Power Authority.

**9. Proposal to Close the Loophole for REITs and RICs**

**Background:** All dividend income received by Article 9-A and 33 taxpayers from subsidiaries is deductible from entire net income, while half of dividends received from non-subsidiaries can be excluded. Article 32 taxpayers can deduct sixty percent of dividend income from subsidiaries. Dividend income from real estate investment trusts (REITs) and regulated investment companies (RICs) are not taxable under these exclusions.

**Proposal:** This proposal would disallow the exclusion of all or part of the dividends paid by a REIT or a RIC subsidiary, or by a REIT or RIC holding company in computing entire net income. The bill would also exclude the capital of such subsidiaries from the base of the subsidiary capital tax under Articles 9-A and 33, and disallow a deduction for rent paid to a closely held REIT.

**Discussion:** This proposal is intended to close a loophole in the Tax Law that allows taxpayers to create REITs and RICs for the purposes of sheltering income from taxation. This loophole has been closed to taxpayers on the Federal level, but not for New York. Over the past few years the department has seen a dramatic increase in taxpayers taking advantage of this loophole. The result is that significant amounts of income that are treated as ordinary income and fully taxable on the Federal level are not being taxed in New York.

**Estimate:** This proposal would increase revenues in SFY 2005-06 by \$50 million.

**10. Proposal to Remove the Premiums Tax Exclusion for Certain Mutual Insurance Companies**

**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 apply only to corporations which properly reported 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

## EXECUTIVE BUDGET PROPOSALS

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the original intent of the exemption.

**Estimate:** This proposal would increase revenues in SFY 2005-06 by \$18 million.

### 11. **Proposal to Extend and Expand the Tax Credits for Alternative Fuel Vehicles and Property**

**Background:** Tax credits are available for the purchase of alternative fuel, electric, and hybrid vehicles, clean-fuel vehicle property, and clean-fuel vehicle refueling property. The sunset dates for these credits have been extended several times in the past. Currently, most of these incentives expired on December 31, 2004. The existing sales tax credit is set to expire on February 28, 2005.

**Proposal:** This proposal would retroactively extend, revise, and expand the tax incentives for alternative fuel vehicles and property. Particularly:

- for electric vehicles, the credit is changed from 50 percent of the incremental cost to 10 percent of the total cost, and the \$5,000 per vehicle credit limit is increased to \$10,000 for vehicles with a gross vehicle weight (GVW) rating of 10,000 pounds or more;
- for clean-fuel vehicle refueling property, a credit limit is instituted at \$500,000 per system, with an aggregate limit per taxpayer per year also set at \$500,000;
- for hybrids with a GVW rating of less than 10,000 pounds, the \$2,000 credit is extended to December 31, 2005.
- for hybrids with a GVW rating of 10,000 pounds or more the credit is increased to \$4,000;
- a new credit is created, capped at \$1 million per taxpayer per year, equal to fifty percent of costs associated with the production for sale of at least 10,000 gallons of biofuel (i.e., biodiesel and ethanol).

With the exception of the hybrids with a GVW rating of less than 10,000 pounds, the credits for vehicles and property are set to expire after December 31, 2006. The new biofuel production credit is set to last until December 31, 2009.

**Discussion:** The incentives in this proposal would continue to stimulate the developing market in New York State for alternative fuel vehicles and alternative energy technology. Reflecting the rapid market acceptance of light duty hybrid vehicles, tax credits are refocused on medium and heavy duty hybrid vehicles. The incentives in this proposal also seek to promote the growth of biofuel production and distribution in New York State.

**Estimate:** The proposal would have no impact in SFY 2005-06.

### 12. **Proposal to Increase Capital Base Tax Liability Cap**

**Background:** Article 9-A taxpayers compute tax under four bases and pay on the base yielding the highest liability. The capital base tax rate equals 0.178 percent of business and investment capital allocated to New York State. A \$350,000 maximum liability cap under the capital base was established in 1987.

**Proposal:** The proposal increases the liability cap to \$1,000,000 for all Article 9-A taxpayers except manufacturers.

**Discussion:** The increase in the capital base cap provided for under this proposal reflects the changes in economic realities since its enactment. Manufacturers are

excluded as an additional incentive to stimulate this important sector of New York State's economy.

**Estimate:** The proposal would increase revenues by \$26.0 million in SFY 2005-06.

**13. Proposal to Enact Period Two of the Green Buildings Tax Credit**

**Background:** Chapter 63 of the Laws of 2000 established the green building tax credit, available to owners and tenants of eligible buildings and tenant spaces which meet certain "green" standards. These standards increase energy efficiency, improve indoor air quality, and reduce the environmental impacts of large commercial and residential buildings in New York State, among other benefits. The Department of Environmental Conservation (DEC) was allowed to issue \$25 million in credit certificates from 2000 to 2004.

**Proposal:** This proposal would establish a second allocation, "Period Two," of \$25 million for initial credit component certificates issued by DEC to taxpayers in years 2005 through 2009. In Period Two, the amount on any one certificate is limited to \$2 million. The proposal also grants DEC the authority to reallocate credits if a taxpayer is unable to claim the credit. This authority extends to Periods One and Two.

**Discussion:** The influx of new credit amounts from a second green buildings tax credit allocation will enable additional environmentally friendly buildings to be erected. The purposes of the program to provide a healthier and safer work and living environment for more New Yorkers will be more fully realized.

**Estimate:** The proposal would have no impact in SFY 2005-06.

**14. Proposal to Create the SPUR Center of Excellence Affiliation Credit**

**Background:** Centers of Excellence are located at leading universities in New York State. The Centers support high technology ventures through a collaborative approach among the State, academia, private venture capital companies, and other private and public sector parties. Established to encourage rapid commercialization of scientific breakthroughs, the Centers specialize in nanoelectronics, bioinformatics, photonics, environmental systems, wireless applications, and information technology.

**Proposal:** This proposal is part of the Strategic Partnership for Upstate Resurgence (SPUR) program and would allow a credit for the net operating loss of a new business taxable under Article 9-A and affiliated with a Center of Excellence. Other qualifications require the taxpayer to conduct some operations in a SPUR, create and maintain at least 25 new jobs in a SPUR area or make a significant investment in a SPUR area, and have liability under the higher of the capital base or fixed dollar minimum base. The credit equals the product of the taxpayer's net operating loss, their business allocation percentage, and the tax rate in effect for the taxable year. The credit is capped at \$1 million per year and an aggregate of \$5 million per taxpayer.

**Discussion:** Often times, a corporation will lose money in its first years of operation. By providing new businesses which are located in a SPUR area with a mechanism for converting those losses into a refundable tax credit, this bill will provide a source of capital to corporations which are creating jobs and making investments through their affiliations with Centers of Excellence.

**Estimate:** The proposal would reduce revenues by \$1.0 million in SFY 2005-06.

## EXECUTIVE BUDGET PROPOSALS

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### 15. **Proposal to Create a New Business Allocation Percentage and Eliminate the Alternative Minimum Tax for Qualified SPUR Manufacturers**

**Background:** Taxpayers allocate taxable income to New York State through a three-factor formula consisting of property, payroll, and receipts, with the latter being double-weighted. The allocation formula for the Metropolitan Transportation Authority (MTA) surcharge is similar, except receipts is single-weighted. Taxpayers compute tax under four bases and pay on the base yielding the highest liability. The alternative minimum tax (AMT) base rate is 2.5 percent.

**Proposal:** This proposal is part of the Strategic Partnership for Upstate Resurgence (SPUR) program and would allow qualified manufacturers in SPUR areas to elect to use single sales factor apportionment to calculate taxable income and the MTA surcharge. To qualify, a manufacturer must make an investment of real or tangible personal property of at least \$25 million in a SPUR area. Provided the investment remains in service, a taxpayer may elect single sales factor apportionment for ten years. If the manufacturer also creates 100 new jobs before the end of the ten year period, they may elect single sales factor apportionment for as long as they maintain the employment increase. A manufacturer who qualifies for single sales factor apportionment is granted an exemption from the alternative minimum tax base.

**Discussion:** This bill will reduce the net tax burden on certain manufacturing companies by using only the company's receipts factor when determining the company's share of income to be apportioned to New York. Increasing the weight on the receipts factor from the current 50 percent to 100 percent will provide an incentive for qualified manufacturers in New York to increase their employment and facilities in SPUR areas without facing additional taxation. Eliminating the AMT will further reduce taxes for SPUR manufacturers by allowing them to fully utilize credits and deductions.

**Estimate:** The single sales factor component of the proposal would reduce revenues by \$4.0 million in SFY 2005-06. Eliminating the AMT for qualified manufacturers would reduce revenues by \$5 million in SFY 2005-06.

### 16. **Proposal to Create a SPUR Wage Tax Credit**

**Background:** The Empire Zones (EZ) program allows a wage tax credit for EZ businesses with employment in excess of a base number. The credit is \$3,000 per targeted employee and \$1,500 per nontargeted employee and is available for five years.

**Proposal:** This proposal is part of the Strategic Partnership for Upstate Resurgence (SPUR) program and would allow a wage tax credit to a qualified SPUR business that creates a minimum of 50 new jobs in a SPUR area. To be a qualified business, a taxpayer must be a manufacturer, engaged in the conduct of aviation, a registered securities or commodities broker or dealer; or involved in the railroad or trucking transportation business. The credit amounts are the same as the EZ wage tax credit, but the amounts are enhanced by an additional \$500 if the SPUR area jobs are also located in an EZ. The credit is available to Article 9-A and Article 22 taxpayers.

**Discussion:** This proposal will assist in revitalizing the economy in those areas designated as SPURs.

**Estimate:** The proposal would reduce revenues by \$25.0 million in SFY 2005-06.

**17. Proposal to Reform the Empire Zones/Qualified Empire Zone Enterprise Program**

**Background:** Businesses that locate in Empire Zones (EZs) can qualify for an enhanced investment tax credit and employment incentive credit, a wage tax credit, and certain sales tax exemptions. Businesses certified as Qualified Empire Zone Enterprises (QEZE) are eligible to receive a real property tax credit, a tax reduction credit, and additional sales tax exemptions.

**Proposal:** The benefit period of the QEZE program would be shortened for certain businesses from 15 to 10 years and the boundaries of the zones would change to primarily encompass areas of economic distress. Technical changes are proposed which would affect the calculation of various benefits, eliminate loopholes and simplify the program. A new category of zones, "Flex Acreage Agribusiness Opportunity EZs," would be created. This proposal is part of the Strategic Partnership for Upstate Resurgence (SPUR) program.

**Discussion:** These reforms will combine an extension of the current program beyond its sunset date of 2005 until 2010, tighten up certain loopholes being exploited by businesses, and tie benefits to job creation and capital investment. This proposal will improve accountability and provide flexibility to target projects with large job creation potential, while preserving local decision-making authority.

**Estimate:** The proposal would have no impact in SFY 2005-06.



# APPENDIX

## Federal Exclusions from Income

This Appendix summarizes federal “flow through” tax expenditure provisions which impact the New York State Personal Income, Corporation 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, 2005. Therefore, estimates for the 1998-2002 tax years (1997-2001 for Corporation 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.

New York State Tax Expenditure Estimates of  
Federal Exclusions from and Adjustments to Income

**Personal Income Tax**

	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2005</u>
<b>Provision</b>						
1. <i>Deduction for IRA and Keogh Contributions</i> Taxpayers may deduct up to \$4,000 of contributions to qualified IRA plans. For married couples, each spouse may deduct \$4,000. 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.	73.6	76.1	73.3	76.3	82.0	86.0
2. <i>Exclusion of Income Earned Abroad by U.S. Citizens</i> 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.	46.6	48.4	45.9	55.8		63.4
3. <i>Limited Exception to Passive Loss Rules on Rental Real Estate</i> Taxpayers may deduct up to \$25,000 of passive losses attributable to rental real estate against active income.	106.2	91.4	90.0	116.0		95.0
4. <i>Exclusion of Capital Gains on Home Sales</i> Taxpayers may exclude up to \$250,000 (single) and \$500,000 (married joint) of gain from the sale of exchange of a principal residence. This exclusion applies for each sale or exchange.	359.7	359.2	358.0	400.8	427.6	499.0
5. <i>Exclusion of Capital Gains from Small Business Stock</i> Investors may exclude, subject to certain dollar limitations, one half 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.	0.1	0.8	1.3	2.0	2.7	5.6



**Personal Income Tax**

	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2005</u>
	<u>Provision</u>					
<i>13. Exclusion of Employer-Provided Tuition Assistance</i> Employees may exclude up to \$5,250 of employer-paid tuition for undergraduate and graduate college education.	4.4	4.6	4.9	8.2	10.6	13.3
<i>14. Exclusion of Employer-Provided Child Care</i> 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).	12.9	13.0	13.5	14.1	12.5	17.0
<i>15. Exclusion of Certain Employer-Provided Transportation Benefits</i> Employees may exclude from income certain qualified transportation fringe benefits, for commuter vehicles, transit passes, and parking.	37.1	40.1	41.3	47.3	51.7	68.0
<i>16. Exclusion of Benefits and Allowances to Armed Forces Personnel</i> Combat pay and certain other in-kind benefits and cash allowances received by members of the Armed Forces are excluded from federal gross income.	42.4	41.5	40.5	44.6	46.6	51.6
<i>17. Exclusion of Accelerated Death Benefits</i> Taxpayers may exclude accelerated death benefits paid under life insurance contracts.	4.0	4.0	4.0	4.0	4.0	4.0
<i>18. Deduction for Contributions to Medical Savings Accounts</i> Self-employed taxpayers and taxpayers employed in small businesses may deduct up to 65 percent (single) and 75 percent (family) of contributions to medical savings accounts. The maximum deductible amounts to which the 65/75 percentages apply are \$2,650 for individual coverage and \$5,250 for family coverage.	0.3	0.4	0.4	0.4	0.4	0.4





**Personal Income Tax**

<u>Provision</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2005</u>
<p>29. <i>Capital Asset Treatment of Timber Income, Iron Ore and Coal Royalties</i>                      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.</p>	*	*	*	*	*	*
<p>30. <i>Expensing of R&amp;D Costs</i>                      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.</p>	0.7	0.6	0.8	0.6	*	*
<p>31. <i>Expensing up to \$105,000 on Certain Depreciable Business Property</i>                      Businesses investing in certain depreciable property during the taxable year may deduct as an expense, in lieu of depreciation, up to \$105,000 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 \$420,000.</p>	17.1	22.8	17.1	0.0	10.3	17.5
<p>32. <i>Exclusion of Social Security and Tier I Railroad Retirement Benefits</i>                      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.</p>	310.1	308.1	353.5	359.6	371.3	392.6



**Corporation Franchise Tax**

<u>Provision</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2005</u>
1. <i>Expensing of Certain Outlays for Farmers (Soil and Water Conservation Expenditures, etc.)</i> 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. <i>Expensing up to \$105,000 on Certain Depreciable Business Property</i> Businesses investing in certain depreciable property during the taxable year may deduct as an expense, in lieu of depreciation, up to \$102,000 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 \$420,000.	*	*	*	*	1.1	2.5
3. <i>MACRS/ACRS Depreciation</i> 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.	130.2	144.1	145.0	149.0	227.2	160.7

**Corporation Franchise Tax**

<u>Provision</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2005</u>
<p>4. <i>Utility Generation Property Transition Provisions</i>                      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.</p>	--	--	--	--	N/A	N/A
<p>5. <i>Expensing of Research and Development Costs</i>                      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.</p>	37.3	35.9	38.7	48.8	47.2	74.3
<p>6. <i>Amortization of Business Start-Up Costs</i>                      A corporation may amortize, over a period of at least 60 months, certain investigatory and business start-up expenses.</p>	0.2	0.2	0.2	0.2	0.2	0.2
<p>7. <i>Deferred Tax on Installment Sales</i>                      Non-dealer sellers of property, other than inventory, may use the installment method of accounting as provided by IRC Section 453.</p>	4.6	5.8	5.8	5.8	5.8	6.8
<p>8. <i>Deductibility of Charitable Contributions</i>                      Taxpayers may deduct charitable contributions, not exceeding 10 percent of taxable income computed as specified, from gross income.</p>	17.2	18.2	19.7	21.8	23.7	28.4
<p>9. <i>Expensing of Exploration and Development Costs</i>                      Taxpayers may deduct exploration costs and development expenditures of a mine or natural deposit as expenses in the year incurred.</p>	*	*	*	*	*	*

**Corporation Franchise Tax**

<u>Provision</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2005</u>
<p><i>10. Completed Contract Accounting</i>                      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.</p>	N/A	N/A	N/A	N/A	1.4	1.9
<p><i>11. Amortization of Pollution Control Facilities and Reforestation Expenditures</i>                      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.</p>	N/A	N/A	N/A	N/A	N/A	N/A



**Insurance Tax**

Provision

1997      1998      1999      2000      2001      2005

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.
 

	19.8	22.0	17.8	18.2	20.1	8.5
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2. *Expensing up to \$105,000 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 \$102,000 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 \$420,000.
 

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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.
 

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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
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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.
 

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