Summary of Personal Income Tax Legislation Enacted after the 2015-2016 Budget

This memorandum contains a summary of enacted legislation applicable to personal income tax that is in addition to the personal income tax legislation described in *Summary of Tax Provisions in SFY 2015-2016 Budget*.

The following legislative changes are summarized in this memorandum:

Gift for autism awareness and research established

Chapter 483 of the Laws of 2015 created the New York State autism awareness and research fund. Contributions to this fund will be used for autism awareness projects and autism research projects.

New section 630-d has been added to the Tax Law to require a space on New York State personal income tax returns for the purpose of allowing taxpayers to make voluntary contributions to the fund for tax years 2016 and after.

(Tax Law section 630-d, State Finance Law 95-e)

Gift for eliminating the stigma relating to mental illness established

Chapter 422 of the Laws of 2015 created the mental illness anti-stigma fund. Contributions to this fund will be used by the Office of Mental Health for the purpose of providing grants to organizations dedicated to eliminating the stigma attached to mental illness and helping people with mental health needs access care.

New section 629-a has been added to the Tax Law to require a space on New York State personal income tax returns for the purpose of allowing taxpayers to make voluntary contributions to the fund for tax years 2015 and after.

(Tax Law section 629-a, State Finance Law section 95-h, Mental Hygiene Law section 7.47)

Gift for women's cancers education and prevention established

Chapter 420 of the Laws of 2015 created the women's cancers education and prevention fund. Contributions to this fund will be used for educational projects, including grants for women's cancers education and prevention programs, that are approved by the Department of Health.

New section 630-d has been added to the Tax Law to require a space on New York State personal income tax returns for the purpose of allowing taxpayers to make voluntary contributions to the fund for tax years 2015 and after.

(Tax Law section 630-d, State Finance Law section 97-1111, Public Health Law section 207.1)

New York City enhanced real property tax credit extended

The New York City enhanced real property tax credit allows for a credit to qualified taxpayers that meet the following requirements:

- must be a full-year New York City resident, and
- pay either real property taxes or rent for his or her residence, and
- occupy the same residence for six months or more during the tax year, and
- have household gross income of less than $200,000 for the tax year.

The maximum amount of credit allowed per household is $500. In addition, only one credit per household and per qualified taxpayer will be allowed for each tax year.

If the amount of the enhanced real property tax credit exceeds the taxpayer's tax due for the year, the excess may be credited or refunded without interest. City resident individuals who are not required to file a New York State personal income tax return may nevertheless qualify for a refund of the full amount of credit.

Chapter 20 of the Laws of 2015 (Part C, Subpart B) extended the credit to include tax years beginning on or after January 1, 2014, and before January 1, 2020. Prior to the amendment the credit included tax years beginning on or after January 1, 2014, and before January 1, 2016.

(Tax Law section 606(e-1))

New York City income tax credit for general corporation taxes paid extended

The New York City income tax credit for general corporation taxes paid allows for a tax credit to certain New York City resident individuals, estates, and trusts whose city adjusted gross income includes a pro rata share of income, gain, loss, or deductions from one or more New York S corporations or exempt qualified subchapter S subsidiaries (QSSSs).

Chapter 20 of the Laws of 2015 (Part A) amended section 11-1706(f) of the Administrative Code of the City of New York to extend the credit to include tax years beginning on or after January 1, 2014, and before July 1, 2019. Prior to the amendment the credit period included tax years beginning on or after January 1, 2014, and before July 1, 2015.

(Administrative Code of the City of New York section 11-1706(f))

Property tax relief credit established

Chapter 20 of the Laws of 2015 (Part C, Subpart B) added new section 606(n-1) to the Tax Law to establish the property tax relief credit. The credit is available to eligible taxpayers for tax years 2016 through 2019.

Each year the credit is allowed (2016, 2017, 2018, and 2019) the commissioner will identify taxpayers who meet the income eligibility requirements for the property tax relief credit using information from personal income tax returns on file for the tax year two years prior (2014, 2015, 2016, and 2017, respectively). The Tax Department will compute the property tax relief credit amount and mail checks to eligible taxpayers.

To be eligible for the credit, a taxpayer must:

- own and primarily reside in real property receiving the STAR exemption authorized by section 425 of the Real Property Tax Law **or** the school tax relief (STAR) credit[1] authorized by section 606(eee) of the Tax Law,
- be a resident of New York State, and
- have qualified gross income no greater than $275,000.

However, a credit will not be allowed if the taxpayer's property is located:

- in an independent school district that has adopted a budget in excess of the applicable tax levy limit,
- in a city with a dependent school district that has adopted a budget in excess of the applicable tax levy limit, or
- in New York City.

Amount of the credit. For tax year 2016, if an eligible taxpayer resides within the metropolitan commuter transportation district (MCTD)[2] and outside New York City, the amount

[1] The STAR credit was enacted by Part A of Chapter 60 of the Laws of 2016.

of the credit is $130.00. If an eligible taxpayer resides outside the MCTD, the amount of the credit is $185.00.

For tax years 2017, 2018, and 2019, if an eligible taxpayer owns and primarily resides in real property receiving the **basic STAR exemption** or the **basic STAR credit**, the amount of the property tax relief credit equals the STAR tax savings multiplied by a percentage as shown in the tables below:

Tax year 2017	
Qualified gross income in 2015	**Percentage**
Not over $75,000	28%
Over $ 75,000 but not over $150,000	20.5%
Over $150,000 but not over $200,000	13%
Over $200,000 but not over $275,000	5.5%
Over $275,000	No credit

Tax year 2018	
Qualified gross income in 2016	**Percentage**
Not over $75,000	60%
Over $ 75,000 but not over $150,000	42.5%
Over $150,000 but not over $200,000	25%
Over $200,000 but not over $275,000	7.5%
Over $275,000	No credit

Tax year 2019	
Qualified gross income in 2017	**Percentage**
Not over $75,000	85%
Over $ 75,000 but not over $150,000	60%
Over $150,000 but not over $200,000	35%
Over $200,000 but not over $275,000	10%
Over $275,000	No credit

For tax years 2017, 2018, and 2019, if an eligible taxpayer owns and primarily resides in real property receiving the **enhanced STAR exemption** or the **enhanced STAR credit**, the amount of the property tax relief credit equals the STAR tax savings multiplied by a percentage as shown in the table below:

Tax year	**Percentage**
2017	12%

[2] The *MCTD* includes New York City (the counties of New York (Manhattan), Bronx, Kings (Brooklyn), Queens, Richmond (Staten Island)), and the counties of Rockland, Nassau, Suffolk, Orange, Putnam, Dutchess, and Westchester.

2018	26%
2019	34%

Only one credit per residence is allowed per tax year. In addition, the amount of the credit may not exceed the school district taxes due for the residence for that tax year.

Taxpayers who do not receive a property tax relief credit check that they believe they are eligible for, taxpayers who receive a check that is less than the amount they believe they are eligible for, and taxpayers who were not required to file a tax return but otherwise meet the eligibility requirements for the credit, may request payment of the claimed deficiency in a manner to be determined by the department.

Add-back of property tax relief credit. A taxpayer is not eligible for this credit if the school district taxes levied upon the residence during the tax year remain unpaid 60 days after the last date they could have been paid without interest. In the case of a school district where the taxes are paid in installments, a taxpayer is not eligible for the credit if the taxes remain unpaid 60 days after the date the last installment could have been paid without interest.

Accordingly, if a taxpayer receives the property tax relief credit for a tax year, and the taxes that were levied in that same year remain unpaid on the sixtieth day after the last date they could have been paid without interest, the amount of property tax relief credit received by the taxpayer must be added back as tax on the taxpayer's personal income tax return for the tax year in which the sixtieth day occurs.

(Tax Law section 606(n-1))

Taxpayer refund choice act extended

Chapter 456 of the Laws of 2015 amended section 3013 of the Tax Law to extend the taxpayer refund choice act (the Act) for five additional tax years (i.e., until November 15, 2021). The Act provides that all personal income tax taxpayers have the right to:

- receive personal income tax refunds by paper check, and
- opt out of any prepaid debit card or direct deposit program for payment of personal income tax refunds.

Additionally, this section requires the department to provide taxpayers with a clear written statement about these rights.

If the commissioner elects to implement a program that allows the department to pay personal income tax refunds by prepaid debit cards or by direct deposit, the department's forms must also allow the taxpayer an option to receive a paper check. The paper check option (check box) must appear with the selection of options for receiving a personal income tax refund. In addition, in any written notice the department issues about a prepaid debit card program for the payment of tax refunds, the department must describe to taxpayers all of the features of the debit card program, including any fees that may be charged to the taxpayer when using the debit card.

(Tax Law section 3013)

Voluntary contribution funds reporting requirements established

Chapter 453 of the Laws of 2015 amended the State Finance Law to establish reporting requirements for funds for which voluntary contributions through New York State tax returns are the source of the monies in the fund. The head of the agency or entity administering each fund must report annually on the use of the monies. The report must be made public and must include:

- the amount of money dispersed from the fund and the award process used for the disbursements,
- recipients of awards from the fund,
- the amount awarded to each recipient, the purposes for which the awards were granted, and
- a summary financial plan for the monies that includes estimates of all receipts and all disbursements for the current and succeeding fiscal years, along with the actual results from the prior fiscal year.

In addition, any new fund established on or after November 21, 2015, that allows a voluntary contribution through a New York State tax return as a source of the monies in the fund is required to ensure that all voluntary contribution monies received by the fund during a fiscal year of the state are expended prior to the end of that fiscal year.

These reporting requirements are effective as of November 21, 2015.

Yonkers resident income tax surcharge and the Yonkers earning tax on nonresidents extended

Chapter 37 of the Laws of 2015 and Yonkers Local Law 17-2015 extended the Yonkers resident income tax surcharge and the Yonkers nonresident earnings tax through tax years ending before 2018. Under previous law, these taxes would have expired for tax years beginning after 2016.

(Tax Law sections 1321 and 1340; Code of the City of Yonkers sections 15-100 and 15-117)

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.