Article 9-A Credit Provisions

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Credits Effective For Tax Years Beginning On or After January 1, 2005

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Biofuel Production Credit
Land Conservation Easement Credit

Credits Effective For Tax Years Beginning On or After January 1, 2007

Credit for Rehabilitation of Historic Properties
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Credits Effective For Tax Years Beginning On or After January 1, 2008

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Credits Effective For Tax Years Beginning On or After January 1, 2011

Credit for Companies Who Provide Transportation to Individuals with Disabilities
Excelsior Jobs Tax Credit
Excelsior Investment Tax Credit
Excelsior R&D Tax Credit
Excelsior Real Property Tax Credit

Credits Effective For Tax Years Beginning On or After March 31, 2011

Economic Transformation & Facilities Redevelopment Tax Credit

Credits Effective For Tax Years Beginning On or After January 1, 2012

Beer Production Credit (expanded to Alcoholic Beverage Production Credit for TYBOA 1/1/16)

Empire State Jobs Retention Program Credit
Urban Youth Jobs Program Tax Credit (formerly NY Youth Works Tax Credit)

Credits Effective For Tax Years Beginning On or After January 1, 2013

Alternative Fuels and Electric Vehicle Recharging Property Credit

Credits Effective For Tax Years Beginning On or After January 1, 2014

Minimum Wage Reimbursement Credit
Real Property Tax Relief Credit for Manufacturing
START-UP New York Tax Elimination Credit
Credit for the Excise Tax on Telecommunication Services Paid by START-UP NY Businesses

Credits Effective For Tax Years Beginning On or After January 1, 2015

Empire State Musical and Theatrical Production Credit
Employee Training Incentive Program Tax Credit
Hire a Vet Credit
Workers with Disabilities Tax Credit

Credits Effective For Tax Years Beginning On or After January 1, 2017

Farm Workforce Retention Credit

Credits Effective For Tax Years Beginning On or After January 1, 1969

Investment Tax Credit

Effective Date: Effective for tax years beginning on or after January 1, 1969.
Sunset Date: None

The investment tax credit (ITC) is based on the cost or other basis for Federal tax purposes of depreciable tangible personal property, including buildings and their structural components, acquired, constructed, reconstructed, or erected after December 31, 1968 having a useful life of four years or more, located within the State of New York, and used primarily for the production of goods by: manufacturing; processing; assembling; refining; mining; extracting; farming; agriculture; horticulture; floriculture; viticulture; or commercial fishing. Property used in the generation of electricity is not eligible for the ITC.

ITC is also allowed for expenditures for pollution control, waste treatment, and acid rain control facilities. To qualify, these facilities must be located within the State, used in regular business activities, and certified by the State Commissioner of Environmental Conservation.

Finally, taxpayers who provide three or more services, such as a studio lighting grid, lighting and grip equipment, or industrial scale electrical capacity to qualified film productions are eligible to claim the ITC on property used in the qualified film production facility.

The claiming of a depreciation or expense deduction for ITC property under certain other tax provisions, or the leasing of the property to another individual or corporation, unless explicitly allowed, disqualifies credit.

The credit rate equals 5 percent of the first $350 million of the investment credit base. A 4 percent rate applies to amounts above $350 million.

Unused ITC can be carried forward for fifteen years. If a taxpayer qualifies as a new business, it can elect to receive a refund of unused ITC during its first five taxable years. A new business is defined as any corporation except:

- A corporation in which over 50 percent of the number of shares of stock entitling their holders to vote for the election of directors or trustees is owned or controlled, directly or indirectly, by a taxpayer subject to the tax under: Article 9-A; sections 183, 184 or 185 of Article 9; or Article 33 of the Tax Law.
- A corporation that is substantially similar in operation and in ownership to a business entity or entities taxable or previously taxable under: Article 9-A; section 183, 184, 185, or former section 186 of Article 9; Article 32 as in effect on December 31, 2014; or Article 33; or that would have been subject to the tax under Article 23 as it was in effect on January 1, 1980; or the income (or losses) of which is (or was) includable under Article 22 of the Tax Law.
- A corporation that has been subject to tax under Article 9-A, or former Article 32, for more than five taxable years (excluding short periods).

When qualified ITC property is disposed of or ceases to be in qualified use prior to the end of its useful life, a portion of the credit must be recaptured. Any ITC recapture may be added to the tax otherwise due in the year of disposition or disqualification.

Credits Effective For Tax Years Beginning On or After January 1, 1979

Special Additional Mortgage Recording Tax Credit

Effective Date: Effective for tax years beginning on or after January 1, 1979.
Sunset Date: None

A credit is allowed equal to the State Special Additional Mortgage Recording Tax paid on mortgages recorded after December 31, 1978. The special additional mortgage recording tax is imposed at the rate of 25 cents per $100 on the indebtedness secured by a mortgage recorded on or after July 1, 1969. The credit is not allowed for such taxes paid on residential mortgages recorded after May 1, 1987, where the real property is located in Erie County or one or more of the counties comprising the Metropolitan Commuter Transportation District.

For periods beginning on or after January 1, 1994, taxpayers may elect to treat the unused portion of the special additional mortgage recording tax credit as an overpayment to be credited or refunded. Starting in the 2015 tax year, banks formerly taxable under Article 32 were merged into Article 9-A. As such, they became eligible for a refund of the special additional mortgage recording tax credit pertaining to certain residential mortgages. However, for these taxpayers, refunds were only allowed if the special additional mortgage recording tax was paid on or after January 1, 2015.

Credits Effective For Tax Years Beginning On or After June 1, 1981

Rehabilitation Credit for Retail Enterprises

Effective Date: Effective for investments made on or after June 1, 1981.
Sunset Date: Beginning on or after January 1, 2015, the credit has been eliminated as a result of corporate tax reform.

Taxpayers registered as vendors under Tax Law Article 28 and at least 50 percent engaged in retail sales could claim a credit for expenditures for retail enterprises that also qualified for the federal rehabilitation credit. The credit rate was the same as the traditional ITC. The credit was limited to expenditures attributable to property used in retail sales and located in New York.

Credits Effective For Tax Years Beginning On or After January 1, 1986

Empire Zone/ Zone Equivalent Area/Qualified Empire Zone Enterprise Tax Credits

In 1986, New York State enacted legislation to stimulate growth in economically distressed communities. The program provides a package of tax incentives for businesses that invest or provide jobs in designated areas called Empire Zones (EZs).

The Empire Zones Program expired on June 30, 2010. However, taxpayers certified in EZs are granted additional time to fully utilize their tax benefits as follows:

- The EZ-ITC was available until April 1, 2014.
- The EZ-EIC is allowed for the three years following the related EZ-ITC claim, notwithstanding the 2014 EZ-ITC cutoff.
- Payments of commitments made to community development projects approved by Empire State Development (ESD) prior to the expiration of the Zones Program were allowed to generate EZ capital credit until April 1, 2014.
- Taxpayers claiming the EZ wage tax credit, the QEZE real property tax credit, and the QEZE tax reduction credit will be allowed to claim credit for the duration of their benefit periods provided they continue to meet all eligibility criteria.

The SFY2006-07 Executive Budget created two special Empire Zone designations – qualified investment projects (QUIPs) and significant capital investment projects (SCIPs). QUIPs remain certified for an additional nine years. Taxpayers eligible for these designations are subject to more beneficial EZ-ITC, EZ-EIC, and EZ wage credit refund rules and may qualify for extended benefit periods for the QEZE credits.

Empire Zone (EZ) Wage Tax Credit/ Zone Equivalent Area (ZEA) Wage Tax Credit

Effective Date: Effective for tax years beginning on or after January 1, 1986.
Sunset Date: The Empire Zones Program expired on June 30, 2010, however taxpayers will be allowed to claim credit for the duration of their benefit periods provided they continue to meet all eligibility criteria.

Eligible taxpayers could claim a wage tax credit for up to five years for doing business and creating jobs in an EZ. The credit equaled $3,000 for each to targeted employee (i.e., those with low incomes or on public assistance), and $1,500 for each nontargeted employee.

Starting with the 2005 tax year, taxpayers certified in EZ sub-zones called Investment Zones could claim an additional $500 for each employee receiving wages in excess of $40,000.

For tax years beginning on or after January 1, 1994, a similar credit was provided for eligible businesses located in zone equivalent areas (ZEAs) for wages paid to full-time employees in a ZEA. Beginning on January 1, 2001, the ZEA credit amounts were changed to mirror the EZ wage tax credit amounts. The ZEA credit expired on June 13, 2004. Taxpayers could not earn new credit, but could use amounts carried forward from prior years.

The total EZ or ZEA wage tax credit could not exceed 50 percent of tax due before credits. Taxpayers could carry forward unused credits indefinitely. In lieu of a carryforward, new business taxpayers could elect to have 50 percent of unused EZ wage tax credit refunded.

Empire Zone (EZ) Capital Tax Credit

Effective Date: Effective for tax years beginning on or after January 1, 1986.
Sunset Date: The Empire Zones Program expired on June 30, 2010, however payments of commitments made to community development projects approved by Empire State Development (ESD) prior to the expiration of the Zones Program were allowed to generate EZ capital credit until April 1, 2014.

Taxpayers could qualify for a credit for direct equity investments in certified zone businesses and contributions to community development projects. The credit equaled 25 percent of the sum of each type of investment. The maximum credit per taxpayer is $100,000 for each investment type for an aggregate limit of $200,000 and could not exceed one half of the taxpayer's pre-credit tax. Taxpayers could carry unused credits forward indefinitely.

Empire Zone (EZ) Investment Tax Credit

Effective Date: Effective for tax years beginning on or after January 1, 1986.
Sunset Date: The Empire Zones Program expired on June 30, 2010, however the EZ-ITC was available until April 1, 2014.

Production property acquired or built in an EZ could qualify for an EZ-ITC of 10 percent. Corporations could carry forward any unused EZ-ITC indefinitely. New businesses could refund 50 percent of unused credit during their first five years of operation.

An additional 3 percent credit rate (30 percent of the EZ-ITC) applied in the three years following the year in which the corporation claims the EZ-ITC. To qualify for this second credit, the EZ-EIC, the taxpayer's employment in the EZ (excluding general executive officers) must have equaled at least 101 percent of its average employment in the year prior to earning the EZ-ITC.

Empire Zone (EZ) Investment Tax Credit for the Financial Services Industry

Effective Date: Effective for tax years beginning on or after January 1, 1986.
Sunset Date: The Empire Zones Program expired on June 30, 2010, however the EZ-ITC was available until April 1, 2014.

Financial services industry taxpayers that were located in an Empire Zone could be eligible for the EZ-ITC and EZ-EIC. The eligibility tests were the same as the traditional financial services ITC and EIC.

Credits Effective For Tax Years Beginning On or After January 1, 1987

Employment Incentive Credit

Effective Date: Effective for tax years beginning on or after January 1, 1987.
Sunset Date: None

Taxpayers that increase employment may be eligible for the employment incentive credit, which is allowed for each of the two years succeeding the taxable year in which the ITC is earned.

The amount of the credit is as follows:

- 1.5% of the ITC base if employment is at least 101% but less than 102% of the employment base year;
- 2.0% of the ITC base if employment is at least 102% but less than 103% of the employment base year;
- 2.5% of the ITC base if employment is at least 103% of the employment base year.

Credit for Research and Development Property Under the ITC

Effective Date: Effective for tax years beginning on or after January 1, 1987.

Sunset Date: None

Research and development (R&D) property acquired on or after January 1, 1987 qualifies for the ITC. Taxpayers may elect the regular ITC rate and potentially claim the EIC, or an optional rate on R&D property of 9 percent for taxable years beginning in 1990. If taxpayers elect the higher rate, they cannot claim the EIC on the same investment.

Credits Effective For Tax Years Beginning On or After January 1, 1990

Alternative Minimum Tax Credit

Effective Date: Effective for tax years beginning on or after January 1, 1990.
Sunset Date: Beginning on or after January 1, 2015, the credit is no longer necessary as the base for the credit has been eliminated under corporate tax reform.

Taxpayers began to accumulate the alternative minimum tax (AMT) credit in 1990. Beginning in 1991, taxpayers could claim the AMT credit against their entire net income (ENI) base tax for a portion of AMT paid in 1990 and subsequent years. A taxpayer can use the AMT credit to reduce its ENI tax liability to the fixed dollar minimum, the capital base, or the AMT base, whichever is highest. The credit cannot be used against the subsidiary capital base.

The calculation of the minimum tax credit involves a two-step process. The taxpayer calculates a "tentative" minimum tax by subtracting from the minimum tax the highest of the tax on entire net income, the tax on business and investment capital, or the fixed dollar minimum tax.

In the second step, corporations recalculate the minimum tax they would have paid, accounting for only two specific tax preferences.

The first is the preference related to depletion under IRC Section 57(a)(1). The second is the preference related to the appreciated property charitable deduction under IRC Section 57(a)(6)(b). In addition, prior to 1994, both minimum tax calculations disallowed the net operating loss deduction, and required single weighting of the receipts factor.

Corporations reduce this recalculated minimum tax by the highest of the tax on entire net income, the tax on business and investment capital, or the fixed dollar minimum tax. The result of subtracting the recalculated minimum tax from the "tentative" minimum tax equals the minimum tax credit available for subsequent years.

Effective for taxable years beginning in 1994, taxpayers may claim an AMT credit against ENI-base tax liability for part of the net operating loss deduction not used in computing the AMT. Taxpayers may calculate the AMT credit retroactively for taxable years after 1989 and carry forward the credit indefinitely.

The pre-1994 net operating loss component is subject to a five-year transition rule, beginning in taxable years after 1993 and ending before 1999. Under the transition rule, a taxpayer may use up to 20 percent of the credit in each of the five years beginning with the 1994 tax year. Taxpayers will have available the remainder of any unused credit for tax years after 1999.

Credits Effective For Tax Years Beginning On or After January 1, 1995

Mortgage Servicing Tax Credit

Effective Date: Effective for tax years beginning on or after January 1, 1995.
Sunset Date: None

Mortgage bankers, registered under Article 12-D of the Banking Law and meeting certain regulatory requirements established by the State of New York Mortgage Agency (SONYMA), may claim a credit against their franchise tax. The credit equals 2.93 percent of the total principal and interest collected by the bank for each SONYMA mortgage secured by a one-to-four family residence. In addition, mortgage bankers may receive an amount equal to the interest collected during their taxable year on each SONYMA mortgage, secured by a five or more family residence, multiplied by a fraction. The fraction depends on the types of properties which secure the serviced mortgage loans. The credit may be applied against the mortgage banker's liability to reduce their liability to zero. There is no carryforward of excess credit.

Credits Effective For Tax Years Beginning On or After January 1, 1997

Rehabilitation Credit for Historic Barns

Effective Date: Effective for tax years beginning on or after January 1, 1997.
Sunset Date: Beginning on or after January 1, 2015, the credit has been eliminated as a result of corporate tax reform.

Taxpayers could previously claim a tax credit for the rehabilitation of historic barns in New York State. The credit equaled 25 percent of qualified rehabilitation expenditures. The definition of a qualified rehabilitated barn had the same meaning as a "qualified rehabilitated building" for purposes of the federal rehabilitation credit under Section 47 of the Internal Revenue Code. In accordance with federal law for rehabilitation of historic buildings, the barn must have been placed in service before 1936 and only qualified for the credit based on substantial rehabilitation. Generally, a building was considered substantially rehabilitated only if the expenditures exceeded the greater of the adjusted basis of the barn or $5,000. A taxpayer could not claim both the regular investment tax credit on manufacturing property and the investment tax credit for rehabilitation of historic barns on the same property.

Farmers’ School Tax Credit

Effective Date: Effective for tax years beginning on or after January 1, 1997.
Sunset Date: None

Eligible farmers may claim a refundable real property tax credit against the corporate franchise tax. The credit is available to an eligible farmer, defined as a taxpayer whose gross income from farming is at least 2/3 of total gross income. Eligible farmers also include those who paid school district property taxes on qualified agricultural property pursuant to a land contract. The credit equals the total school property taxes paid on qualified agricultural property in the State up to the acreage limitation, and 50 percent of the school taxes paid on acres in excess of the limitation. The acreage limitation has been increased periodically:

- 100 acres in 1997
- 250 acres between 1998 and 2005
- 350 acres in 2006 and after.

The credit is phased out for taxpayers with New York adjusted gross income (entire net income) in excess of $200,000. Recapture provisions provide for an addback of the credit if the taxpayer converts the property to a nonqualified use in the two years subsequent to the first year of the credit.

Credits Effective For Tax Years Beginning On or After January 1, 1998

Alternative Fuels Credit

Effective Date: Effective for property placed in service in taxable years beginning on or after January 1, 1998.
Sunset Date: Expired January 1, 2011; see similar credit effective January 1, 2013

Prior to 2005, a tax credit was allowed for electric vehicles, clean fuel vehicles using natural gas, methanol and other alternative fuels, qualified hybrid vehicles, and clean fuel refueling facility property. For corporate franchise taxpayers, the credits could be transferred to affiliates. The tax credits equaled: 50 percent of the incremental cost of new electric vehicles registered in New York (capped at $5,000 per vehicle); 60 percent of the cost of new clean-fuel components for alternative fuel vehicles registered in New York (capped at $5,000 per vehicle with a gross vehicle weight rating of 14,000 pounds or less, and $10,000 for those over 14,000 pounds); $2,000 for qualified hybrid vehicles; and 50 percent of the cost of new clean-fuel refueling property used in a trade or business. For tax years beginning on or after January 1, 2000, the credits applied to electric vehicles and clean fuel vehicle property sold or leased to governmental agencies. The vehicles had to be manufactured in New York State. In addition, the manufacturing and processing activities relating to the vehicles had to create at least 25 full time jobs in New York. Any excess credit generated by sales or leases to governmental agencies was refundable.

Starting on January 1, 2005, only credit for clean-fuel vehicle refueling property was allowed. The credit equaled 50 percent of the cost of property used more than 50 percent of the time in a trade or business located in New York State. The property was defined in the Internal Revenue Code. To be eligible for the alternative fuels credit, property initially must have been qualified for the federal clean-fuel deduction under Internal Revenue Code (IRC) section 179A. Federal legislation converting the deduction to a credit necessitated an amendment to the New York credit. Qualified property had to be eligible for the federal credit under IRC section 30C.

Carryforwards of credit from qualified vehicles and vehicle refueling property is still allowed.

ITC for the Financial Services Industry

Effective Date: Effective for property placed in service on or after January 1, 1998.
Sunset Date: Expired October 1, 2015

An ITC was allowed for qualified property used in the financial services industry and placed in service prior to October 1, 2015. The rate of credit, maximum amounts, carryforward provisions, and recapture rules were generally the same as the regular ITC.

To be eligible, the property must have been principally used in the course of the taxpayer's business: as a broker or dealer in connection with the purchase or sale of stocks, bonds, commodities, or other securities; as a provider of lending, loan arrangement, or loan origination services to customers in connection with the purchase or sale of securities; or as a provider of investment advisory services for a regulated investment company. In addition, qualified property included property used in the course of the taxpayer's business as an exchange registered as a national securities exchange or a board of trade, or an entity wholly owned by one or more national security exchanges or boards of trade that provides automation or technical services to the national securities exchanges or boards of trade.

Property purchased or leased by a taxpayer affiliated with a regulated broker/dealer, national securities exchange, or board of trade was also eligible for credit if the property was principally used in the qualifying activities described above.

Starting in 2008, in determining whether the property was principally used in a qualifying activity, a taxpayer could aggregate its uses as a broker/dealer and a provider of investment advisory services. Furthermore, it could aggregate it uses with affiliated broker/dealers and registered investment advisors.

Finally, to be eligible for credit a taxpayer must have satisfied an employment test. Prior to 2008, taxpayers could use either an 80% current year test or a 95% three-year back-office test that was created administratively. Starting in 2008, those two tests were codified and a third test was created - the 90% end-of-year test.

1. *80% current-year test* - 80 percent or more of the employees performing the administrative and support functions related to the qualified use of the property are located in New York State;

2. *95% three-year back-office test* - The average number of employees performing the administrative and support functions related to the qualified use of the property and located in New York State during the year the credit is claimed is greater than or equal to 95 percent of the average number of such employees during the 36 months immediately preceding the tax year of the credit claim;

3. *90% end-of-year test* - the number of New York State employees in the current tax year is greater than or equal to 90 percent of such employees on:

    a) December 31, 1998 if the taxpayer was a calendar year filer taxable in New York State in 1998; or
    b) the last day of the first taxable year ending after December 31, 1998 if the taxpayer was a fiscal year filer or not subject to tax in 1998.

If a taxpayer was first subject to tax in New York State after the 1998 tax year, it was exempt from the employment tests for its first taxable year.

If aggregation was required to satisfy the "principally used" property test then either each affiliate had to satisfy the employment test individually or the employees of the taxpayer could be aggregated with the employees of its affiliated broker/dealer or registered investment advisor.

The financial services ITC credit expired on October 1, 2015. Amounts of unused credit attributable to property placed in service prior to that date can continue to be carried forward for use in future years.

Credit for Employment of Persons with Disabilities

Effective Date: Effective for tax years beginning on or after January 1, 1998, applicable to individuals who begin work on or after January 1, 1997.
Sunset Date: None

Employers who employ individuals with disabilities may claim a credit for a portion of wages paid to such individuals. The credit equals 35 percent of the first $6,000 of first year wages paid to the disabled employee (a maximum of $2,100 per employee). However, if the first year's wages qualify for the federal work opportunity tax credit, the New York credit will apply to second year wages. The credit could be applied against the AMT for tax years prior to 2015, and unused credits are not refundable but may be carried forward indefinitely. To become eligible for the State credit, the disabled employee must work for the employer on a full time basis for at least 180 days or 400 hours, and must be certified as disabled by the State Education Department. Visually handicapped individuals may receive certification from the appropriate agency responsible for vocational rehabilitation of the blind and visually impaired.

Qualified Emerging Technology Company (QETC) Tax Credits

There are three tax credits related to businesses that qualify as qualified emerging technology companies: an employment credit, a capital credit, and a facilities, operations, and training (FOT) credit.

For the employment and capital credits, a QETC is a business that is located in New York State, has total annual sales of $10 million or less, and either: has a ratio of research and development (R & D) funds to net sales that equals or exceeds an average ratio; or has products or services classified as emerging technologies. The ratio is updated annually and is included in the instructions for the credit forms. Likewise, the definition of *emerging technologies* is included in the instructions.
To claim the employment credit, a QETC must also have an average number of individuals employed full-time in New York State equal to at least 101 percent of its base-year employment.

For the FOT credit, prior to its expiration, businesses must have had primary products and services that are themselves emerging technology and satisfy additional restrictions. First, a business must have 100 employees or less, with at least 75 percent employed in New York State. Also, the R & D funds to net sales ratio must equal or exceed 6 percent. Finally, gross revenues may not exceed $20 million for the immediately preceding tax year.

QETC Employment Credit

Effective Date: Effective for tax years beginning on or after January 1, 1999.
Sunset Date: None

The employment tax credit equals $1,000 for each individual employed over a base year level and is allowed for three years. Excess credit may be refunded.

QETC Capital Credit

Effective Date: Effective for tax years beginning on or after January 1, 1999.
Sunset Date: None

The capital tax credit is available to taxpayers making qualified investments in certified QETCs. The credit varies in amount depending on how long the investment is held. Investments held for four years from the close of the tax year in which the QETC capital tax credit is first claimed qualify for a 10 percent credit. Investments held for nine years qualify for a 20 percent credit.

The total amount of credit allowable to a taxpayer for all years may not exceed $150,000 for credit computed at the 10 percent rate, and $300,000 for credit computed at the 20 percent rate. Also, the credit and any carryforwards may not exceed 50 percent of the tax due prior to the application of any other tax credits.

Credits Effective For Tax Years Beginning On or After January 1, 2000

Industrial or Manufacturing Business (IMB) Tax Credit

Effective Date: Effective for tax years beginning on or after January 1, 2000.
Sunset Date: Expired January 1, 2007

Industrial or manufacturing businesses (IMBs) were allowed a credit to be taken against taxes due under Article 9-A. The credit was the sum of taxes paid during the taxable year by their suppliers, due under the provisions of Tax Law Sections 186-a, 186-c, 189, and 189-a of Article 9 for gas, electricity, steam, water, or refrigeration; or the services of providing such, which are used or consumed in New York. Energy providers furnished taxpayers, on request, information on the amounts due and paid for these taxes during the taxpayer's liability year.

To qualify for the IMB credit, a taxpayer must have been a business which during the taxable year was principally engaged in: manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture, commercial fishing, or research and development; or was an industrial waste treatment facility or an air pollution control facility; or was principally engaged in a combination of such activities.

Low-Income Housing Credit

Effective Date: Effective for tax years beginning on or after January 1, 2000.
Sunset Date: None

The New York State low-income housing tax credit program, based on the existing federal program, requires an agreement between the taxpayer and the Commissioner of the New York State Division of Housing and Community Renewal (DHCR) for a long-term commitment to low-income housing. The amount of the credit depends on the applicable percentage of the qualified basis of each low-income building. The credit amount allocated by DHCR is allowed as a credit against tax for ten tax years. Unused credits may be carried forward indefinitely.

Credits Effective For Tax Years Beginning On or After January 1, 2001

Qualified Empire Zone Enterprise (QEZE) Credits

Empire Zone businesses that satisfied an annual employment test could become Qualified Empire Zone Enterprises (QEZEs), eligible for the QEZE real property tax credit and the QEZE tax reduction credit.

QEZE Real Property Tax Credit

Effective Date: Effective for tax years beginning on or after January 1, 2001.

Sunset Date: The Empire Zones Program expired on June 30, 2010, however taxpayers are allowed to claim credit for the duration of their benefit periods provided they continue to meet all eligibility criteria.

The QEZE real property tax credit (RPTC) is fully refundable and is calculated differently, depending upon the date the taxpayer was first certified by Empire State Development.

Certifications prior to April 1, 2005

The QEZE RPTC is the product of three factors:

1. a benefit period factor, based on the number of years the taxpayer has been certified as a QEZE;
2. an employment increase factor, which varies depending upon the number of jobs created by the QEZE; and
3. eligible real property taxes paid by the QEZE.

For taxpayers certified on or after August 1, 2002, the amount of credit claimed was limited to the greater of the employment increase limitation or the capital investment limitation. The employment increase limitation is the product of $10,000 and taxable year employment minus test year employment. The capital investment limitation is 10 percent of the cost or other basis of the real property multiplied by the greater of the percentage of the property which is physically occupied and used by the QEZE, or the percentage of the cost or other basis attributable to the construction, expansion, or rehabilitation of the real property (as opposed to the acquisition). If 50 percent or more of the cost is attributable to the aforementioned activities, the percentage is deemed to be 100 percent.

The QEZE tax credits for business enterprises first **certified before April 1, 2005**, are generally available for 14 taxable years provided the QEZE annually meets an employment test. The law provides that such business enterprise may be a QEZE for up to 15 years (the business tax benefit period). However, because the benefit period factor for year 15 is 0, there are no credits available for that year.

Certifications on or after April 1, 2005

For businesses certified on or after April 1, 2005, there are two separate credit calculations and the credit contains different restrictions depending upon whether the QEZE is located in an Investment Zone (IZ) or a Development Zone (DZ). Manufacturers calculate their credit as if they were located in an IZ however.

The credit equals 25 percent of the wages, health benefits, and retirement benefits of net new employees. Net new employees are calculated by subtracting the base period employment from taxable year employment. Wages and benefits in excess of $40,000 are excluded and the credit cannot exceed $10,000 per employee.

QEZEs located in a DZ must reduce their credit by an employment increase factor:

Net New Employees	Employment Increase Factor
1 to 10	0.25
11 to 49	0.5
50 to 75	0.75
76+	Amount divided by 100, up to 1.0

Taxpayers claim the greater of the amount of credit or the capital investment limitation, but neither may exceed the amount of the taxpayer's eligible real property taxes for the taxable year.

QEZEs located in an IZ and all manufacturers calculate their capital investment limitation in the same manner as taxpayers certified on or after August 1, 2002, but taxpayers located in a DZ are subject to a more restrictive limitation.

The DZ investment limitation equals the product of the percentage of the property which is physically occupied and used by the QEZE, and 10 percent of the amount of the cost or other basis attributable to the construction, expansion, or rehabilitation of the real property (as opposed to the acquisition). If 50 percent or more of the cost is attributable to the aforementioned activities, then the percentage is deemed to be 100 percent.

A business enterprise first **certified on or after April 1, 2005**, may be a QEZE for up to ten years. The credit will be available for each of the 10 years but only for those taxable years for which the employment test is met.

Certifications on or after April 1, 2009

The rules and calculations are the same as certifications on or after April 1, 2005 except that the QEZE RPTC is reduced by an additional 25 percent.

QEZE Tax Reduction Credit

Effective Date: Effective for tax years beginning on or after January 1, 2001.
Sunset Date: The Empire Zones Program expired on June 30, 2010, however taxpayers will be allowed to claim credit for the duration of their benefit periods provided they continue to meet all eligibility criteria.

The QEZE tax reduction credit is the product of four factors:

1. a benefit period factor, based on the number of years the taxpayer has been certified as a QEZE;
2. an employment increase factor that varies depending upon the number of jobs created by the QEZE;
3. a zone allocation factor that measures the economic presence of the QEZE in the EZ and in New York State; and

4. a tax factor that is the larger of the tax on the entire net income base or the minimum taxable income base. For tax years beginning on or after January 1, 2015 the tax factor is the QEZE's tax on the business income base.

The credit is non-refundable, but could be used against the alternative minimum tax base when it was in effect prior to 2015. If a taxpayer is wholly located within a zone (has a zone allocation factor of 100 percent), it may apply the credit against the fixed dollar minimum tax.

A business enterprise first **certified before April 1, 2005**, may be a QEZE for up to 15 years. A business enterprise first **certified on or after April 1, 2005**, may be a QEZE for up to 10 years. In both cases, the credit will be available only for those taxable years for which the employment test is met.

Credit for Purchase of an Automated External Defibrillator

Effective Date: Effective for tax years beginning on or after January 1, 2001.
Sunset Date: None

Taxpayers may claim a credit for the purchase of an automated external defibrillator. The amount of the credit is equal to the cost of the defibrillator, but is capped at $500 per unit. There is no limit on the number of units for which the credit may be taken. The credit is nonrefundable and excess credit may not be carried forward.

Green Building Credit

Effective Date: Effective for tax years beginning on or after January 1, 2001.
Sunset Date: None

The green building credit provides incentives for the construction, rehabilitation, and maintenance of buildings with high environmental standards and energy efficiency. The credit rewards the use of environmentally preferable building materials and renewable and clean energy technologies.

There are six different credit components for which a taxpayer may be allowed a credit. Each credit component has its own requirements, formula for calculating the amount of the credit, and cap. A taxpayer may be allowed one or more of these components, with certain restrictions. The components are:

- whole building credit component (owner or tenant) - where base building and all tenant space are green;
- base building credit component (owner) - applies to areas not intended for occupancy by either a tenant or owner;
- tenant space credit component (owner or tenant);
- fuel cell credit component;
- photovoltaic module credit component; and
- green refrigerant credit component.

To obtain eligibility for the green building credit, the taxpayer must first apply to the Department of Environmental Conservation for an initial credit component certificate. The certificate 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 certificate. In addition, 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.

Phase I authorized $25 million in credit for costs incurred on or after June 1, 1999, for property placed in service or that received a final certificate of occupancy in tax years from January 1, 2001 to 2004. Phase II of the program began in the 2005 tax year. An additional $25 million in total credit could be issued, but the amount on any one credit certificate was limited to $2 million.

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 period for allowance of the credit, the successor owner or successor tenant will be allowed the credit for the remainder of the period, as long as the property continues to meet the applicable environmental standards.

Credits Effective For Tax Years Beginning On or After January 1, 2002

Long-Term Care Insurance Credit

Effective Date: Effective for tax years beginning on or after January 1, 2002.
Sunset Date: None

Taxpayers may claim a credit equal to a percentage of the premiums paid during the tax year for the purchase of, or for continuing coverage under, a long-term care insurance policy that qualifies for the credit pursuant to Insurance Law section 1117. When enacted, the credit rate was 10 percent. Subsequent legislation increased the credit to 20 percent for tax years beginning after 2003. The credit is nonrefundable, but may be carried forward indefinitely.

A qualifying long-term care insurance policy is one that is:

- approved by the New York State Superintendent of Insurance pursuant to section 1117(g) of the Insurance Law; or
- a group contract delivered or issued for delivery outside of New York State that is a qualified long-term care insurance contract as defined in Internal Revenue Code section 7702B.

Credits Effective For Tax Years Beginning On or After January 1, 2004

Empire State Film Production Credit

Effective Date: Effective for tax years beginning on or after January 1, 2004.

Sunset Date: January 1, 2020

A taxpayer that is a qualified film production company can apply to the Governor's Office for Motion Picture and Television Development (MP/TV) to receive a refundable, 30 percent Empire State film production credit. Prior to tax years beginning on or after January 1, 2008, the credit rate was 10 percent.

An additional credit equal to 10 percent of the wages of individuals employed in certain upstate counties is available in 2015 through 2019. This additional 10 percent credit is available to both Empire State film production and post-production projects.

To become a qualified production company, 75 percent of film production facility expenditures must be spent at a *qualified film production facility*, defined as a facility in New York in which television shows and films are or are intended to be regularly produced, and which contains at least one sound stage of at least 7,000 square feet. Productions that qualify for the credit are feature length films or television films, pilots, or series. The definition of a *qualified film* also includes a relocated television production, which is a talk or variety show that filmed at least five seasons outside New York prior to its first relocated season in the state, is filmed in front of a studio audience of 200 or more people, and incurs at least $30 million in annual production costs or at least $10 million in capital expenditures at a qualified production facility in the state. Generally, documentaries, news or current affairs programs, instructional videos, sport shows or events, daytime soap operas, reality programs, commercials, and music videos do not qualify for the credit.

Taxpayers meeting the test above can qualify for a credit of 30 percent on qualified costs incurred at the facility. *Qualified costs* are costs for tangible property or services used or performed within New York directly and predominantly in the production (including post production) of a qualified film. Qualified production costs generally include most below the line items such as costs of technical and crew production, expenditures for facilities, props, makeup, wardrobe, set construction, and background talent, and generally exclude costs of stories and scripts, and wages for writers, directors, producers, and performers (other than extras without spoken lines).

Eligibility requirements vary based on the type of film company and the budget. If the film has a production budget over $15 million or is being produced by a company in which more than 5 percent of the beneficial ownership is owned directly or indirectly by a publicly traded entity then at least 10 percent of the total principal photography shooting days must be at a qualified production facility (QPF) in New York State. Productions with budgets of $15 million or less produced by companies that are independently owned must shoot at least one day of principal photography at a QPF.

Pilots are exempted from the 10 percent principal photography day requirement. Pilots must shoot a minimum of one day of principal photography day at a QPF, and at least 75 percent of the total of all expenses related to work (excluding post-production) done at all facilities utilized by the Pilot must be related to work done at the QPF.

If production costs are incurred at more than one production facility, then 75 percent of all qualified costs incurred at all facilities must be incurred at a qualified production facility. Qualified costs include all costs related to work done at the QPF, i.e., all set construction materials, set dressing, props, wardrobe, ground transport to/from set, meals, etc.

If a production has met the 75 percent test for production facility expenditures as described above, it may also qualify for the tax credit based upon qualified expenditures outside the qualified facility that are related to pre-production, location production, and post production in New York in one of two possible ways:

a) if the qualified New York expenditures related to the qualified production facility total $3 million or more, then all qualified expenditures related to pre-production, location, and post production in New York State qualify for the credit;

b) if expenditures on the qualified production facility days are less than $3 million, then the shooting days spent in New York outside of a film production facility must equal or exceed 75 percent of the total shooting days spent within and without New York outside of a film production facility.

As enacted, the credit was refundable in equal amounts over a two-year period. For tax years beginning on or after January 1, 2008, the credit was entirely refundable in the year in which it was claimed. The 2009-10 State budget "trifurcated" the utilization of the credit, effective for tax years beginning on or after January 1, 2009:

If the amount of the credit is:	**it is claimed:**
under $1 million	in the taxable year in which the film is completed
at least $1 million but less than $5 million	over a two year period, with half claimed each year
at least $5 million	over a three year period, with one-third claimed each year

For tax years 2015 through 2019, Empire State film production and post-production projects are eligible for an additional credit equal to 10 percent of the wages or salaries of individuals directly employed (excluding those employed as writers, directors, music directors, producers and performers) by a qualified film or independent film production company for services performed by those individuals in specific Upstate New York counties in connection with a qualified film with a minimum budget of $500,000. The aggregate amount of tax credits allowed for the additional credit is $5 million each year during the period 2015 through 2019.

In total, $2.1 billion in tax credits are allowed between tax years 2015 through 2019, allocated in installments of $420 million per year. Of the $420 million, there is a set-aside for the post-production credit that will be increased from the original $7 million to $25 million per year beginning in 2015.

Taxpayers awarded credit from the 2010-2019 allocations can claim credit in the later of the tax year the production of the qualified film is completed or the tax year immediately following the allocation year from which the taxpayer was awarded credit.

Credits Effective For Tax Years Beginning On or After January 1, 2005

Qualified Emerging Technology Company (QETC) Facilities, Operations, and Training Credit

<u>Effective Date:</u> Effective for tax years beginning on or after January 1, 2005.
<u>Sunset Date:</u> Expired January 1, 2012

The FOT credit consists of three components:
1. 18 percent of R & D property, costs, and fees incurred in connection with emerging technology activities;
2. 9 percent of qualified research expenses; and
3. 100 percent of qualified high-technology training expenses, limited to $4,000 per employee per year.

The total amount of credit was limited to $250,000 per year and was fully refundable.

The credit could be claimed for four consecutive years. However, taxpayers relocating from an academic incubator facility could claim credit for an additional year and elect to defer the start of the five year period until after they left the facility.

Security Training Tax Credit

<u>Effective Date:</u> Effective for tax years beginning on or after January 1, 2005.
<u>Sunset Date:</u> None

Owners of commercial buildings over 500,000 square feet can receive a $3,000 credit for each security guard employed who has undergone training certified by the New York State Office of Homeland Security (OHS) and is paid a certain minimum wage.

Credits Effective For Tax Years Beginning On or After April 1, 2005

Brownfields Tax Credits

Refundable tax credits are available to taxpayers that remediate a site under the Brownfield Cleanup Program (BCP). The credits are effective for tax years beginning on or after April 1, 2005. There are three distinct program groups with different credit rules and rates depending on when the brownfield project was accepted into the BCP:

- Sites accepted into the BCP prior to 6/23/08 (note: sites that do not receive a certificate of completion (COC) by 12/31/17 will only be eligible for the brownfield redevelopment tax credit available as if the site was accepted into the BCP on or after 7/1/15)

- Sites accepted on or after 6/23/08 but before 7/1/15 (note: sites that do not receive a COC by 12/31/19 will only be eligible for the brownfield redevelopment tax credit available as if the site was accepted into the BCP on or after 7/1/15)
- Sites accepted into the program on or after 7/1/15 (note: sites must be accepted into the BCP before 1/1/23 and will have until 4/1/26 to receive a COC)

The brownfield redevelopment tax credit is available under all three program groups, but the remediated brownfield credit for real property taxes and the environmental remediation insurance credit are only available for sites accepted into the BCP prior to 7/1/15.

Brownfield Redevelopment Tax Credit

Effective Date: Effective for tax years beginning on or after April 1, 2005.
Sunset Date: Eligibility contingent on site being accepted into the Brownfield Cleanup Program before January 1, 2023.

The brownfield redevelopment tax credit equals the sum of three credit components: site preparation, on-site groundwater remediation and tangible property.

The site preparation credit component is allowed for costs incurred after the execution date of the brownfield site cleanup agreement (BCA) and is granted in the tax year in which the improvement to which the costs apply is placed in service. Furthermore, it is allowed for up to five tax years after the year a Certificate of Completion (COC) is issued. However, no credit is allowed for costs paid or incurred before the execution of the BCA.

Similarly, the on-site groundwater remediation credit component is allowed for costs paid and incurred after the execution date of the BCA and is granted in the tax year in which the COC is issued. For costs paid or incurred in tax years occurring after the COC is issued, the credit is allowed in the tax year in which the costs are paid or incurred, up to five tax years after the COC is issued.

Lastly, the tangible property credit component is allowed for qualified tangible property in the tax year the qualified tangible property is placed in service on a qualified site. The tangible property component may be claimed for qualified tangible property placed in service for up to ten tax years after the year the COC is issued.

Projects Accepted Prior to June 23, 2008

The credit equals 12 percent of costs associated with each component. The credit increases by two percent if the site is remediated to a Track 1 cleanup level as determined by DEC, and by another 8 percent if at least one half of the site is located in an Environmental Zone (En-Zone).
An En-Zone is an area designated by the Commissioner of Economic Development and, as of the 2000 census, has a poverty rate of at least 20 percent and an unemployment rate of at least 1¼ times the statewide unemployment rate.

Projects Accepted on or after June 23, 2008 but Before July 1, 2015

The credit structure differs for projects accepted into the BCP on or after June 23, 2008 but before July 1, 2015. The tangible property component is subject to the same rates as those projects accepted into the BCP prior to June 23, 2008, but with an additional two percent allowed for projects located in a Brownfield Opportunity Area (BOA), as determined by the New York Secretary of State.

The tangible property component is also subject to a cap. The cap equals the lesser of $35 million or three times the costs included in the computation of the site preparation and groundwater cleanup components. The cap rises to $45 million or six times the costs included in the other components if the site is primarily used for manufacturing activities.

The rates for the site preparation and on-site groundwater remediation credit components are amended as well. The rates, by site acceptance date and component are detailed in the following table.

Brownfield Redevelopment Tax Credit Rate Structure

Rate Structure	Sites Accepted into Program Prior to 6/23/08	Sites Accepted Post-6/23/08 but Before 7/1/15	Sites Accepted into Program on or after 7/1/15**
Tangible Property Component			
Base Rate	10%/12%*	10%/12%*	10%
Track 1 Remediation	+2%	+2%	+5%
50%+ of site in En-Zone	+8%	+8%	+5%
BOA		+2%	+5%
Affordable Housing			+5%
Manufacturing			+5%
Site Preparation/Groundwater Remediation Components			
Unrestricted Use	The rates above apply to all 3 components; there are no separate rates for these categories	50%	50%
Residential Use		40%	40%
Commercial Use		33%	33%
Industrial Use		27%	27%
Residential – Track 4		28%	28%
Commercial – Track 4		25%	25%
Industrial – Track 4		22%	22%

* For fields with separate rates, the values are for the personal income tax then corporate tax, respectively
** Maximum tangible property component rate is capped at 24%

Projects Accepted on or after July 1, 2015

The SFY2015-16 Executive Budget extended and enacted significant changes to the Brownfield Cleanup Program (BCP). The most notable change includes creating a 10 percent base rate for the tangible property component with 5 percent bonuses for sites in an En-Zone, sites in a Brownfield Opportunity Area, affordable housing projects, track 1 remediation, and sites used in manufacturing; however the rate is capped at 24 percent (see above table).

Other notable changes that apply to projects accepted into the BCP on or after July 1, 2015 include limiting eligibility for the tangible property component to: sites where the property value is less than cleanup costs, sites located in Environmental Zones (En-Zones), and affordable housing projects; and adding lead, asbestos, and PCB remediation to allowable site preparation costs. In addition, responsibility for En-Zone designation is transferred from the Department of Economic Development to the Department of Labor and the poverty and unemployment rate metrics will be based on the most recent five year *American Community Survey* instead of the decennial census.

Finally, three timing changes have been incorporated for the tangible property component. First, the tangible property component is allowed for the tax year in which the property is first placed in service on a qualified site for which a COC has been issued by the Department of Environmental Conservation (DEC). Second, property placed in service prior to the issuance is allowed to generate credit in the tax year in which the COC is issued. And third, the post-COC window for additional tangible property component is changed to 120 months from the date of the COC issuance.

Remediated Brownfield Credit for Real Property Taxes

Effective Date: Effective for tax years beginning on or after April 1, 2005.
Sunset Date: Not available to sites accepted into the BCP on or after July 1, 2015.

The remediated brownfield credit for real property taxes equals 25 percent of the product of the taxpayer's employment factor (a percentage based on the number of persons employed by the taxpayer on a qualified site) and the taxpayer's eligible real property taxes. If the site is located in an En-Zone the credit increases to 100 percent. The credit is not available to sites accepted into the Brownfield Cleanup Program on or after July 1, 2015.

Employment Number Factor Table	
Average number of full-time employees is at least:	Factor:
25 but less than 50	0.25
50 but less than 75	0.50
75 but less than 100	0.75
100	1.00

The credit is limited to the product of the number of full time employees at the qualified site multiplied by $10,000.

Environmental Remediation Insurance Credit

Effective Date: Effective for tax years beginning on or after April 1, 2005.
Sunset Date: Not available to sites accepted into the BCP on or after July 1, 2015.

The environmental remediation insurance credit is allowed one time for premiums paid for environmental remediation insurance up to the lesser of $30,000 or 50 percent of the cost of the premiums. The credit is not available to sites accepted into the Brownfield Cleanup Program on or after July 1, 2015.

Credits Effective For Tax Years Beginning On or After July 1, 2005

Fuel Cell Electricity Generating Equipment Credit

Effective Date: Effective for costs incurred on or after July 1, 2005.
Sunset Date: Expired January 1, 2009

Taxpayers could claim a credit equal to qualified fuel cell electric generating equipment expenditures for the tax year in which the equipment was placed in service, starting with costs incurred on or after July 1, 2005.

Qualified expenditures are associated with the purchase of on-site electricity generation systems utilizing proton exchange membrane fuel cells up to 100 kilowatts of rated capacity. The maximum credit was $1,500 per generating unit.

The SFY2009-10 budget repealed this credit, effective for tax years beginning on or after January 1, 2009. Taxpayers will be allowed to carry forward any unused credit indefinitely.

Credits Effective For Tax Years Beginning On or After January 1, 2006

Biofuel Production Credit

Effective Date: Effective for tax years beginning on or after January 1, 2006.
Sunset Date: Expires January 1, 2020

Taxpayers are allowed to claim a refundable credit for the production of biofuel in New York State. The credit equals 15 cents per gallon after the production of the first 40,000 gallons per year presented to market.

Biofuel means biodiesel, ethanol, and any other fuel that meets standards approved by the New York State Energy and Research Development Authority.

The credit is capped at $2.5 million per taxpayer per year for up to four consecutive years per biofuel plant. Starting in the 2010 tax year, the cap is imposed at the entity level.

Land Conservation Easement Credit

Effective Date: Effective for tax years beginning on or after January 1, 2006.
Sunset Date: None

Land that is under a conservation easement is eligible for a refundable credit equal to 25 percent of the taxpayer's school district, county, and city/town real property taxes paid.

The maximum allowable tax credit is $5,000. Also, this credit in combination with any credit based on property taxes cannot exceed the total amount of school district, county, and town real property taxes.

A *conservation easement* is defined as a perpetual and permanent conservation easement that serves to protect open space, biodiversity, or scenic, natural, agricultural, watershed, or historic preservation resources. It must be filed with the Department of Environmental Conservation.

Credits Effective For Tax Years Beginning On or After January 1, 2007

Credit for Rehabilitation of Historic Properties

Effective Date: Effective for tax years beginning on or after January 1, 2007 with the amended credit effective for tax years beginning on or after January 1, 2010.
Sunset Date: January 1, 2020 the credit reverts to the initial rate and cap.

Taxpayers may claim a tax credit for the rehabilitation of historic properties located in New York State. When initially created in 2007, the credit was 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 was capped at $100,000 and was not refundable, but any excess could be carried over to the following year or years.

In 2010, the credit was amended to equal 100 percent of the credit amount allowed under subsection (c)(3) of section 47 of the Internal Revenue Code (IRC) for the same taxable year, through the end of tax year 2019. The credit is capped at $5 million and any credit taken must be recaptured if the federal credit upon which it is based is recaptured by the taxpayer. Taxpayers may carry forward unused credit amounts to subsequent tax years. The credit is refundable for qualified rehabilitations placed in service on or after January 1, 2015.

For taxable years beginning on or after January 1, 2020, the rate reverts to 30 percent of the federal credit, the credit cap reverts to $100,000, and the credit again becomes nonrefundable.

Empire State Commercial Production Credit

Effective Date: Effective for tax years beginning on or after January 1, 2007.
Sunset Date: Expires January 1, 2019

The Governor's Office for Motion Picture and Television Development (MP/TV) administers a three-part credit designed to encourage the production of commercials in New York State. $7 million in aggregate credit is allowed annually, initially allocated as follows:

- Incremental cost component - $3 million: 20 percent of qualified production costs in excess of the average of the three prior years' costs. The credit is distributed on a pro-rata basis among all credit applicants, although no individual company can receive an annual allocation greater than $300,000;

- MCTD component - $3 million: 5 percent of qualified production costs in excess of $500,000 during the calendar year for work within the Metropolitan Commuter Transportation District (MCTD). This component is also awarded on a pro-rata basis, but with no per-company limitation.

- Outside MCTD component - $1 million: 5 percent of qualified production costs in excess of $200,000 during the calendar year for work outside the MCTD. This component is allocated in the same manner as the MCTD component.

For calendar years beginning on or after January 1, 2012, the allocation is as follows:

- Incremental cost component - $1 million;
- MCTD component - $3 million; and
- Outside MCTD - $3 million. If the amount authorized for this component exceeds claims, the excess may be redirected to the incremental cost component. Also, for tax years beginning in 2014 the minimum production cost threshold is lowered from $200,000 to $100,000.

Fifty percent of the credit is refundable in the first year, with the remainder fully refundable in the following year. The credit applies to tax years beginning before January 1, 2019.

Credits Effective For Tax Years Beginning On or After January 1, 2008

Clean Heating Fuel Credit

Effective Date: Effective for purchases made on July 1, 2006 through June 30, 2007 and on or after January 1, 2008.
Sunset Date: Expires January 1, 2020

A refundable tax credit is available for the purchase of bioheat used for space heating or hot water production for residential purposes within New York State. The credit is equal to one cent for each percent of biodiesel per gallon of bioheat, up to 20 cents per gallon.

The credit applies to purchases made on or after July 1, 2006, and before July 1, 2007, and on or after January 1, 2008, and before January 1, 2020.

Credits Effective For Tax Years Beginning On or After August 11, 2010

Empire State Film Post-Production Credit

Effective Date: Effective for tax years beginning on or after August 11, 2010.
Sunset Date: January 1, 2020

Companies that are ineligible for the Empire State film production tax credit may qualify for the post-production credit. The credit originally equaled 10 percent of qualified post production costs paid in the production of a qualified film at a qualified post production facility, generally a facility in New York State.

To be eligible for the credit, the costs incurred at a qualified post production facility must equal or exceed 75 percent of the total post production costs at any post production facility. A taxpayer must incur at least $3 million or 20 percent of its total visual effects and animation (VFX) post production costs at a qualified post production facility in New York to be eligible for credit on VFX work. The credit is allowed for the taxable year in which the production of the qualified film is completed.

The Governor's Office for Motion Picture and Television Development (MP/TV) could initially award $7 million in credit annually, with an aggregate limit of $35 million. Starting in 2015, the amount of the allocation increased from $7 million to $25 million annually. The allocation is included within the larger film credit allocation. If there are insufficient claims for the post production credit and applications for the film production credit exceed the allotted total, MP/TV may redirect post production credit funds to the film credit.

Applications received after July 24, 2012 are eligible for increased credit rates. The credit now equals 30 percent for work in the Metropolitan Commuter Transportation District (MCTD) and 35 percent for work outside of the MCTD.

For tax years 2015 through 2019, Empire State film production and post-production projects are eligible for an additional credit equal to 10 percent of the wages or salaries of individuals directly employed (excluding those employed as writers, directors, music directors, producers and performers) by a qualified film or independent film production company for services performed by those individuals in specific Upstate New York counties in connection with a qualified film with a minimum budget of $500,000. For post-production work to be eligible, the post production facility must be located in one of the specific Upstate counties.

Credits Effective For Tax Years Beginning On or After January 1, 2011

Credit for Companies Who Provide Transportation to Individuals with Disabilities

Effective Date: Effective for tax years beginning on or after January 1, 2011.
Sunset Date: Expires January 1, 2023

Corporations providing a taxicab or livery service can claim a credit equal to the incremental cost associated with the purchase of a handicapped accessible vehicle or the conversion of a conventional vehicle to a handicapped accessible vehicle. The maximum credit is $10,000 per vehicle. Initially, the credit could be used to reduce tax to zero and any remaining credit was carried forward indefinitely. The credit applied to qualifying expenses incurred on or after January 1, 2006 but before January 1, 2011.

A similar credit was enacted that took effect on January 1, 2011 and expires after December 31, 2022. Prior to 2015, that credit could reduce tax to zero, but starting with the 2015 tax year, the credit can only reduce tax to the fixed dollar minimum tax.

Excelsior Jobs Program Act Tax Credits

Effective Date: Program effective in 2010; credit effective for tax years beginning on or after January 1, 2011.
Sunset Date: No credits allowed for taxable years beginning on or after January 1, 2027.

The Excelsior Jobs Program (EJP) Act replaced the Empire Zones Program as the primary economic development program in New York State. The program is administered by Empire State Development (ESD) and offers four tax credits focused on certain strategic industries. ESD can issue up to $50 million in new credit annually, with a fully effective annual total program cost of $250 million in 2015. The annual credit allocations are reduced beginning in 2016. ESD may award 100 percent of any unallocated tax credits remaining at the end of 2024, which was formerly the end date of the program, in taxable years 2025 and 2026. No tax credits are allowed for taxable years beginning on or after January 1, 2027. The credits are first available for tax years beginning in 2011.

Excelsior jobs tax credit

EJP participants are eligible for a credit for each new job created in the state. For participants accepted into the program on or before April 1, 2011, the value of the credit is computed on a marginal wages plus benefits basis as follows:

Wages plus Benefits Range	**Credit Percentage**
$50,000 or less	5%
$50,001 - $75,000	4%
$75,000+	1.33%

Credit is capped at $5,000 per net new job; equates to a wages plus benefits base of $187,782

For participants accepted into the program after April 1, 2011, the credit is equal to the gross wages multiplied by 6.85 percent.

Excelsior investment tax credit (EJP-ITC)

The EJP-ITC is a refundable credit equal to 2 percent of the cost of qualified investments. Generally, qualified investments are depreciable property with a useful life of four or more years located in New York State and placed in service on or after the date ESD issues a certificate of eligibility to the taxpayer.

Excelsior research and development tax credit (EJP-R&D)

The refundable EJP-R&D credit is a percentage of the portion of the taxpayer’s federal research and development credit pertaining to New York expenditures. For participants accepted into the program on or before April 1, 2011, the percentage is ten percent. For those accepted into the program after April 1, 2011, the percentage is 50 percent, subject to a limit of three percent of New York qualified research and development expenditures.

Eligible research and development expenditures are defined in Section 41 of the Internal Revenue Code.

Excelsior real property tax credit (EJP-RPTC)

Certain participants in the EJP can earn a refundable RPTC. The credit equals 50 percent of the property taxes assessed and paid in the year immediately prior to a taxpayer's application to the EJP and is gradually phased out. For taxpayers accepted into the program on or before April 1, 2011, the credit is available for five years and is reduced by ten percent a year. For those accepted into the program after April 1, 2011, the credit is available for 10 years and is reduced by five percent a year. Also, the credit base can be increased to account for any property improvements.

Credits Effective For Tax Years Beginning On or After March 31, 2011

Economic Transformation and Facilities Redevelopment Program Tax Credit

Effective Date: Effective on or after March 31, 2011.
Sunset Date: Expires December 31, 2021.

The Economic Transformation and Facility Redevelopment (ETFR) Program is designed to mitigate the economic consequences in communities where correctional facilities and facilities operated by the Office of Children and Family Services (OCFS) are closed through the period ending March 31, 2012. Any psychiatric facility previously owned by New York State and operated under the Mental Hygiene Law, and located in the Metropolitan Commuter Transportation District (excluding New York City) will be considered a closed facility; however prospective participants must have submitted an application by September 1, 2016. The program is administered by Empire State Development (ESD) and offers a refundable tax credit with four components to redevelop closed facilities and attract new businesses to the surrounding areas. Participants may claim credit for five consecutive years.

To participate, taxpayers must create at least five net new jobs and maintain a benefit:cost ratio of 10:1.

ETFR jobs tax credit component

Participants may claim a credit for each net new job created in the State. The credit is equal to the gross wages multiplied by 6.85 percent.

ETFR investment tax credit component

Participants may claim a credit for qualified investments in the economic transformation area. For investments on the grounds of a closed facility, the credit is 10 percent of the cost of the investment, not to exceed $8 million for the facility. For investments in areas outside of the facility but within the economic transformation area, the credit is 6 percent of the cost of the investment, not to exceed $4 million per entity. Eligible owners of closed psychiatric facilities, when claiming the credit, may include in its costs or other basis of the qualified investment at the closed facility, demolition costs incurred at the facility, limited to asbestos removal costs, rental of demolition equipment, personnel costs to operate the demolition equipment, costs to remove and dispose of demolition debris, and the costs of any permits, licenses and insurance necessary for demolition.

ETFR job training tax credit component
Participants may claim a credit for 50 percent of qualified training expenses paid during the year for employees displaced by a facility closure, not to exceed $4,000 per employee per tax year.

ETFR real property tax credit component
Participants may claim a credit equal to 50 percent of the real property taxes assessed and paid in the first tax year of the benefit period for property located entirely within the grounds of a closed facility. The percentage decreases by 10 percent each year for the subsequent years of the benefit period. For property located outside of the facility but within the economic transformation area, the credit is equal to 25 percent of the real property taxes assessed and paid decreasing by 5 percent each year for subsequent years of the benefit period.

Credits Effective For Tax Years Beginning On or After January 1, 2012

Beer Production Credit (Alcoholic Beverage Production Credit)

Effective Date: Effective for tax years beginning on or after January 1, 2012.
Sunset Date: None

Starting in the 2012 tax year, registered beer distributors producing 60 million or fewer gallons of beer in New York State in the tax year are eligible to claim a refundable credit for beer production. The credit is limited to the first 15.5 million gallons of beer produced in New York during the tax year.

For taxable years beginning on or after January 1, 2016, the beer production credit is expanded and renamed the alcoholic beverage production credit to include wine, liquor and cider. Specifically, the credit is available to taxpayers registered as a distributor in New York State that produce:

- 60 million gallons or less of beer or cider
- 20 million gallons or less of wine, and/or
- 800,000 gallons of less of liquor in New York State.

The credit is equal to 14 cents per gallon for the first 500,000 gallons of alcohol plus 4.5 cents per gallon for each additional gallon over 500,000 (up to 15 million additional gallons for beer, cider, or wine and up to 300,000 additional gallons for liquor) produced in New York in the same tax year. In the case of partnerships and S corporations, the cap is applied at the entity level.

Empire State Jobs Retention Program Credit

<u>Effective Date:</u> Effective for tax years beginning on or after January 1, 2012.
<u>Sunset Date:</u> None

Effective for tax years beginning on or after January 1, 2012, the Empire State Jobs Retention Program is designed to support the retention of strategic businesses and jobs directly impacted by an event that leads to an emergency declaration by the Governor. The program is administered by Empire State Development (ESD) and the total amount of credit issued is allocated from the funds available for tax credits under the Excelsior Jobs Program.

The Program offers a jobs tax credit equal to the product of 6.85 percent and the gross wages paid for each impacted job, defined as a job existing at the relevant location on the day before an event occurs that leads to an emergency declaration. A participant may also be eligible for a 2 percent investment tax credit, but only for costs in excess of costs recovered by insurance. Taxpayers may claim the credit for ten consecutive years.

For a business to be eligible for the credit it must: (a) be located in the county where an emergency is declared; (b) must demonstrate substantial physical damage and economic harm; and (c) must retain or exceed 100 full-time equivalent jobs in the county where the emergency is declared. To claim credit, taxpayers must apply to and be approved by ESD. ESD will calculate the amount of credit annually and issue a certificate of tax credit to participants entitling them to the credit.

Urban Youth Jobs Program Tax Credit (formerly NY Youth Works Tax Credit)

<u>Effective Date:</u> Effective for tax years beginning on or after January 1, 2012.
<u>Sunset Date:</u> Expires January 1, 2018

The New York Youth Works Tax Credit Program, renamed the Urban Youth Jobs Program Tax Credit in 2015, is administered by the New York State Department of Labor (NYDOL). It is designed to provide tax incentives to employers for employing at-risk youth in full-time and part-time positions. Originally begun as a program for tax years 2012 and 2013, the program was expanded and extended in 2013 to incorporate five separate programs through tax year 2017, each with independent credit allocation caps. In 2014 the allocations for programs two through five increased from $6 million to $10 million. In 2015 the allocations for programs three through five increased an additional $10 million per year. In 2016, the allocations for programs four and five were further increased to $50 million per program. The $50 million is distributed as follows: $30 million for qualified employees and $20 million for individuals, who meet all the requirements for a qualified employee except for the residency requirement, provided they reside in New York State. The programs are as follows:

Youth Works Program	Total Credit Allocation	Employee Hiring Dates
Program 1	$25 million	1/1/12-12/31/13
Program 2	$10 million	1/1/14-12/31/14
Program 3	$20 million	1/1/15-12/31/15
Program 4	$50 million	1/1/16-12/31/16
Program 5	$50 million	1/1/17-12/31/17

The refundable credit equals $500 per month for up to six months for each qualified full-time employee or $250 per month for each qualified part-time position of at least 20 hours per week. In 2014 the part-time hourly threshold for full-time high school students was lowered from 20 hours to 10 hours. This component of the credit will be allowed in the tax year in which the wages are paid to the qualified employee.

An additional $1,000 per full time employee or $500 per part time employee is available if the qualified employee remains employed for at least an additional six months. Beginning in 2014, an additional credit for the same amounts is available if the qualified employee remains employed for at least one additional year after the first year. These components of the credit will be allowed in the tax year in which the additional six-month or one-year period ends. In no case can the credit exceed the maximum amount of credit listed on the certificate of eligibility.

Credits Effective For Tax Years Beginning On or After January 1, 2013

Alternative Fuels and Electric Vehicle Recharging Property Credit

Effective Date: Effective for tax years beginning on or after January 1, 2013.
Sunset Date: Expires January 1, 2018

This credit replaces the alternative fuels credit that expired in 2010. For tax years beginning on or after January 1, 2013 and before January 1, 2018, the alternative fuels and electric vehicle recharging property tax credit is a nonrefundable credit equal to the lesser of $5,000 or 50 percent of the cost of alternative fuel vehicle refueling property or electric vehicle recharging property located in New York for which none of the costs have been paid from the proceeds of grants. The credit was subsequently amended to allow credit on amounts not covered by grant proceeds for taxable years beginning on or after January 1, 2015.

Alternative fuel vehicle refueling property is defined as equipment needed to dispense any fuel at least 85 percent of the volume of which consists of one or more of the following: natural gas, liquefied natural gas, liquefied petroleum, or hydrogen.

Electric vehicle recharging property is defined as all equipment needed to convey electric power from the electric grid or another power source to an onboard vehicle energy storage system.

Minimum Wage Reimbursement Credit

Effective Date: Effective for tax years beginning on or after January 1, 2014.
Sunset Date: Expires January 1, 2019

Participants may claim a refundable credit equal to the number of hours worked by eligible employees multiplied by the applicable tax credit rate.

Eligible employees must be:
- Employed by a corporation (including a New York S corporation), a sole proprietorship, a limited liability company or a partnership in New York;
- Paid at the minimum wage rate;
- Between the ages of 16 and 19; and
- A student.

Amount of the credit:
- $0.75 beginning on or after 01/01/14 to 12/31/14
- $1.31 beginning on or after 01/01/15 to 12/31/15
- $1.35 beginning on or after 01/01/16 to 12/31/19

If the federal minimum wage is increased to more than 85% of New York's minimum wage, the above tax credit rates will be reduced to an amount equal to the difference between New York's minimum wage and the federal minimum wage.

Real Property Tax Relief Credit for Manufacturing

Effective Date: Effective for tax years beginning on or after January 1, 2014.
Sunset Date: None

A qualified New York manufacturer is allowed a credit equal to 20 percent of the real property taxes paid during the tax year for real property located in New York and principally used in manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture or commercial fishing. A manufacturer must have at least 50 percent of its receipts from the forgoing activities and either all or at least $1 million of manufacturing property located in New York. A manufacturer that fails the receipts test may still qualify if it employs at least 2,500 people in manufacturing in New York and has $100 million in manufacturing property in the state.

START-UP New York Tax Elimination Credit

Effective Date: Effective for tax years beginning on or after January 1, 2014.
Sunset Date: None

The credit is available to general business corporations (as well as sole proprietorships, partnerships (including limited liability companies taxed as partnerships), and New York S corporations) participating in the SUNY Tax-Free Areas to Revitalize and Transform Upstate New York Program (START-UP NY), which is administered by Empire State Development. The credit is equal to the product of:

- the tax-free NY area allocation factor and
- the tax factor.

The tax-free NY area allocation factor is the percentage of the business's economic presence in the tax-free NY area where the business was approved to locate under Article 21 of the Economic Development Law. The tax-free area allocation factor is calculated as shown below:

(tax-free NY area property factor + tax-free NY area wage factor) ÷ 2

The tax- free NY area property factor is determined by dividing:

- the average value of the business's real and tangible personal property, whether owned or rented to it, in the tax-free NY area in which the business was located, during the period covered by the taxpayer's return, by
- the average value of all the business's real and tangible personal property, whether owned or rented to it, within New York State during the period covered by the taxpayer's return.

Value of the business's real and tangible personal property means the adjusted basis of the properties for federal income tax purposes, except in the case of rented property, where the value is eight times the gross rents payable for the rental of the property during the taxable year.

The tax-free NY area wage factor is determined by dividing:

- the total wages, salaries, and other personal service compensation paid during the taxable year to employees, except general executive officers, employed at the business's location in the tax-free NY area, by
- the total wages, salaries, and other personal service compensation paid during the taxable year to all of the business's employees within New York State, except general executive officers.

The tax factor is the largest of the taxes on the entire net income base, capital base, or fixed dollar minimum tax after the deduction of any other credits. Special provisions exist for the computation of the tax factor if the certified business is part of a combined return.

The credit cannot reduce the tax due below the fixed dollar minimum unless the taxpayer has a tax-free NY area allocation factor of 100%. In that instance, the tax can be reduced to zero. Any excess credit may be refunded.

Credit for the Excise Tax on Telecommunication Services Paid by START-UP NY Businesses

Effective Date: Effective for tax years beginning on or after January 1, 2014.
Sunset Date: None

The credit is available to a START-UP NY program participant located in a tax-free NY area. The credit is equal to the amount of excise tax on telecommunication services imposed by section 186-e of the Tax Law that is passed through to the approved business. The credit may be claimed when the tax is separately stated on a bill from the telecommunication service provider and the bill has been paid by such business. If a taxpayer claimed any federal deduction for excise taxes on telecommunication services and also claims the START-UP NY telecommunication services excise tax credit, the taxpayer must add back the federal deduction for excise taxes on telecommunication services used in the calculation of the credit to taxable income.

Credits Effective For Tax Years Beginning On or After January 1, 2015

Empire State Musical and Theatrical Production Credit

Effective Date: Effective for tax years beginning on or after January 1, 2015.
Sunset Date: Expires on January 1, 2019

Participants may claim a refundable tax credit equal to 25 percent of eligible costs. The total amount of credit is capped at $4 million per year and the credit is administered by Empire State Development.

To be eligible, a company must produce a live, dramatic stage presentation in a qualified production facility on a tour that consists of eight or more shows in three or more localities. A qualified production facility is a 1,000 or more seat theater located outside of New York City for which ticket receipts constitute 75 percent or more of the total receipts. The credit is based on costs for tangible property used and services performed in the course of production, with personal compensation expenses capped at $200,000 per week. The credit is also allowed for transportation expenditures, which includes costs for packaging, crating, and transporting production equipment, sets, costumes, and cast and crew.

Employee Training Incentive Program Tax Credit

Effective Date: Effective for tax years beginning on or after January 1, 2015.
Sunset Date: None

The Employee Training Incentive Program (ETIP), administered by Empire State Development (ESD), provides a refundable tax credit for certain employers that procure skills training for their employees or provide internship programs in advanced technology. ESD will determine eligibility and will issue certificates of tax credit to approved business entities. The total amount of tax credits for any taxable year may not exceed $5 million dollars and will be allotted from the funds available for tax credits under the Excelsior Jobs Program Act. The portion of the tax credit cap allocated to internship programs in advanced technology shall be not less than $250,000 or more than $1 million dollars.

The credit equals 50 percent of eligible training costs, up to $10,000 per employee receiving eligible training or 50 percent of the stipend paid to an intern, up to a credit of $3,000 per intern. The credit is limited to the amount listed on the certificate of tax credit issued by ESD and is allowed in the taxable year in which the eligible training is completed.

Hire A Veteran Credit

Effective Date: Effective for tax years beginning on or after January 1, 2015.
Sunset Date: Expires January 1, 2019

Participants may claim a nonrefundable tax credit for the employment of a qualified veteran. The veteran must be employed for at least one year and for at least 35 hours a week, with the taxpayer claiming the credit in the year in which the qualified veteran completes one year of employment with the taxpayer.

The credit is equal to 10 percent of the total amount of wages paid to the qualified veteran during the veteran's first full year of employment. The amount is increased to 15 percent of the total wages paid if the qualified veteran is disabled. The credit is capped at $5,000 per veteran or $15,000 per disabled veteran. Any unused credit may be carried forward to the following three years.

Workers with Disabilities Tax Credit

Effective Date: Effective for tax years beginning on or after January 1, 2015.
Sunset Date: Expires January 1, 2020

The Workers with Disabilities Tax Credit Program, administered by the New York State Department of Labor (DOL), annually provides $6 million in tax credits for employing individuals with developmental disabilities. To participate in the program, a taxpayer must apply to DOL by November 30th of the prior year. At the end of the tax year, the employer must obtain a final certificate of eligibility from DOL that states the maximum amount of credit allowed and provides verification for the credit claims.

The credit is equal to 15 percent of the qualified wages for qualified full-time employees and 10 percent of the qualified wages for qualified part-time employees. Full-time employment is defined as working at least 30 hours per week, and part-time employment at least 8 hours per week, each for at least 6 months. The credit is available for qualified wages paid after January 1, 2015. An employer is not allowed to concurrently claim this credit and any other credit for the employment of persons with disabilities for the same employee. Any unused credit may be carried forward for 3 years.

Farm Workforce Retention Credit

Effective Date: Effective for tax years beginning on or after January 1, 2017.
Sunset Date: Expires January 1, 2022

The refundable credit is available to farm employers equal to a fixed amount per eligible farm employee. A farm employer is a corporation whose federal gross income from farming for the taxable year is at least two-thirds of excess federal gross income, where excess federal gross income is defined as the amount of federal gross income from all sources for the taxable year in excess of $30,000. For the purposes of this credit, payments from the state's farmland protection program, administered by the Department of Agriculture and Markets, are included as federal gross income from farming for otherwise eligible farmers.

An eligible farm employee is defined as an individual who is employed for 500 hours or more per taxable year by a farm employer in New York State. Where an individual employed by a farm employer in New York State becomes unable to work due to a documented illness or disability, the hours such individual is employed may be combined with the hours worked by a hired replacement individual when determining the 500 hour threshold. Finally, any employees counted in the computation of this credit cannot be used as the basis to claim any other credit.

The credit is phased in gradually by taxable year:

Tax years beginning on or after	and before	Credit per eligible farm employee
January 1, 2017	January 1, 2018	$250
January 1, 2018	January 1, 2019	$300
January 1, 2019	January 1, 2020	$500
January 1, 2020	January 1, 2021	$400
January 1, 2021	January 1, 2022	$600