



Supplemental Summary of Corporation Tax Legislative Changes Enacted in 2011

This memorandum contains a summary of the following corporation tax legislation signed into law in 2011:

- [Changes to the Offer In Compromise Program](#)
- [Clean heating fuel tax credit \(Article 9-A\)](#)
- [Reversing of corporate franchise tax overpayments previously credited to estimated tax accounts \(Article 9-A\)](#)
- [20-year statute of limitations to collect tax liabilities](#)

Changes to the Offer In Compromise Program

Chapter 469 of the Laws of 2011 amended subdivisions Fifteenth and Eighteenth-a of section 171 of the Tax Law relating to the Tax Department's Offer in Compromise Program. The amended sections expand the eligibility of taxpayers to participate in the Tax Department's Offer in Compromise Program. For more information, see [TSB-M-11\(9\)C](#), *Changes to the Offer In Compromise Program*.

These provisions took effect August 17, 2011.

(Tax Law section 171, subdivisions Fifteenth and Eighteenth-a)

Clean heating fuel tax credit (Article 9-A)

Chapter 591 of the Laws of 2011 amended section 210(39) of the Tax Law relating to the clean heating fuel tax credit for business corporations that are taxable under Article 9-A of the Tax Law. The amendment extends the availability of the tax credit to bioheat purchased on or after January 1, 2008, and before January 1, 2017. Previously the credit for business corporations was allowed for bioheat purchased on or after January 1, 2008, and before January 1, 2012.

For more information, see [TSB-M-08\(5\)C](#), *Clean Heating Fuel Credit*.

(Tax Law section 210(39))

Reversing of corporate franchise tax overpayments previously credited to estimated tax accounts (Article 9-A)

Chapter 521 of the Laws of 2011 amended the Tax Law relating to reversing certain overpayments of corporate franchise tax under Article 9-A that were previously credited against a taxpayer's estimated tax. The amendments to the Tax Law give the Commissioner the authority to reverse overpayments of tax from a preceding tax year that have been credited against a taxpayer's estimated tax for the succeeding tax year, if:

- the taxpayer makes a claim for refund or credit of the overpayment on or before the due date, including extensions, of the taxpayer's return for the succeeding tax year; and
- good cause is shown for the reversal of the overpayment.

The decision of the Commissioner to grant or deny a taxpayer's request is final and not subject to further administrative or judicial review.

If the commissioner grants the taxpayer's request, the overpayment may be credited against a liability or refunded without interest. Additionally, the taxpayer will not be relieved of any penalty imposed for underpayment of estimated tax due for the succeeding tax year as a result of the reversal of the overpayment.

These provisions took effect September 23, 2011.

(Tax Law sections 1086(b) and 1087(j))

20-year statute of limitations to collect tax liabilities

Chapter 432 of the Laws of 2011 added new section 174-b to the Tax Law. The new section was added to revise the 20-year statute of limitations on the department's time to collect tax liabilities that have been assessed and for which a notice and demand has been issued. Section 174-b provides that a tax liability will not be enforceable and will be extinguished after 20 years from the first date a warrant could be filed by the department, regardless as to whether a warrant was actually filed. This statute of limitations is applicable to all taxes, and any special assessments, fees, interest, additions to tax, penalties, or other impositions administered by the department.

This new law is effective August 17, 2011, and applies to tax liabilities that could have been warranted before August 17, 2011, as well as tax liabilities that can first be warranted on or after that date. Therefore, the 20-year time limit starts from the first date a warrant could be filed for a tax liability, regardless of when the tax liability was assessed (i.e., before or after the effective date). For more information, see [TSB-M-11\(10\)C](#), *20-Year Statute of Limitations to Collect Tax Liabilities*.

(Tax Law section 174-b)

Note: A TSB-M is an informational statement of existing department policies or of changes to the law, regulations or department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeal Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.