

Amend Senate S60, Assembly A160, A BUDGET BILL, AN ACT to amend the tax law and the administrative code of the city of New York .....

Page	Line	Amendment
Page 21,	Lines 50 and 51,	After " <u>review</u> " strike out " <u>, and that has not been delinquent for more than ten years</u> "
Page 23,	Between lines 11 and 12,	Insert "§ 3. Paragraph (c) of subdivision 1 of section 171-n of the tax law, as added by section 2 of part 0 of chapter 61 of the laws of 2005, is amended to read as follows: (c) "tax debt" means any past due, legally enforceable tax obligation owed any other state administering that tax, which arises from (i) an enforceable judgment of a court of competent jurisdiction which is no longer subject to judicial review, or (ii) an enforceable determination of an administrative body which is no longer subject to administrative or judicial review, or (iii) an assessment or determination (including self-assessment or self-assessed determination) which has become final or finally and irrevocably fixed and no longer subject to administrative or judicial review[, and which has not been delinquent for more than ten years]; and"
Page 23,	Line 12,	After "§" strike out "3" and insert "4"
Page 46,	Line 44,	After " <u>or locations</u> " insert " <u>approved by the commissioner</u> "
Page 50,	Line 51,	After " <u>nine</u> " insert " <u>and for subsequent taxable years</u> "
Page 50,	Line 55,	After " <u>enterprise</u> " insert " <u>and for subsequent taxable years</u> "
Page 62,	Line 43,	After " <u>article</u> " insert " ,"
Page 62,	Lines 44 and 45,	After " <u>such section</u> " strike out " <u>eleven hundred five</u> " and insert " <u>and on the retail sale of pre-written computer software, whether subject to the tax under subdivision (a) or (g) of such section,</u> "
Page 62,	Line 46,	After " <u>services</u> " insert " <u>or pre-written computer software</u> "
Page 62,	Line 47,	After " <u>services</u> " insert " <u>or pre-written computer software</u> "
Page 62,	Line 48,	After " <u>provided that (A) such</u> " insert " <u>tangible personal</u> "
Page 62,	Line 48,	After " <u>property or</u> " insert " <u>tangible</u> "

		<u>personal</u> "
Page 62,	Line 51,	After " <u>article)</u> " insert " <u>or pre-written computer software</u> "
Page 63,	Line 4,	After " <u>empire zone</u> " insert " <u>, or (C) the enterprise's place of primary use of the service described in paragraph two of such subdivision (b) of section eleven hundred five is at an address in such empire zone;</u> "
Page 63,	Line 34,	After " <u>imposed by</u> " strike out " <u>section</u> " and insert " <u>paragraphs ten and thirteen of subdivision (c) of sections 1105-D, 1105-F, and</u> "
Page 63,	Between lines 44 and 45,	Insert " <u>(6) Any reference in this chapter to subdivision (z) of section eleven hundred fifteen of this article will be deemed to be a reference to this subdivision.</u> "
Page 64,	Line 8,	After "§36." Strike out "Subparagraph (i) of paragraph" and insert "Paragraph"
Page 64,	Line 11,	Before "Either" strike out "[ <u>(i)</u> ]" and insert "(i)"
Page 66,	Line 41,	After "such exemption" insert "["
Page 66,	Line 43,	After "such exemption" strike out "["
Page 66,	Line 45,	After "exemptions" strike out "]" and after "so provided" insert "]"
Page 69,	Line 6,	After " <u>(a) The</u> " strike out " <u>tax</u> " and after " <u>department</u> " insert " <u>of taxation and finance</u> "
Page 69,	Line 37,	After "through forty-" strike out "two" and insert "three"
Page 70,	Between lines 4 and 5,	<p>Insert "§ 2. Paragraph (7) of subdivision (b) of section 18 of the tax law, as added by chapter 63 of the laws of 2000, is amended to read as follows:</p> <p>(7) [Bond in lieu of recapture. In the case of the disposition of a building or an interest therein, the taxpayer shall be discharged from liability for any recapture under this subdivision by reason of such disposition if the taxpayer furnishes to the commissioner a bond or other security acceptable to the commissioner and for the period required by the commissioner, and]</p> <p><u>(A) The credit recapture required under this subdivision will not apply solely by reason of the disposition of a building or an interest therein if it is reasonably expected that such building will continue</u></p>

		<p>to be operated as an eligible low-income building for the remaining compliance period with respect to such building.</p> <p><u>(B) Statute of limitations. If a building (or an interest therein) is disposed of during any taxable year and there is any reduction in the qualified basis of such building which results in an increase in tax under this section for such taxable or any subsequent taxable year, then</u></p> <p><u>(i) The statutory period for the assessment of any deficiency with respect to such increase in tax will not expire before the expiration of three years from the date the commissioner of housing and community renewal is notified by the taxpayer (in such manner as the commissioner of housing and community renewal may prescribe) of such reduction in qualified basis, and</u></p> <p><u>(ii) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment."</u></p>
Page 70,	Line 5,	After "§" strike out "2" and insert "3"
Page 72,	Line 35,	After " <u>services</u> " insert " <u>performed in exchange for consideration</u> "
Page 72,	Line 44,	After " <u>asset</u> " strike out "." and insert " <u>, or</u> "
Page 72,	Line 46,	After " <u>asset</u> " strike out "." and insert " <u>, or</u> "
Page 72,	Line 47,	After " <u>asset</u> " strike out "." and insert " <u>, or</u> "
Page 72,	Line 48,	After " <u>assets</u> " strike out "." and insert " <u>, or</u> "
Page 73,	Between lines 3 and 4,	<p>Insert "<u>(3) For purposes of this subsection, subsection (d) of this section shall not apply.</u></p> <p>§3. Subsection (d) of section 631 of the tax law is amended to read as follows:</p> <p>(d) Purchase and sale for own account. A nonresident, other than a dealer holding property primarily for sale to customers in the ordinary course of his trade or business, shall not be deemed to carry on a business, trade, profession or occupation in this state solely by reason of the purchase and sale of property or the purchase, sale or writing of stock option contracts, or both, for his own account <u>except when subsection (h) of this section applies.</u></p>

		<p>§4. Subdivision (a) of section 632 of the tax law is amended by adding new paragraph (3) to read as follows:</p> <p><u>(3) In determining the New York source income of a nonresident shareholder of an S corporation where the election provided for in subsection (a) of section six hundred sixty is in effect and the S corporation is a partner of a partnership to which section 631(h) applies, there shall be included the income and losses from intangible personal property, including annuities, dividends, interest and gains from the disposition of intangible personal property attributable to the partnership of which section 631(h) applies. Those items of income and loss and deduction shall be allocable by the nonresident shareholders by the S corporation's business allocation percentage, determined under the regulations of the commissioner consistent with the applicable methods and rules for allocation under Article 9-A."</u></p>
Page 73,	Line 4,	After " <u>§</u> " strike out " <u>3</u> " and insert " <u>5</u> "
Page 73,	Line 22,	After " <u>New York.</u> " insert " <u>If the taxpayer is a partner in a partnership that is incurring research expenditures, the amount of credit the taxpayer will be allowed to claim is equal to the taxpayer's pro rata share of the credit that the partnership would have been allowed to claim if it were a taxpayer. Any taxpayer that has research expenditures that may be used in calculating both the credit described in this section and the credit for "qualified emerging technology company facilities, operations and training" allowed under either subsection (nn) of section six hundred six of this chapter or subdivision 12-G of section two hundred ten of this chapter, may use those expenditures to calculate either the credit described in this section or the credit allowed under such subsection (nn) or such subdivision (12-G), but not both."</u>
Page 73,	Line 41,	After " <u>during the</u> " insert " <u>immediately</u> "
Page 73,	Line 41,	After " <u>year</u> " insert " <u>that ended on or before December thirty-first of the preceding year</u> "
Page 73,	Line 42,	After " <u>shall</u> " strike out " <u>award</u> " and insert " <u>issue</u> "
Page 78,	Line 28,	After " <u>under</u> " insert " <u>subdivision forty-one of</u> "
Page 78,	Line 29,	After " <u>section</u> " strikeout " <u>thirty</u> " and

		insert <u>"two hundred ten or under subsection (u) of section fourteen hundred fifty-six"</u>
Page 79,	Between lines 13 and 14,	<p>Insert "§7. Subdivision 12-G of section 210 of the tax law is amended by adding a new paragraph (i) to read as follows:</p> <p>(i) <u>Any taxpayer that has research expenditures that may be used in calculating both the credit described in this subdivision and the "research expenditures credit" described in section thirty of this chapter, may elect to use those expenditures to calculate either the credit allowed under this subdivision or the credit described in section thirty of this chapter, but not both.</u></p> <p>§8. Subsection (nn) of section 606 of the tax law is amended by adding a new paragraph (9) to read as follows:</p> <p>(9) <u>Any taxpayer that has research expenditures that may be used in calculating both the credit described in this subsection and the "research expenditures credit" described in section thirty of this chapter, may use those expenditures to calculate either the credit allowed under this subsection or the credit described in section thirty of this chapter, but not both."</u></p>
Page 79,	Line 14,	After "§" strike out "7" and insert "9"
Page 79,	Line 27,	After "§" strike out "8" and insert "10"
Page 79,	Line 39,	After "§" strike out "9" and insert "11"
Page 79,	Line 47,	After "§" strike out "10" and insert "12"
Page 84,	Line 18,	After "Section 1." Strike out "Subdivision" and insert "Subdivisions" and after "1" insert "and 19"
Page 84,	Line 19,	After "2008," strike out "is" and insert "are"
Page 84,	Between lines 31 and 32,	<p>Insert "19. "Cigar." Any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco that is a cigarette as defined in subdivision one of this section).</p> <p>[However, a roll will not be considered to be a cigar for purposes of this subdivision if it is not treated as a cigar for federal excise tax purposes under the applicable federal statute in effect on April first, two thousand eight.]"</p>
Page 89,	Lines 33 and 34,	After "violation" strike out <u>", unless it can be shown that this failure is due to reasonable cause and not willful neglect"</u>

Page 89,	Between lines 51 and 52,	<p>Insert "§ 9. Subdivision 1 of section 11-1301 of the administrative code of the city of New York, as amended by section 3 of part MM-1 of chapter 57 of the laws of 2008, is amended to read as follows:</p> <p>1. "Cigarette." (a) Any roll for smoking made wholly or in part of tobacco or any other substance wrapped in paper or in any other substance not containing tobacco, and (b) any roll for smoking made wholly or in part of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (a) of this subdivision. [However, a roll will not be considered to be a cigarette for purposes of paragraph (b) of this subdivision if it is not treated as a cigarette for federal excise tax purposes under the applicable federal statute in effect on April first, two thousand eight.]</p> <p>§ 10. Subdivision b of section 20-201 of the administrative code of the city of New York, as amended by section 4 of part MM-1 of chapter 57 of the laws of 2008, is amended to read as follows:</p> <p>b. "Cigarette" shall mean (1) any roll for smoking made wholly or in part of tobacco or any other substance wrapped in paper or in any other substance not containing tobacco, and (2) any roll for smoking made wholly or in part of tobacco wrapped in any substance containing tobacco that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph one of this subdivision. [However, a roll will not be considered to be a cigarette for purposes of paragraph two of this subdivision if it is not treated as a cigarette for federal excise tax purposes under the applicable federal statute in effect on April first, two thousand eight.]</p> <p>§ 11. Subdivision 2 of section 1 of chapter 235 of the laws of 1952 relating to enabling any city of the state having a population of one million or more to adopt, and amend local laws, imposing certain specified types of taxes on cigarettes which the legislature has or would have power and authority to impose, to provide for the review of such taxes, and to limit the application of such local laws, as amended by section 5 of part MM-1 of chapter 57 of the laws of 2008, is amended to read as follows:</p>
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		(2) As used herein, the term "cigarette" shall mean and include (a) any roll for smoking made wholly or in part of tobacco or of any other substance wrapped in paper or in any other substance not containing tobacco, and (b) any roll for smoking made wholly or in part of tobacco wrapped in any substance containing tobacco that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (a) of this subdivision. [However, a roll will not be considered to be a cigarette for purposes of paragraph (b) of this subdivision if it is not treated as a cigarette for federal excise tax purposes under the applicable federal statute in effect on April first, two thousand eight.] The term "cigar" does not include any cigarette as defined in this subdivision."
Page 89,	Line 52,	After "§" strike out "9" and insert "12"
Page 91,	Line 5,	After " <u>invested</u> " insert " <u>, by the comptroller, or by the division of the lottery if the comptroller has authorized the division of lottery to directly invest such funds,</u> "
Page 91,	Line 5,	After "obligations" insert "[" and after "comptroller" insert "]"
Page 91,	Line 6,	After " <u>in</u> " strike out " <u>obligations other than as provided in this section, provided, however that such other investments shall be made with the care, skill, prudence and diligence under circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, and that such other investments may be made by a money manager or other advisor recommended by the division of the lottery and approved by the comptroller;</u> and" and insert " <u>the same manner and in such securities or other investments as the trustee or trustees of a public pension fund are authorized to invest pursuant to article four-A of the retirement and social security law, and provided further that</u> "
Page 104,	Line 15,	After " <u>gaming</u> " insert " <u>at an existing racetrack</u> "
Page 104,	Line 16,	After " <u>subdivision</u> " strike out " <u>that does not hold a license</u> " and insert " <u>whether or not a different entity is licensed to conduct horse racing and pari-mutuel</u> "

		<u>wagering at such racetrack"</u>
Page 120,	Between lines 54 and 55,	<p>Insert "§ 9-a. Subparagraph 4 of paragraph (b) of subdivision 2 of section 186-e of the tax law, as added by section 5 of part S of chapter 85 of the laws of 2002, is amended to read as follows:</p> <p>(4) With respect to services [or], <u>property or digital products</u> described in subparagraph (B) of paragraph one of subdivision [(1)] <u>one</u> of section eleven hundred eleven of this chapter and internet access service, a home service provider shall pay tax on the gross receipt from any charge that is aggregated with and not separately stated from other charges for mobile telecommunications service. Provided, however, if such home service provider uses an objective, reasonable and verifiable standard for identifying each of the components of the charge for mobile telecommunications service, then such home service provider may separately account for and quantify the amount of each such component charge. If a home service provider chooses to so separately account for and quantify and separately sells the subparagraph (B) <u>property, digital product</u> or service or internet access service, then the charge for such <u>property, digital product</u> or service shall be based upon the price for such <u>property, digital product</u> or service as separately sold. If a home service provider chooses to so separately account for and quantify and does not separately sell such <u>property, digital product</u> or service, then the charge for such <u>property, digital product</u> or service shall be based upon the prevailing retail price of comparable <u>property, digital product</u> or service sold separately by other home service providers. In any case, the charge for such <u>property, digital product</u> or service shall be reasonable and proportionate to the total charge to the mobile telecommunications customer. Such charges for such subparagraph (B) services [or], <u>property, digital products</u> or internet access service, as the case may be, will not constitute gross receipts from charges for mobile telecommunications services. Nothing herein shall be construed to exempt from tax any service or <u>property, or digital product</u> otherwise subject to tax under this section."</p>
Page 121,	Line 1,	After "(e)" insert " <u>Digital product.</u> "
Page 138,	Line 16,	After " <u>least</u> " strike out " <u>eight</u> " and insert " <u>eighty</u> "



Page 154,	Line 33,	After "such" insert " <u>tangible personal</u> "
Page 154,	Line 33,	After "property" strike out " <u>or digital product</u> "
Page 154,	Line 34,	After "part" insert " <u>or the digital product becomes a component part</u> "
Page 154,	Line 34,	After "performed or" insert " <u>if such tangible personal property or digital product</u> "
Page 158,	Line 24,	After "through" strike out "nine" and insert "nine-a"
Page 190,	Line 43,	<p>After "Section 1" insert "Paragraph b of subdivision 1 of section 502 of the tax law, as amended by section 1 of part E of chapter 60 of the laws of 2007, is amended to read as follows:</p> <p>b. Every automotive fuel carrier shall apply to the commissioner for a special certificate of registration, in place of the certificate of registration described in paragraph a of this subdivision, for each motor vehicle operated or to be operated by him on the public highways in this state to transport automotive fuel. Provided, however, a special certificate of registration shall not be required under this paragraph for a tractor or other self-propelled device which, except with respect to the fuel in the ordinary fuel tank intended for its propulsion, transports automotive fuel solely by means of a trailer, dolly or other device drawn by such tractor or other self-propelled device if a certificate of registration prescribed by paragraph a of this subdivision has been issued for the self-propelled device. Application shall be made upon an application form prescribed by the commissioner. The application shall be accompanied by a fee of [five] <u>fifteen</u> dollars for each trailer, semi-trailer, dolly or other device [and fifteen dollars for each self-propelled device] listed in the application. The commissioner shall issue without further charge such special certificate of registration for each motor vehicle listed in the application or a consolidated certificate of registration for all or any portion of such vehicles of such carrier. All of the provisions' of this article with respect to certificates of registration shall be applicable to the special certificates of registration issued to automotive fuel carriers under this paragraph as if those provisions had been set forth in full in this paragraph and expressly referred to the special</p>

		certificates of registration required by this paragraph except to the extent that any such provision is either inconsistent with a provision of this paragraph or not relevant to the certificates of registration required by this paragraph. Any certificate of registration shall not be transferable, and shall be valid until revoked, suspended or surrendered. Such special certificate of registration shall be maintained in the carrier's regular place of business. Nothing contained in this paragraph shall in any way exempt an automotive fuel carrier from payment of the taxes imposed pursuant to this article. § 2."
Page 191,	Line 4,	After "§" strike out "2" and insert "3"
Page 191,	Line 14,	After " <u>purchased</u> " strike out " <u>exclusively</u> " and after " <u>use</u> " insert " <u>exclusively</u> "
Page 191,	Lines 15 and 16,	After " <u>hire,</u> " strike out " <u>and not including</u> " and insert " <u>a vehicle purchased for use exclusively in providing emergency medical services, or</u> "
Page 191,	Line 20,	After " <u>article,</u> " strike out " <u>and not including</u> " and insert " <u>a vessel purchased for use exclusively in providing emergency medical services, or</u> "
Page 191,	Line 24,	After " <u>article,</u> " strike out " <u>and not including</u> " and insert " <u>an aircraft purchased for use exclusively in providing emergency medical services, or</u> "
Page 192,	Lines 11 and 12,	After " <u>by a</u> " strike out " <u>handicapped</u> "
Page 192,	Line 12,	After " <u>person</u> " insert " <u>with a disability</u> "
Page 192,	Line 43,	After " <u>required.</u> " insert " <u>Notwithstanding the foregoing, the exemption provided by subdivision (z) of section eleven hundred fifteen of this article shall not apply to the tax imposed by this section.</u> "
Page 202,	Line 26,	After " <u>chapter,</u> " insert " <u>excluding an application to renew a certificate of authority filed pursuant to paragraph five of subdivision (a) of section one thousand one hundred thirty-four of this chapter and any other law, or</u> "
Page 202,	Line 27,	After " <u>of a</u> " insert " <u>fraud</u> "
Page 202,	Lines 27 through 29,	After " <u>under</u> " strike out " <u>subdivision (r) of section six hundred eighty-five of this chapter, or (iv) the imposition of a penalty under subdivision (l) of section</u> "

		<u>one thousand eighty-five of"</u>
Page 202,	Line 49,	After " <u>chapter,</u> " insert " <u>excluding an application to renew a certificate of authority filed pursuant to paragraph five of subdivision (a) of section one thousand one hundred thirty-four of this chapter and any other law, or"</u>
Page 202,	Line 49,	After " <u>of a</u> " insert " <u>fraud</u> "
Page 202,	Lines 50 through 52,	Strike out " <u>subdivision (r) of section six hundred eighty-five of this chapter, or (iv) the imposition of a penalty under subdivision (l) of section one thousand eighty-five of"</u>