



Supplemental Summary of Personal Income Tax Legislative Changes Enacted in 2010

This memorandum contains a summary of personal income tax legislation signed into law in 2010 that was not addressed in [TSB-M-10\(13\)I](#), *Summary of Budget Bill Personal Income Tax Changes Enacted in 2010*. The following legislative changes are summarized in this memo:

- [Enrolled agents excluded from definition of tax preparer under the Tax Preparer Registration Program](#)
- [Automatic extension for death of a spouse](#)
- [Changes to wage reporting and new hire reporting](#)
- [Rehabilitation of historic properties credit and historic homeownership rehabilitation credit](#)
- [North Country Power Authority](#)
- [Amendments to the farmers' school tax credit](#)

Enrolled agents excluded from definition of tax preparer under the Tax Preparer Registration Program

Tax Law. The definition is used to determine who needs to register for the Tax Preparer Registration Program.

After the amendment, enrolled agents, and employees of an enrolled agent firm, law firm, public accounting firm, or certified public accounting firm who prepare returns under the supervision of an enrolled agent in that firm, are excluded from the definition of tax return preparer.

Note: An enrolled agent who is excluded from the definition of a tax return preparer is still subject to the registration requirements if he or she facilitates the making of a refund anticipation check or refund anticipation loan.

The amendment applies on or after July 30, 2010, and is not retroactive. Therefore, enrolled agents who registered under the Tax Preparer Registration Program and paid the registration fee prior to July 30, 2010, are not entitled to a refund.

For additional information, see [TSB-M-10\(6\)I](#), *Enrolled Agents Excluded from the Definition of Tax Return Preparer for the Tax Preparer Registration Program*.

(Tax Law section 32(a)(14))

Automatic extension for death of a spouse

Chapter 429 of the Laws of 2010 amended section 657 of the Tax Law. New section 657(c) provides that if an individual's spouse dies within 30 days prior to the due date for filing a personal income tax return or paying the tax due on that return, the department will grant an automatic extension of 90 days to that taxpayer to file his or her income tax return and to pay the tax due on the return. No penalties or interest for late filing or late payment will be imposed on a taxpayer during this 90-day extension period.

Taxpayers who qualify for this automatic extension should follow these instructions for completing their 2010 New York State income tax returns:

- Taxpayers who file a paper return must enter the decedent's date of death in the space provided and must enter **D9** in the special condition code box provided on the front page of the return.
- Taxpayers who e-file their 2010 tax year returns must enter the decedent's date of death in the space provided and must enter **D9** in the special condition code box. If the tax preparation software does not support a special condition code, the return should be filed on paper following the instructions in the preceding paragraph.

This amendment applies to tax years beginning on or after January 1, 2010.

(Tax Law section 657(c))

Changes to wage reporting and new hire reporting

Chapter 182 of the Laws of 2010 amended the Tax Law with regard to the statewide wage reporting system and the state directory of new hires. Effective July 15, 2011, employers must provide certain information on the availability of dependent health insurance benefits to their employees as follows:

- The department is authorized to require employers to report if dependent health insurance benefits are available to their employees when submitting their quarterly wage reporting information. Form NYS-45, *Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return*, will be redesigned to accommodate this information beginning with the 3rd quarter of 2011.
- Employers are required to report if dependent health insurance benefits are available to a newly hired or rehired employee and the date the employee qualifies for the benefits when reporting the employee under the New Hire Reporting Program. The method(s) for reporting this additional information on newly hired or rehired employees will be available on the Tax Department Web site (www.tax.ny.gov) prior to July 15, 2011.

(Tax Law sections 606(d-1), 171-a, 171-h, and 697)

Rehabilitation of historic properties credit and historic homeownership rehabilitation credit

Chapter 472 of the Laws of 2010 made various amendments to the enhanced versions of the rehabilitation of historic properties credit and the historic homeownership rehabilitation credit that were enacted by Chapter 239 of the Laws of 2009. The amendments clarify who is entitled to claim the credits and the proper amount of credit allowed. In addition, the new law changes the amount of credit allowable for tax years beginning on or after January 1, 2015, due to the expiration of the enhanced credits.

For a full description of these amendments see [TSB-M-10\(14\)I](#), *Amendments to the Rehabilitation of Historic Properties Credit and the Historic Homeownership Rehabilitation Credit*.

(Tax Law sections 606(oo)(1), 606(pp)(2)(A), and 606(pp)(2)(B))

North Country Power Authority

The North Country Power Authority (NCPA) created under Chapter 533 of the Laws of 2010 is not subject to taxation on property acquired or controlled by it or on its activities in the operation and maintenance of the authority or on income earned by the authority. Any securities issued by the authority and any income derived from the securities are also free from taxation, except for estate and gift taxes. The NCPA is required to make payments in lieu of taxes (PILOTs) for taxes that would have been received by municipalities and school districts, and on the taxes that would otherwise be imposed on utilities under Tax Law section 186-a, former Tax Law section 186 (as it existed on December 1, 1999), and any taxes imposed within the NCPA's service area pursuant to General City Law section 20-b and Village Law section 5-530.

Under the new law, the NCPA is a public benefit corporation, constituting an exempt organization for sales tax purposes under Tax Law section 1116(a)(1). Therefore, NCPA is exempt from State and local sales and use taxes on all its purchases. However, NCPA is required to register for sales tax purposes, collect state or local sales and compensating use taxes on its sale of taxable property or services of a kind ordinarily sold by private persons, including utility services, and otherwise comply with Articles 28 and 29 of the Tax Law.

Amendments to the farmers' school tax credit

Chapter 297 of the Laws of 2010 provides that when determining whether or not a taxpayer is an eligible farmer for purposes of the farmers' school tax credit, payments from the Farmland Protection Program, which is administered by the New York State Department of Agriculture and Markets, should be disregarded. Therefore, when computing whether or not the taxpayer's federal gross income from farming is two-thirds of excess federal gross income, the payments should not be included in either federal gross income from farming or excess federal gross income.

The amendments apply to tax years beginning on or after January 1, 2011.

(Tax Law sections 210.22(b) and 606(n)(2))

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 Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.