New York State Department of Taxation and Finance
Office of Tax Policy Analysis
Technical Services Division

TSB-M-07(3)C
Corporation Tax
January 30, 2007

Summary of Corporation Tax Legislative Changes Enacted in 2006

This memorandum contains brief summaries of the corporation tax legislative changes that are part of the 2006-2007 New York State budget bills and other recently enacted legislation (Chapters 35, 61, 62, 109, 420, 440, 522 and 547 of the Laws of 2006).

Limitation on tax for certain life insurance corporations (Article 33)

When calculating the limitation on tax under Tax Law section 1505(a)(2), life insurance corporations that receive more than 95% of their premiums from annuity contracts or from policies and insurance described in Tax Law section 1510(c)(2) now only include the amount of such premiums (including any separate costs assessed by the insurance corporation upon its policyholders) that exceed 95% of all premiums received (including any separate costs assessed by the insurance corporation upon its policyholders). Prior to the amendment, these life insurance corporations included all premiums received from annuity contracts or from policies and insurance described in Tax Law section 1510(c)(2) when calculating the limitation on tax under section 1505(a)(2).

This provision applies to tax years beginning on or after January 1, 2006.

(Tax Law section 1505(c))

Conservation easement tax credit (Article 9-A)

A taxpayer who owns land that is subject to a conservation easement held by a public or private conservation agency will be allowed a refundable tax credit equal to 25% of the allowable school district, county, and town real property taxes on such land.

A *conservation easement* is a perpetual and permanent conservation easement, as defined in Article 49 of the Environmental Conservation Law (ECL), that serves to protect open space, scenic, natural resources, biodiversity, agricultural, watershed and/or historic preservation resources. Any conservation easement for which a tax credit is claimed must be filed with the Department of Environmental Conservation and must comply with the provisions of Title 3 of Article 49 of the ECL and section 170(h) of the Internal Revenue Code (IRC). Dedications of land for open space through the execution of conservation easements for the purpose of fulfilling density requirements to obtain subdivision or building permits are not considered conservation easements for this credit.

Land means a fee simple title to real property located in this state, with or without improvements thereon; rights of way; water and riparian rights; easements; privileges and all other rights or interests of any land or description in, relating to or connected with real property, excluding buildings, structures, or improvements.

A *public or private conservation agency* is any state, local, or federal governmental body, or any private not-for-profit charitable corporation or trust that is authorized to do business in the state of New York, and that is: (1) organized and operated to protect land for natural resources, conservation, or historic preservation purposes; (2) exempt from federal income taxation under section 501(c)(3) of the IRC; and, (3) has the power to acquire, hold, and maintain land and/or interests in land for such purposes.

When claiming the credit the following limitations apply:

- The credit, when combined with any other credit for such school district, county, and town real property taxes, may not exceed such taxes.
- The amount of the credit claimed may not exceed $5,000 in any given year.
- The credit allowed for any tax year may not reduce the tax due for that year to less than the higher of the fixed dollar minimum tax or the tax on the minimum taxable income base. Any excess credit amount may be refunded or credited to next year's tax as an overpayment, without interest.

This provision applies to tax years beginning on or after January 1, 2006.

(Tax Law section 210.38) [Note: there are three versions of section 210.38]

Brownfield tax credits (Articles 9, 9-A, 32 and 33)

The definition of *environmental zones* (EN-Zones) used to determine eligibility for enhanced brownfield tax credits has been amended. Qualified sites that are the subject of a brownfield site cleanup agreement entered into prior to September 1, 2010, and that meet certain requirements may qualify as environmental zone sites. Previously, the Tax Law required that the agreement be entered into prior to September 1, 2006, to qualify. This provision took effect April 28, 2006.

In addition, the definition of *qualified tangible property* has been amended for purposes of the tangible property credit component of the brownfield redevelopment tax credit. New criteria have been added that would allow property to qualify for the credit if it is: acquired by purchase; located on a qualified brownfield site in New York State; and part, (or when occupied becomes part) of a dwelling whose primary ownership structure is covered under either Article 9-B of the Real Property Law (Condominium Act) or meets the requirements of section 216(b)(1) of the IRC as a cooperative housing corporation. The property qualifying under the new criteria will be deemed to be qualified tangible property and will be deemed to be placed in service when a certificate of occupancy is issued for such property. This provision took effect July 26, 2006.

(Tax Law sections 21(b)(3), 21(b)(6) and 22(a))

Transitional provisions for the federal Gramm-Leach-Bliley Act (Articles 9-A and 32)

The transitional provisions for financial holding companies that were scheduled to expire for tax years beginning on or after January 1, 2006, have been extended for two years. Specifically, the transitional provisions for financial holding companies contained in section 1452(k) of the Tax Law were extended by adding new section 1452(l) of the Tax Law.

The combined reporting requirements of the transitional provisions contained in section 1462(f)(2)(iv) of the Tax Law were also extended for two years.

For more information on the provisions that were extended, see page 6 of TSB-M-02(1)C, *Summary of Legislative Changes Enacted in 2001*.

(Tax Law, sections 1452(k), 1452(l), and 1462(f)(2)(iv))

Bank tax (Article 32)

The provisions of the bank tax that were scheduled to expire for tax years beginning on or after January 1, 2006, have been extended for two years.

(Chapter 62 of the Laws of 2006)

Farmers' school tax credit (Article 9-A)

The Tax Law relating to the farmers' school tax credit has been amended to provide the following enhancements:

- The base acreage available to farmers in calculating their tax credit has been increased to 350 acres, up from the current limit of 250 acres.
- The modified New York State entire net income limitation amount has increased from $100,000 to $200,000. Farmers with modified New York State entire net income in excess of this $200,000 are subject to a phaseout of the tax credit.
- Gross income received from the growing of Christmas trees for purposes of transplanting or cutting, under a managed Christmas tree operation, qualifies as federal gross income from farming.
- Shareholders of an eligible New York C corporation may elect to deem the corporation's income and principal payments from farm indebtedness to be that of the corporation's shareholders. If this election is made, the federal gross income from farming for the New York C corporation will be zero for any tax year the election is in effect. A shareholder that is taxable under Article 22 of the Tax Law may use its pro-rata share of these items to determine eligibility for the farmer's school tax credit. If the shareholder is a New York S corporation, it will pass the amounts through in pro-rata shares to its shareholders. If the shareholder is a New York C corporation, it cannot use these amounts to determine eligibility for the credit.

- The definition of *qualified agricultural property* has been expanded to include land that otherwise meets the eligibility requirements at the time it becomes subject to a conservation easement.

For more information regarding this credit, see Publication 51, *Questions and Answers on New York State's Farmers' School Tax* Credit and Publication 51.1, *Update to Publication 51 Questions and Answers on New York State Farmers' School Tax Credit.*

These provisions apply to tax years beginning on or after January 1, 2006.

(Tax Law section 210.22)

New York S corporation franchise tax (Article 9-A)

The Tax Law has been amended to eliminate the tax on the entire net income base for New York S corporations and impose only the fixed dollar minimum tax as prescribed in section 210(1)(d) of the Tax Law. Accordingly, a New York S corporation is subject to the applicable fixed dollar minimum tax as shown in the following section.

This provision took effect April 28, 2006 and applies to tax years beginning on or after January 1, 2003.

(Tax Law section 210(1)(g)(1))

Fixed dollar minimum tax (Article 9-A)

For tax years beginning on or after January 1, 2006, the fixed dollar minimum tax for Article 9-A taxpayers, including New York S corporations, has reverted to the amounts that were imposed for tax years that began in 2003. Those amounts are shown in the table below.

For a corporation with a gross payroll of:	Fixed dollar minimum tax equals:
$6,250,000 or more	$1,500
More than $1,000,000 but less than $6,250,000	$425
More than $500,000 but not more than $1,000,000	$325
More than $250,000 but not more than $500,000	$225
$250,000 or less	$100
However, if the corporation's gross payroll, total receipts, and average value of gross assets are each $1,000 or less	$800

(Tax Law section 210.1(d)(1))

Low-income housing credit (Articles 9-A, 32, and 33)

The New York State low-income housing tax credit program was established in 2000 to promote the construction and rehabilitation of low-income housing in New York State. The credit is similar to the federal low-income housing credit and is administered by the New York State Division of Housing and Community Renewal.

The Public Housing Law has been amended to increase the statewide aggregate dollar amount of low-income housing tax credits that may be used for qualifying low-income housing projects from $8 million to $12 million per year.

This provision took effect April 28, 2006.

(Public Housing Law, section 22(4))

Empire State commercial production tax credit (Article 9-A)

New sections 28 and 210.38 have been added to the Tax Law to provide for an Empire State commercial production tax credit. The credit is provided to a taxpayer that is a qualified commercial production company, or a partner of a partnership (including a member of a limited liability company that is treated as a partnership for federal income tax purposes) that is a qualified commercial production company. (A New York S corporation may not use this credit against its own tax; instead, the credit is provided to its shareholders who are subject to tax under Article 22 of the Tax Law.) To be eligible for this credit, at least 75% of the production costs (excluding post production costs) paid or incurred directly and predominately in the actual filming or recording of a qualified commercial must be incurred in New York State.

New York will provide $7 million of credit annually to be disbursed to all eligible commercial production companies as follows:

- Three million dollars will be disbursed on a pro-rata basis to all eligible commercial production companies. The credit will be 20% of the qualified production costs attributable to the use of tangible property or the performance of services in New York in the production of a qualified commercial. Total qualified production costs must be greater in the current year than the average of the three previous years for which the credit was applied. However, until a qualified production company has established a three-year history for the credit, the benchmark for the credit will be the greater of the previous year's or the average of the two previous years' qualified production costs. If the qualified production company has never applied for the credit, the previous year's data will be used to create a benchmark. The credit is applied only to the excess of the current calendar year's costs over the previous calendar year's cost. No qualified production company will be allocated more than $300,000 of credit annually. The credit is allowed for the tax year in which the production of the qualified commercial is completed.

- Three million dollars will be disbursed to all eligible commercial production companies that film or record qualified commercials within the metropolitan commuter transportation district (MCTD). The credit will be 5% of the qualified production costs attributable to the use of tangible property or the performance of services in New York in the production of the qualified commercial. Total qualified production costs in the current calendar year must be greater than $500,000 and the credit applies only to such costs exceeding $500,000.
- One million dollars will be disbursed to all eligible commercial production companies that film or record qualified commercials outside the MCTD. The credit will be 5% of the qualified production costs attributable to the use of tangible property or the performance of services in New York in the production of the qualified commercial. Total qualified production costs in the current calendar year must be greater than $200,000, and the credit applies only to such costs exceeding $200,000.

The credit may not reduce the tax due to less than the fixed dollar minimum tax. The amount of credit not applied to the tax in the current tax year (the excess credit) may be refunded or credited as an overpayment to next year's tax. The refund is limited to 50% of the excess credit in the current year; the balance may be carried forward to the following year and may be deducted from the tax in that year. The amount of the excess credit not applied to the tax in the next succeeding tax year will be credited or refunded (without interest). Production costs used as the basis for allowance of this credit or used in the calculation of this credit cannot be used to claim any other credit.

The Empire State commercial production tax credit will be administered by the Governor's Office for Motion Picture and Television Development. For more information about this credit, contact that office by e-mail at *nyfilm@empire.state.ny.us*.

These provisions apply to tax years beginning on or after January 1, 2007, and expire December 31, 2011.

(Tax Law sections 28 and 210.38) [Note: there are two sections 28 and three sections 210.38]

Biofuel production credit (Articles 9 and 9-A)

The Tax Law has been amended to add new sections 28, 187-c, and 210.38 providing a biofuel production credit for corporations subject to tax under Article 9 or 9-A. The credit is allowed for biofuel produced at a biofuel plant located in New York State on or after January 1, 2006.

The biofuel production credit is equal to 15 cents for each gallon of biofuel produced at the biofuel plant after the production of the first 40,000 gallons per year presented to market. The biofuel production credit cannot exceed $2.5 million dollars per taxpayer per tax year and is allowed for no more than four consecutive tax years per biofuel plant.

Biofuel plant means a commercial facility located in New York State at which one or more biofuels are produced.

Biofuel means a fuel which includes biodiesel or ethanol. Biofuel may also include any other standard approved by the New York State Energy Research and Development Authority. *Biodiesel* means a fuel comprised exclusively of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100, which meets the specifications of American Society of Testing and Materials designation D 6751-02. *Ethanol* means ethyl alcohol manufactured in the United States and its territories and sold (i) for fuel use and which has been rendered unfit for beverage use in a manner approved by the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives, and is produced at a facility approved by that Bureau for the production of ethanol for fuel, or (ii) as denatured ethanol used by blenders and refiners which has been rendered unfit for beverage use.

A taxpayer must annually certify to the Commissioner that biofuel produced at the eligible biofuel plant meets all existing standards for biofuel and certify the amount of biofuel produced at the eligible biofuel plant during the tax year.

For taxpayers subject to tax under sections 183 and 184, the credit must first be applied against the tax imposed under section 183 and cannot reduce the section 183 tax below the minimum tax. Any excess credit is then applied against the tax imposed by section 184. For taxpayers subject to tax under section 185, the credit may not reduce the tax below the minimum tax.

For Article 9-A taxpayers, the credit may not reduce the tax to below the fixed dollar minimum tax or the tax on the minimum taxable income base, whichever is higher.

Any amount of credit not deducted in the current tax year may be refunded without interest or applied as an overpayment against the tax due for the next tax year. The credit may not be applied against the MTA surcharge.

This provision applies to tax years beginning on or after January 1, 2006, and before January 1, 2013.

(Tax Law sections 28, 187-c, and 210.38) [Note: there are two sections 28 and three sections 210.38]

Empire State film production credit (Article 9-A)

The Empire State film production credit has been extended to include tax years ending on or before December 31, 2011. The aggregate amount of tax credits allowed has been increased from $25 million to $60 million for each calendar year.

For more information about this credit, contact the New York State Governor's Office for Motion Picture and Television Development by e-mail at *nyfilm@empire.state.ny.us*.

(Tax Law sections 24 and 210.36)

Exemption from the fixed dollar minimum tax for certain Article 9-A corporations

A domestic corporation taxable under Article 9-A that is no longer doing business, employing capital, or owning or leasing property in New York State in a corporate or organized capacity and that has filed a final franchise tax return with the Department of Taxation and Finance for the last tax year it was doing business, and has no outstanding tax liability for such final year or any prior tax years, will be exempt from the fixed dollar minimum tax for tax years following its final tax year. For more information about this exemption, see TSB-M-06(5)C, *Certain Domestic Business Corporations Exempt from the Article 9-A Fixed Dollar Minimum Tax*.

This provision applies to tax years beginning on or after January 1, 2006.

(Tax Law section 209.8)

Clean heating fuel credit (Article 9-A)

A new section 210.39 has been added to the Tax Law to provide a clean heating fuel credit. The credit is for Article 9-A taxpayers for the purchase of clean heating fuel (bioheat) used for space heating or hot water production for residential purposes within New York State.

Bioheat is a fuel comprised of biodiesel blended with conventional home heating oil which meets the specifications of the American Society of Testing and Materials (ASTM) designation D396 or D975.

Biodiesel is fuel comprised exclusively of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100 (pure biodiesel), that meets the specifications of ASTM designation D6751.

The credit is based on the portion of the bioheat that is comprised of biodiesel and is calculated as $.01 per gallon for each percent of biodiesel included in the bioheat, not to exceed $.20 per gallon.

The credit may not reduce the tax below the fixed dollar minimum tax or the tax on the minimum taxable income base, whichever is higher. A New York S corporation may not use this credit against its own tax; instead the credit is provided to its shareholders who are subject to tax under Article 22 of the Tax Law. Any amount of credit not deducted in the current tax year will be treated as an overpayment of tax to be credited or refunded. No interest will be paid on the overpayment.

This provision applies to tax years beginning in 2006 and 2007 for bioheat purchased on or after July 1, 2006, and before July 1, 2007.

For more information regarding this credit, see TSB-M-06(4)C, (6)I, *Home Heating System Credit and the Clean Heating Fuel Credit.*

(Tax Law section 210.39)

Qualified Empire Zone Enterprise (QEZE) (Articles 9, 9-A, 32 and 33)

The following is a summary of amendments made to the QEZE real property tax credit and QEZE tax reduction credit.

The following provisions took effect June 23, 2006:

- A QEZE first certified between August 1, 2002, and March 31, 2005, that conducts its operations on real property located in an empire zone (EZ) that it owns or leases and that is subject to a brownfield site cleanup agreement (BCA) executed prior to January 1, 2006, will calculate the amount of QEZE real property tax credit using the credit calculation applicable to entities first certified on or after April 1, 2005.

- A QEZE first certified between August 1, 2002, and March 31, 2005, that conducts its operations on real property located in an EZ that it owns or leases and that is subject to a BCA executed prior to January 1, 2006, will determine its employment test for purposes of the QEZE tax credits, by comparing its employment number in the EZs and in New York State during the current year to its employment number in the EZs and in New York State during the base period.

- A *clean energy enterprise* (as defined in section 959-B of the General Municipal Law) will determine its employment test, for purposes of the QEZE tax credits, by comparing its employment number in New York State in the current year to its employment number in New York State for the base period. In addition, for purposes of the QEZE tax reduction credit, the zone allocation factor for a clean energy enterprise will be 1.0 and, for purposes of the QEZE real property tax credit, a clean energy enterprise will be deemed to be located in an investment zone.

The following provision took effect June 23, 2006, and applies to all tax years that are open under the statute of limitations.

- The employment number for QEZEs in their first tax year that meet certain requirements will be computed for that first tax year by using only those employees employed full time on the last day of the short tax year. The QEZE must: (a) acquire real or tangible property during the first tax year from an entity that is an unrelated person; and (b) have a first tax year of not more than seven months in duration; and (c) have, on the last day of the first tax year, at least 190 full-time employees and substantially all of them were previously employed by the entity from which the taxpayer purchased its assets.

The following provisions took effect June 23, 2006. [Note: There were earlier versions of these provisions in effect from January 1, 2006, through June 22, 2006. See Chapters 61 and 62 of the Laws of 2006.]

- QEZEs that are owners of *qualified investment projects* (as defined under section 957(s) of the General Municipal Law (GML)) that have been approved by the Commissioner of Economic Development will be allowed an additional business tax benefit period for purposes of the QEZE credits. For these QEZEs, the business tax benefit period has been expanded to include the ten tax years starting with the tax year in which the business enterprise's benefit period commencement date occurs (but only for those years in which the employment test is met). The *benefit period commencement date* is either: (a) the business enterprise's date of certification under Article 18-B of the GML at the location of the qualified investment project; or (b) the date when property constituting a qualified investment project is first placed in service.

  The benefit period commencement date will be determined by an election made by the business enterprise on its report for the tax year that includes the date of certification of the business enterprise at the location of the qualified investment project. If no election is made, the benefit period commencement date will be as described in clause (a) above.

- If a QEZE that is an owner of a qualified investment project is also approved by the Commissioner of Economic Development as the owner of a *significant capital investment project* (as defined under section 957(t) of the GML), the QEZE's business tax benefit period may be increased to include an additional ten tax years beginning with the tax year in which the significant capital investment project is placed in service. The property must be placed in service during the business enterprise's business tax benefit period as described above.

- If a QEZE is an owner of a qualified investment project or a significant capital investment project, or both, the business tax benefit period may extend beyond ten years. During the entire business tax benefit period, the benefit period factor will be 1.0.

- A business enterprise will be considered a new business for purposes of the QEZE tax reduction credit and QEZE real property tax credit if it: (a) is approved as the owner of a qualified investment project or a significant capital investment project; (b) has a base period of zero years; (c) placed in service property (or a project that includes such property) that comprises such qualified investment project or significant capital investment project; and (d) is certified under Article 18-B of the GML by December 31, 2007.

(Tax Law sections 14(a), 14(b), 14(g), 14(j), 14(n) and 15(b))

Empire zone employment incentive credit (EZ-EIC) (Article 9-A)

A taxpayer that is approved by the Commissioner of Economic Development as the owner of a *qualified investment project* or a *significant capital investment project* (as defined under section 957(s) or 957(t) of the General Municipal Law) may elect to treat 50% of its current year's carryover of the EZ-EIC that is attributable to such project as an overpayment of tax to be refunded or credited as an overpayment of tax to the next tax period. In addition, the owner will be allowed such refund for a maximum of ten tax years for each project beginning with the first tax year in which property comprising such project is placed in service. No interest will be paid on the refund.

This provision took effect June 23, 2006.

(Tax Law section 210.12-C(c))

Empire zone investment tax credit (EZ-ITC) (Article 9-A)

A taxpayer that is approved by the Commissioner of Economic Development as the owner of a *qualified investment project* or a *significant capital investment project* (as defined under section 957(s) and 957 (t) of the General Municipal Law) may elect to treat 50% of its current year's carryover of the EZ-ITC that is attributable to such project as an overpayment of tax to be refunded or credited as an overpayment of tax to the next tax period. In addition, the owner will be allowed such refund for a maximum of ten tax years for each project beginning with the first tax year in which property comprising such project is placed in service. No interest will be paid on the refund.

However, taxpayers will need to recapture any amount of credit refunded, as described above, if, by the last day of the fifth tax year following the tax year in which the credit is first allowed, they: (1) fail to place in service property which has a basis for federal tax purposes of at least $750 million dollars for each project, or (2) fail to meet the employment requirements of sections 957(s) and 957(t) of the GML.

These provisions took effect June 23, 2006.

(Tax Law sections 210.12-B(d) and 210.12-B(f))

Empire Zone wage tax credit (Articles 9A, 32, and 33)

The following three amendments were made to the empire zone wage tax credit:

(1) For purposes of calculating the EZ wage tax credit amount, the requirement that an employee must receive empire zone wages for more than half of the tax year does not apply in the first tax year a taxpayer is subject to tax if:

- the taxpayer acquired real or tangible personal property during its first tax year from an entity which is not a *related person* (as such term is defined in section 465(b)(3)(c) of the IRC);
- the first tax year of the taxpayer is a short tax year of not more than seven months in duration; and
- the taxpayer has, on the last day of its first tax year, at least 190 full-time employees and substantially all of them were previously employed by the entity from which the taxpayer purchased its assets.

For taxpayers meeting these criteria, the wage tax credit is calculated by using the number of individuals, excluding general executive officers, employed full time on the last day of the first tax year.

This amendment applies to all tax years that are open under the statute of limitations and may be claimed as a credit or refund on Form CT-8, *Claim for Credit or Refund of Corporation Tax Paid,* for any previously filed tax return. A claim for credit or refund of tax must be filed within three years from the date the return was filed, or within two years from the date the tax was paid, whichever is later.

(2) A taxpayer that is approved as the owner of a *qualified investment project* or a *significant capital investment project* (as defined under sections 957(s) and 957(t) of the General Municipal Law (GML)) may elect to treat 50% of the amount of the wage tax credit available for carryover that is attributable to the credit allowed for individuals employed at the project as an overpayment of tax to be credited or refunded and the balance not credited or refunded will be carried over to the next succeeding tax year or years. The election is made on the return for the tax year that the credit was allowed (the tax year the EZ wage tax credit was earned). The amount of the credit available for carryover after claiming the refund is not available for refund in future years. No interest will be paid on the refund.

(3) A clean energy enterprise certified under Article 18-B of the GML is deemed to be located in an investment zone and may be eligible for the increased EZ wage tax credit for both qualified and targeted employees that earn wages in excess of $40,000 for the tax year.

These provisions took effect June 23, 2006.

(Tax Law sections 14, 210.19, 1456(e), and 1511(g))

Alternative fuels credit (Articles 9 and 9-A)

Sections 187-b and 210.24 of the Tax Law have been amended to conform the New York alternative fuels credit to a new federal credit for alternative fuel vehicle refueling property. Previously, the alternative fuels credit was allowed for clean-fuel vehicle refueling property located in New York State when a deduction under section 179A of the Internal Revenue Code (IRC) was allowed.

The federal deduction under section 179A of the IRC is not available for clean-fuel vehicle refueling property placed in service after December 31, 2005. Instead, a federal credit is now allowed under section 30C of the IRC for alternative fuel vehicle refueling property. Therefore, Tax Law references to *clean fuel vehicle refueling property* have been changed to *alternative fuel vehicle refueling property* and references to the deduction under section 179A of the IRC have been changed to reference the credit allowed under section 30C of the IRC.

Alternative fuel vehicle refueling property means property that is qualified within the meaning of section 30C of the IRC, but does not include alternative fuel vehicle refueling property relating to a qualified hybrid vehicle.

In addition to the federal conforming changes, the Tax Law was amended to provide for the termination of the alternative fuels credit for tax years beginning after December 31, 2010. Also, shareholders of New York S corporations are now eligible for this credit.

These provisions took effect June 23, 2006.

(Tax Law sections 187-b and 210.24)

Handicapped-accessible taxicabs and livery service vehicles credit (Article 9-A)

The Tax Law has been amended to allow a credit for companies that provide a *taxicab* (as defined in section 148-A of the Vehicle and Traffic Law) or *livery* (as defined in section 121-E of the Vehicle and Traffic Law) service in New York State. The credit is equal to the incremental costs associated with the purchase of a handicapped-accessible vehicle or the conversion of a motor vehicle to a handicapped-accessible vehicle that is used in providing taxicab or livery service. The credit may only be claimed once per vehicle and may not exceed $10,000 for each vehicle.

This credit may reduce the franchise tax to zero. The credit is not refundable. However, any credit amount not used in the current tax year may be carried forward to the following year.

For more information regarding this credit, see TSB-M-06(8)C, (10)I, *Credit for Handicapped-Accessible Taxicabs and Livery Service Vehicles (Articles 9-A and 22)* and Form CT-239, *Claim for Handicapped-Accessible Taxicabs and Livery Service Vehicles Credit*.

This provision is effective January 1, 2006, through December 31, 2008, and applies to incremental costs incurred on or after January 1, 2006 but before January 1, 2009.

(Tax Law section 210.40) [Note: there are two versions of section 210.40]

Credit for rehabilitation of historic properties (Article 9-A)

A new section 210.40 has been added to the Tax Law to allow a credit for the rehabilitation of historic properties. The credit is for expenses related to the rehabilitation of a certified historic structure located in New York State in an amount equal to 30% of the credit amount allowed to a taxpayer under section 47(c)(3) of the Internal Revenue Code (IRC) for the same structure for the same tax year. The credit cannot exceed $100,000. The credit is not refundable, but any excess can be carried over to the following year or years. If the corresponding federal credit is recaptured by the taxpayer, a New York credit recapture will also be required.

A *certified historic structure*, for purposes of this credit, is defined under section 47(c)(3) of the IRC as a building (and its structural components) that is listed in the *National Register of Historic Places*, or is located in a registered historic district and certified to be of historic significance to the district.

This provision applies to taxable years beginning on or after January 1, 2007.

(Tax Law section 210.40) [Note: there are two versions of section 210.40]