

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

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Income Tax
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2000-2001 New York State Budget Bill Income Tax Changes Taking Effect After 2000

This memorandum contains brief summaries of the income tax changes that are part of the 2000-2001 New York State Budget Bill (Chapter 63 of the Laws of 2000) that are effective for tax years beginning on and after January 1, 2001. A separate memorandum, TSB-M-00(3)I, has been issued for the income tax changes in the budget bill taking effect before 2001.

Long-term care insurance credit

Effective for tax years beginning on or after January 1, 2002, a new credit against tax will be allowed for 10% of the premium paid for the purchase of qualifying long-term care insurance. The enactment of the new credit corresponds with the repeal of the current subtraction modification for long-term care insurance premiums. In order to qualify for the credit, the taxpayer's premium payment must be for the purchase of a long-term care insurance policy approved by the New York State Superintendent of Insurance pursuant to section 1117 of the state's Insurance Law. The credit is also available to employers who pay premium payments for the purchase of approved long-term care insurance policies on behalf of their employees. A taxpayer can carry over to future tax years any amount of the credit that is in excess of the taxpayer's tax liability for that year.

(See Tax Law, section 606(aa))

Residential fuel oil storage tank credit

Effective for tax years beginning in 2001 and 2002, a taxpayer will be allowed a credit for the removal, permanent closure or installation of a below-ground or above-ground residential fuel oil storage tank used to provide heating fuel for single- to four-family residences located in New York. The amount of the credit is equal to the sum of (1) the costs of removal of an existing unprotected below-ground or above-ground residential fuel oil tank, not to exceed \$250; (2) the costs of permanently closing an existing unprotected below-ground or above-ground residential fuel oil tank, not to exceed \$250; and (3) the purchase and installation costs of a new below-ground or above-ground residential fuel oil storage tank, where such tank is used in place of a formerly used unprotected below-ground or above-ground residential fuel oil tank and provided that such unprotected tank was removed or permanently closed during the taxable year or the immediately preceding taxable year, not to exceed \$250. The costs of (1), (2), and (3) may be used only once with respect to a particular residence in computing the credit. A taxpayer can carry over to future tax years any amount of the credit that is in excess of the taxpayer's tax liability for that year.

(See Tax Law, section 606(p-1))

Standard deduction for married couples

The standard deduction for a married couple filing a joint tax return increases from \$13,000 to \$13,400 in tax year 2001, \$14,200 in tax year 2002, and \$14,600 in tax year 2003 and thereafter.

(See Tax Law, section 614(b))

Earned income tax credit

The earned income tax credit (EITC) for low- and moderate-income working families is increased from 25% of the federal credit in taxable years beginning in 2001 to 27.5% of the federal credit in taxable years beginning in 2002, and to 30% of the federal credit for taxable years beginning after 2002. However, the credit percentage would return to 20% of the federal credit if the federal government takes certain actions related to the funds used to support the increase in the earned income credit.

(See Tax Law, section 606(d)(1))

Fuel cell electric generating equipment credit

Effective for tax years beginning on or after January 1, 2003, a new credit against tax will be allowed for 20% of qualified fuel cell electric generating equipment expenditures, up to a maximum credit amount of \$1,500 with respect to any taxable year.

Qualified fuel cell electric generating equipment expenditures include those costs incurred on or after January 1, 2003, that are associated with the purchase of on-site electricity generation systems utilizing proton exchange membrane fuel cells, providing a rated baseload capacity of no more than twenty-five kilowatts of electricity. The equipment must be located in this state and used by the taxpayer at his or her principal residence at the time it is placed in service. These expenses also include those costs incurred on or after January 1, 2003, that are for materials, labor for on-site preparation, assembly and original installation, engineering services, designs and plans directly related to the construction or installation, and utility compliance costs.

Qualified fuel cell electric generating equipment expenditures do not include interest or other finance charges or any amount of a federal, state or local grant received by the taxpayer that was used for the purchase and/or installation of such equipment and was not included in the federal gross income of the taxpayer.

If the principal residence where the equipment is purchased and installed is shared by two or more taxpayers, the amount of the credit must be prorated according to the percentage of the total expenditure for the equipment contributed by each taxpayer.

The credit is allowed with respect to the taxable year in which the fuel cell electric generating equipment is placed in service. If the credit is in excess of the taxpayer's tax liability, the unused amount may be carried over for up to 5 years.

(See Tax Law, section 606 (g-2))

College tuition credit and deduction

For tax years beginning on or after January 1, 2001, a full-year resident taxpayer may choose between a refundable credit or an itemized deduction for qualified college tuition expenses, and all other taxpayers (that is, full-year nonresidents and part-year residents) may be entitled to an itemized deduction for these expenses. The credit and deduction are phased-in over a four year period by means of an annual increase in the applicable percentage used to compute the credit or deduction.

Qualified college tuition expenses means the tuition required for the enrollment or attendance of the taxpayer, the taxpayer's spouse or a dependent of the taxpayer at an institution of higher education. Qualified tuition does not include tuition paid through the receipt of scholarships or financial aid, or tuition required for enrollment or attendance in a course of study leading to the granting of a post baccalaureate or other graduate degree. *Institution of higher education* means any institution of higher education or business, trade, technical or other occupational school, located in or out of New York State, that is recognized and approved by either the regents of the University of New York or a nationally recognized accrediting agency or association accepted by the regents. In addition, the institution or school must provide a course of study leading to the granting of a post-secondary degree, certificate or diploma.

The maximum amount of qualified college tuition expenses allowed in computing the credit or deduction is \$10,000. For taxpayers with allowable expenses of less than \$5,000, the credit is equal to the applicable percentage (see below) of the lesser of the allowable tuition expenses or \$200. For taxpayers with allowable expenses of \$5,000 or more, the credit is computed by multiplying the allowable expenses by the applicable percentage, and then multiplying that result by 4%. The itemized deduction is computed by multiplying the allowable expenses by the applicable percentage.

The applicable percentages are 25% for tax years beginning in 2001, 50% for tax years beginning in 2002, 75% for tax years beginning in 2003, and 100% for tax years beginning in 2004 and thereafter.

(See Tax Law, section 606(t) and 615(d)(4))

Empire zones credit

The Empire Zones Program Act directs that the term *economic development zone* is to be changed to *empire zone* wherever the term appears in the laws of New York State. Thus, the economic development zone (EDZ) investment tax credit, EDZ employment incentive credit, EDZ wage tax credit and EDZ capital tax credit should now be referred to as the empire zone (EZ) investment credit, EZ employment credit, the EZ wage tax credit and the EZ capital tax credit.

The Empire Zones Program Act also provides personal income tax taxpayers who are involved with certain business enterprises as either a sole proprietor, partner, limited liability company member, or S-corporation shareholder with two new credits for tax years beginning on or after January 1, 2001: the qualified empire zone enterprises (QEZE) credit for real property taxes and the QEZE tax reduction credit. A business enterprise that is certified under Article 18-B of the General Municipal Law (zone-certified) prior to July 1, 2005, will be a QEZE--but only with respect to each of the 14 taxable years following its test year in which the enterprise meets the employment test provided by the new law. The *test year* is the first taxable year of the business enterprise ending on or before the later of July 1, 2000, or the date prior to July 1, 2005, on which the enterprise was certified. To meet the employment test for a taxable year, the enterprise's average employment for the taxable year both within the empire zone(s) and in the State outside of the zone(s) must equal or exceed the averages determined for a base period.

The QEZE credit for real property taxes allows a tax credit against personal income tax, for taxes imposed on real property owned by the QEZE and located in empire zones. The amount of the QEZE credit for real property taxes is the product of (1) a benefit period factor, (2) an employment increase factor, and (3) the taxes paid on property which the enterprise owns in empire zones for which the QEZE is certified.

The QEZE tax reduction credit allows a credit against personal income tax, and is the product of (1) a benefit period factor, (2) an employment increase factor, (3) a zone allocation factor, and (4) a tax factor.

The new law provides the methods for computing each credit. The benefits are phased out in the last four taxable years of a QEZE's benefit period.

The QEZE credit for real property taxes is refundable. The QEZE tax reduction credit can bring the taxpayer's tax down to zero.

Note: In addition to the tax credits, certain taxpayers may be eligible for a QEZE sales and use tax exemption, for additional information see *Summary of the 2000 Sales and Compensating Use Tax Legislation*, TSB-M-00(6)S.

(See Tax Law, sections 14, 15, 16, 606(i)(1), 606(bb), and 606(cc))

Green buildings credit

The green buildings tax credit will provide incentives for the construction, rehabilitation and maintenance of buildings with high environmental standards and energy efficiency through the use of environmentally preferable building materials, and energy technologies which are renewable and clean.

The first taxable year for which the credit may be taken is a taxable year commencing on or after January 1, 2001. The first step in obtaining eligibility for the green buildings credit is for the taxpayer to apply to the Department of Environmental Conservation for “an initial credit component certificate.” These certificates are to be issued by the Department of Environmental Conservation upon a showing by the taxpayer making the application that the taxpayer is likely within a reasonable period of time to place in service property which would warrant the allowance of the credit.

The initial credit component certificates will be issued during the years 2001 through 2004, and will set forth the first taxable year for which the credit may be claimed and the maximum credit amount allowable to the taxpayer. The credit may be claimed for five taxable years beginning with the first taxable year allowed pursuant to the initial credit component certificate, and including the four succeeding taxable years. The green buildings credit program during which eligible taxpayers may claim the credit applies to taxable years beginning in 2001 through 2009. In addition to the initial credit component certificate, for each taxable year that a credit is claimed, a taxpayer will have to obtain an eligibility certificate issued by a licensed architect or engineer certifying that the project meets the standards for green buildings.

The credit consists of six components. Three of the credit components relate to constructing or rehabilitating the “green building” itself. These are the whole building component, the base building (i.e., common areas) component, and the tenant space component. The credit amount for these three components is based on costs paid or incurred after June 1, 1999. The three other components are for certain costs associated with fuel cells, photovoltaic modules and new air conditioning equipment using approved refrigerants where each of these items will be used in a green building.

Where a credit has been allowed to an owner who sells a building or to a tenant who terminates his or her tenancy within the five taxable year period for allowance of the credit, the successor owner or successor tenant will be allowed the credit for the remainder of the five-year period, assuming the property in question continues to meet the applicable environmental standards.

A taxpayer can carry over to future tax years any amount of the credit that is in excess of the taxpayer's tax liability for that year.

The green buildings tax credit is also available for various state business taxes. More information about this credit can be found on the Department of Environmental Conservation's website at: www.dec.state.ny.us.

(See Tax Law, sections 19, 606(i)(1) and 606(y))