30-Day Amendments
1999-2000 Omnibus Article VII Bill
LBD 13001-04-9

TITLE
Page 10  Title  After “amend” insert the mental hygiene law,

Page 12 after "relating to taxes;" insert (CCC) to amend the tax law, in relation to expanding the alternative fuels credit under article 9-a; (DDD) to amend the public housing law and the tax law, in relation to providing a credit against the articles 9-A, 22, 32 and 33 franchise and income taxes for construction or rehabilitation of low-income housing; (EEE) to amend the tax law, in relation to adding two credits, a qualified emerging technology company employment credit and a qualified emerging technology capital tax credit, to article 22; (FFF) to amend the tax law, in relation to corporate mergers, consolidations and acquisitions

PART E
Page 19  Line 52  Delete either
delete or the secretary

PART H
Page 45  Line 44  Delete entire line.

PART Y
Page 79  Line 18  Delete "7", add 1

Page 81  Line 5-6 Delete “paragraph (b) of”
Line 7 Delete “thirty-one”, add fifty-seven
Delete “one hundred thousand”
Line 8 Strike out”($231,100,000)”, insert ($257,000,000)

Page 82  Line 1-9 Strike out “Subparagraph (ii) of paragraph (c) of subdivision 2807-d, paragraph (c) of subdivision 11 of section 3614-a and subdivision 11 of section 3614-b of the public health law are REPEALED.
§12. Notwithstanding any provision of law, rule or regulation, there shall be no refunds due to any provider of services of
collections or payments made on account of
the assessments, additional assessments,
or further additional assessments, imposed
pursuant to sections 2807-d, 3614-a and
3614-b of the public health law for the
period April 1, 1997 through March 31,
1999, whenever collected or paid."

Insert

Attached Insert A

Line 10 Strike out "13", insert "12"
Line 12 Strike out "433", insert "474"
Line 13 Strike out "1997", insert "1996"

After "effect" insert:
and sections nine and ten of this act
shall be deemed to have been in full force
and effect on the same date as chapter 433
of the laws of 1997 took effect

PART HH
Page 140 Line 23 After "district", insert
, or directly or indirectly by a
charter school.

Page 145 Line 16 After "district" insert
, or directly or indirectly by a
charter school.

Page 150 Line 49 After "district" insert
, or directly or indirectly by a
charter school.

PART II
Page 185 Line 38 After line 38 and before line 39 insert
(3) Any information furnished by the
department pursuant to this section shall
be deemed confidential and the assessor,
any municipal officer or municipal
employees are prohibited from disclosing
any such information, except for any
disclosure necessary in the performance of
their official duties in connection with
school tax relief (STAR) exemption. Any
unauthorized disclosure of such
information shall be deemed a violation of
section eight hundred five-a of the
general municipal law.

PART QQQ
Page 239 Line 6 Strike out "and (c)" insert , (c) and (d)
Page 240 Line 16 After "generate" strike out "and" insert or
After "state" insert

After "regulation" insert and, for a utility supervised by another jurisdiction, such supervision includes rate regulation and such gas or electricity is delivered for ultimate consumption or use outside this state.

After "generate" strike out "and" insert or.

After "state" insert where such public authority is primarily engaged in the generation and distribution of electricity or the distribution of electricity or gas and at least ninety-five percent of the assets of which are so devoted.

Page 241

After "whatsoever;" insert (d) the words "gross operating income" mean and include receipts received in or by reason of any sale, condition or otherwise, made for ultimate consumption or use by the purchaser of gas, electricity, steam, water or refrigeration, or in or by reason of the furnishing for such consumption or use of gas, electric, steam, water or refrigerator service in this state, including cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or services or other costs, interest or discount paid; or any other expenses whatsoever. Provided, however, there shall be excluded from gross operating income receipts representing the amount received from the resale of the transportation, transmission or distribution of gas or electricity in this state where such transportation, transmission or distribution being resold is provided by a utility subject to tax under paragraph (b) of subdivision 1 of this section; the receipts representing the amount received from resale of such transportation, transmission or distribution shall be the amount received for such transportation, transmission or distribution by such utility which initially provided such transportation, transmission or distribution. Provided, further, sales of gas, electricity, steam, water or refrigeration or gas, electric, steam, water or refrigerator service to a landlord that is a person as defined in this subdivision for resale by such landlord to a tenant, for consumption by
such tenant as an incident to such landlord's activity of renting premises to such tenant, shall be subject to the tax imposed under this section even though such sales are not for ultimate consumption by such landlord. Provided, further, receipts derived by a landlord from the resale of such gas, electricity, steam, water or refrigeration or furnishing gas, electric, steam, water or refrigerator service to such tenant shall be conclusively presumed to be equal to such landlord's cost of the same, and, if the tax under this section was imposed on the sale to such landlord, no additional tax under this section shall be owing on the sale by such landlord to such tenant. If the tax under this section was not imposed on such sale to the landlord, then such landlord on the sale to its tenant shall file a return hereunder based on such landlord's cost (including any associated transportation cost) of such gas, electricity, steam, water or refrigeration or gas, electric, steam, water or refrigerator service;

Line 54  Strike out "2 and 4" insert 2, 4 and 10
Line 55  Strike out "and (c)" insert , (c) and (d)
Page 242  Line 1  Strike out "and"
Line 2  After "1998" insert and subdivision 10 as amended by chapter 757 of the laws of 1989
Page 243  Line 15  After "generate" strike out "and" insert or
Line 23  After "state" insert )
Line 53  After "generate" strike out "and" insert or
Page 244  Line 40  Strike out "subdivision" insert paragraph
Line 53  Strike out "means" insert mean
Page 245  Line 12  After "generate" strike out "and" insert or
Line 40  After "er." insert (d) the words "gross operating income" mean and include receipts received in or by reason of any sale, condition or otherwise, made for ultimate consumption or use by the purchaser of gas, electricity, steam, water or refrigeration, or in or by reason
of the furnishing for such consumption or use of gas, electric, steam, water or refrigerator service in this state, including cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or services or other costs, interest or discount paid; or any other expenses whatsoever. Provided, however, there shall be excluded from gross operating income receipts representing the amount received from the resale of the transportation, transmission or distribution of gas or electricity in this state where such transportation, transmission or distribution being resold is provided by a utility subject to tax under paragraph (b) of subdivision 1 of this section; the receipts representing the amount received from resale of such transportation, transmission or distribution shall be the amount received for such transportation, transmission or distribution by such utility which initially provided such transportation, transmission or distribution. Provided, further, sales of gas, electricity, steam, water or refrigeration or gas, electric, steam, water or refrigerator service to a landlord that is a person as defined in this subdivision for resale by such landlord to a tenant, for consumption by such tenant as an incident to such landlord's activity of renting premises to such tenant, shall be subject to the tax imposed under this section even though such sales are not for ultimate consumption by such landlord. Provided, further, receipts derived by a landlord from the resale of such gas, electricity, steam, water or refrigeration or furnishing gas, electric, steam, water or refrigerator service to such tenant shall be conclusively presumed to be equal to such landlord's cost of the same, and, if the tax under this section was imposed on the sale to such landlord, no additional tax under this section shall be owing on the sale by such landlord to such tenant. If the tax under this section was not imposed on such sale to the landlord, then such landlord on the sale to its tenant shall file a return hereunder based on such landlord's cost (including any associated transportation cost) of such gas, electricity, steam, water or refrigeration or gas, electric, steam,
water or refrigerator service;

Page 246 Line 17 Strike out "L" after "transmission"

After line 37 insert 10. Notwithstanding any other provision contained in this chapter or any other law, any surcharge collected or any administrative fee retained by any telephone corporation acting as collection agent for a municipality pursuant to the provisions of article six of the county law shall not be considered as nor included in the determination of gross income [or gross operating income] of or by such corporation.

Page 251 Line 55 Strike out "26" insert 28

Page 252 Line 8 Before "the" insert (1)
Line 15 After "period" insert and (2) the sales tax imposed and reported under section eleven hundred seven or eleven hundred nine of this chapter or pursuant to the authority of article twenty-nine of this chapter on the receipts from the sales of the transportation, transmission or distribution of gas or electricity, where the gas or electricity being so transported, transmitted or distributed was sold by the taxpayer to customers for residential purposes during such aforesaid period and such transportation, transmission or distribution is also provided during such period
Line 27 Strike out "amount" insert amounts, separately identifying the amounts described in subparagraphs one and two of this subdivision,

Strike out "tax" insert taxes

Strike out "the sale" insert such person's sales

Line 34 Strike out "section eleven hundred thirty-six" insert articles twenty-eight and twenty-nine

Line 36 Strike out "seller" insert taxpayer

Line 37 Strike out "sellers" insert taxpayers

Page 254 Line 17 Strike out ",(r) and (s)" insert (v) and (w)

Line 26 Before "sales" insert (A)
After "period" insert and (B) the sales tax imposed and reported under section eleven hundred seven or eleven hundred nine of this chapter or pursuant to the authority of article twenty-nine of this chapter on the receipts from the sales of the transportation, transmission or distribution of gas or electricity, where the gas or electricity being so transported, transmitted or distributed was sold by the taxpayer to customers for residential purposes during such aforesaid period and such transportation, transmission or distribution is also provided during such period.

Strike out "amount" insert amounts, separately identifying the amounts described in subparagraphs (A) and (B) of this subsection.

Strike out "tax" insert taxes

Strike out "the sale" insert such person's sales

Strike out "section eleven hundred thirty-six" insert articles twenty-eight and twenty-nine

Strike out "seller" insert taxpayer

Strike out "sellers" insert taxpayers

Strike out "," insert [,]

After "and" insert to

After "sections" insert one hundred eighty-six and one hundred eighty-six-b

Strike out "electrical" insert electric

After "including" insert gas or

After "sale" insert or use

Strike out "six" insert five

Strike out "or" insert [or]

After "or" insert of the service, including

Strike out "," insert or

After "service" insert
Strike out ", and a credit against the tax imposed under section 189-a of the tax law"

Strike out "(i)"

After "1998" insert ;
Strike out "(ii)" insert there shall be allowed a credit against the tax imposed under section 189 of the tax law and the tax imposed under section 189-a of the tax law to account for (i)

After "act" insert , and (ii) the rate reduction which occurred on January 1, 1999, with respect to certain gross income under subparagraph 2 of paragraph (b) of subdivision 1 of section 186-a of the tax law, as amended by section four of this act

After "such" insert October 1, 1998,
After "and" insert with
After "186" insert and the amendment of such section 186-a,

After "1998" insert ,
Strike out "one" insert 1.65
After "commencing" insert January 1, 1999,

After "186" insert and the amendment of section 186-a
After "apply" insert beginning January 1, 1999,

After "section." insert The amount of the credit shall first be offset against any liability owing by the taxpayer under section one hundred eighty-nine or section one hundred eighty-nine-a. Such offset shall be made by a public utility required to collect the tax imposed by such sections against any tax liability under such sections collected by such utility on and after the date this act shall have become a law. Such utility shall provide information to each such taxpayer regarding the amount offset with respect to such taxpayer and the amount of the excess credit, if any, due such taxpayer so that each such taxpayer can file a claim for refund with the commissioner of
taxation and finance for any such excess credit.

Line 30 Strike out "tax" insert sections

Line 43 After "receipt" insert or consideration

Strike out "tax" insert sections

PART RR
Page 269 Line 32 After “and two thousand” insert ,

PART SS
Page 271 Line 34-45 Strike out "Where the taxpayer is described in subparagraph one or two of paragraph (i) of subdivision twelve of section two hundred ten of this chapter, it shall not be allowed the credit where such allowance would result in a credit being allowed twice for a particular increase in, or maintenance of, urban employment, as the case may be, or would otherwise be contrary to the intent and purpose of this provision. In addition, where the composition of the taxpayer is the result of a merger, consolidation, or other reorganization, the employment figures for the taxpayer shall be computed as if the employment figures for the entities merged or consolidated into, or otherwise incorporated into, the taxpayer were those of the taxpayer, for both the taxable year and any relevant prior taxable years"

insert Where the composition of the taxpayer is the result of a merger, consolidation or other reorganization, or of the incorporation of an unincorporated business, the employment figures for the taxpayer shall be computed as if the employment figures for the businesses or entities merged or consolidated into, or otherwise incorporated into, the taxpayer were those of the taxpayer, for both the taxable year and any relevant prior taxable year, to the extent necessary to effectuate the intent and purposes of this section.

Page 272 Line 1 strike out "Subdivision 25 of"

strike out "section" insert Section

after "of the tax law" insert is amended
Lines 1-3 strike out "as renumbered by section 128 of part A of chapter 389 of the laws of 1997, is renumbered subdivision 26 and

Line 3 strike out "25" insert 26

Line 4 strike out "is added"

Page 273 Lines 3-14 Strike out "Where the taxpayer is described in subparagraph one or two of paragraph (i) of subdivision twelve of this section, it shall not be allowed the credit where such allowance would result in a credit being allowed twice for a particular increase in, or maintenance of, urban employment, as the case may be, or would otherwise be contrary to the intent and purpose of this provision. In addition, where the composition of the taxpayer is the result of a merger, consolidation, or other reorganization, the employment figures for the taxpayer shall be computed as if the employment figures for the entities merged or consolidated into, or otherwise incorporated into, the taxpayer were those of the taxpayer, for both the taxable year and any relevant prior taxable years"

insert Where the composition of the taxpayer is the result of a merger, consolidation or other reorganization, or of the incorporation of an unincorporated business, the employment figures for the taxpayer shall be computed as if the employment figures for the businesses or entities merged or consolidated into, or otherwise incorporated into, the taxpayer were those of the taxpayer, for both the taxable year and any relevant prior taxable year, to the extent necessary to effectuate the intent and purposes of this subdivision.

Page 274 Line 40 after "applicable credit" insert base

Line 42 strike out "(q)" insert (r)

Line 43 strike out "five" insert six

Line 47 strike out "Subsections (q) and (r) of section" insert Section

after "of the tax law" insert is amended
by adding

Lines 47-49 strike out "as relettered by chapter 142 of the laws of 1997, are relettered subsections (r) and (s) and

Line 49 strike out "(q) insert (r)

Line 50 strike out "(q)" insert (r)

Page 275 & 276 Lines 47-55 and Lines 1-4 Strike out "Where the taxpayer is either a sole proprietorship or a member of a partnership described in subparagraph (B) of paragraph ten of subsection (a) of this section, such taxpayer shall not be allowed the credit where such allowance would result in a credit being allowed twice for a particular increase in, or maintenance of, urban employment, as the case may be, or would otherwise be contrary to the intent and purposes of this provision. In addition, where the composition of the business of which such a taxpayer is the owner or partner is the result of an amalgamation of the operations of the entities or of other such businesses, the employment figures for the business of which such taxpayer is the owner or partner shall be computed as if the employment figures for the entities or businesses so amalgamated were those of the business of which such taxpayer is the owner."

insert Where the taxpayer is a sole proprietor or a member of a partnership and where the composition of such business is the result of an amalgamation of the operations of other businesses or entities, or of the liquidation of a corporation, the employment figures for the business of which the taxpayer is the owner or partner shall be computed as if the employment figures for the entities or businesses so amalgamated, or the corporation so liquidated, were those of the business of which the taxpayer is the owner or partner, to the extent necessary to effectuate the intent and purposes of this subsection.

Page 277 Line 13-24 Strike out "Where the taxpayer is described in subparagraph (A) or (B) of paragraph eight of subsection (i) of this section, it shall not be allowed the credit where such allowance would result in a credit being allowed twice for a
particular increase in, or maintenance of, urban employment, as the case may be, or would otherwise be contrary to the intent and purpose of this provision. In addition, where the composition of the taxpayer is the result of a merger, consolidation, or other reorganization, the employment figures for the taxpayer shall be computed as if the employment figures for the entities merged or consolidated into, or otherwise incorporated into, the taxpayer were those of the taxpayer, for both the taxable year and any relevant prior taxable years.

insert Where the composition of the taxpayer is the result of a merger, consolidation or other reorganization, or of the incorporation of an unincorporated business, the employment figures for the taxpayer shall be computed as if the employment figures for the businesses or entities merged or consolidated into, or otherwise incorporated into, the taxpayer were those of the taxpayer, for both the taxable year and any relevant prior taxable year, to the extent necessary to effectuate the intent and purposes of this subsection.

Strike out "Where the taxpayer is described in subparagraph one or two of paragraph (i) of subdivision twelve of section two hundred ten of this chapter, it shall not be allowed the credit where such allowance would result in a credit being allowed twice for a particular increase in, or maintenance of, urban employment, as the case may be, or would otherwise be contrary to the intent and purpose of this provision. In addition, where the composition of the taxpayer is the result of a merger, consolidation, or other reorganization, the employment figures for the taxpayer shall be computed as if the employment figures for the entities merged or consolidated into, or otherwise incorporated into, the taxpayer were those of the taxpayer, for both the taxable year and any relevant prior taxable years."

insert Where the composition of the taxpayer is the result of a merger, consolidation or other reorganization, or of the incorporation of an unincorporated business, the employment figures for the taxpayer shall be computed as if the
employment figures for the businesses or entities merged or consolidated into, or otherwise incorporated into, the taxpayer were those of the taxpayer, for both the taxable year and any relevant prior taxable year, to the extent necessary to effectuate the intent and purposes of this subdivision.

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<th>Page 285</th>
<th>Before line 29, insert: Attached Insert C</th>
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<td>Strike out &quot;1&quot;, insert 3</td>
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<td>after &quot;immediately.&quot;</td>
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