



August 1996

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# Summary of 1996-97 Tax Provisions

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# Fiscal Year 1996-97 Tax Actions

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Legislation enacted with the 1996-97 budget contains significant tax reductions for individuals and businesses which will promote the continued improvement of the economic climate in the State. When fully implemented, in combination with previously legislated tax cuts, these changes will save State taxpayers \$6 billion a year.

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## Real Property Gains Tax

The budget eliminates the real property gains tax enacted in 1983, which imposed a 10 percent levy on the gain derived from non-residential property transfers over \$1 million. The repeal is effective June 15, 1996.

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## Personal Income Tax

Several provisions enacted under the personal income tax provide targeted relief to various taxpayers. These include:

- Enacting a school property tax credit for farmers beginning in 1997 for taxpayers that derive at least two-thirds of their total income from farming (also available under the corporate franchise tax);
- Enacting a tax credit for the costs of rehabilitating historic barns in the State (also available under the corporate franchise tax); and
- Enhancing the child and dependent care credit for taxpayers with adjusted gross income below \$14,000 and establishing the credit as refundable for residents beginning in 1996.

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## Sales and Use Tax Reductions

The budget also includes several sales and use tax changes. These include:

- Exempting clothing and footwear costing less than \$500 from the 4 percent State tax and the 0.25 percent tax imposed in the twelve county Metropolitan Commuter Transportation District (MCTD) for the period January 18, 1997 to January 24, 1997 and providing that

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localities (including New York City) have the option to enact the exemption for the same period;

- Expanding the exemption for printed promotional materials and related services, including storage services, when the promotional materials are mailed or shipped to customers;
- Exempting parking services from the State sales tax, local sales tax outside New York City, and the 6 percent parking tax imposed in New York City;
- Simplifying the sales tax exemption for shopping papers; and
- Expanding the exemption for commercial vessels and aircraft.

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## Petroleum Business Tax Relief

The budget contains various provisions which provide tax relief under the petroleum business tax (PBT). These include:

- Reducing the PBT rate on diesel motor fuel used by railroads by 7 cents per gallon on January 1, 1997;
- Exempting from the PBT residual petroleum product and non-automotive diesel gallonage used for manufacturing purposes beginning January 1, 1998;
- Exempting residual petroleum and non-automotive diesel gallonage used for commercial purposes from the PBT supplemental tax effective March 1, 1997;
- Reducing the supplemental PBT rate on automotive diesel product by 0.75 cents per gallon effective January 1, 1998, and by an additional 1 cent per gallon on April 1, 1999; and
- Increasing the credit allowed against the PBT on residual petroleum product and non-automotive diesel product used to generate electricity by 0.5 cents per gallon effective April 1, 1999.

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## Further Tax Reductions

In addition to the changes outlined above, the budget also features tax provisions that have the following affects:

- Reducing the section 184 gross receipts tax rate as it applies to truckers and railroads from 0.75 percent to 0.6 percent beginning in 1997; and
- Allowing trucking and railroad companies currently taxed based on gross receipts (Article 9) the option of converting to an income based tax (Article 9-A) beginning in 1998.

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## Other Significant Provisions

- Establishing a tax amnesty program for the personal income tax, the Article 9-A corporate franchise tax, certain taxes imposed under Article 9, and the sales and use tax during the period November 1, 1996 to January 31, 1997;
- Extending the time period to claim a fuel use tax or carrier tax refund for fuel purchased within the State but consumed outside the State, and to claim a refund for erroneous payments under the highway use tax from two to four years;
- Making permanent existing provisions contained in both the State and New York City real estate transfer taxes concerning newly formed real estate investment trusts (REITs), and providing temporary additional tax relief for property transferred into existing REITs;
- Changing the rate used in the S corporation differential tax from 7.59375 to 7.875 in 1995 for small S corporations to correct for an unintended tax increase;
- Expanding the electronic funds transfer (EFT) hardship provisions for certain building suppliers;
- Delaying the implementation of the tax on motor vehicle damage insurance awards from September 1, 1996 to July 1, 1997;
- Providing for reimbursements of petroleum business taxes on aviation fuels;
- Correcting unintended tax increases for certain taxpayers under estate and gift taxes which resulted from a 1994 law change; and

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- Expanding the electronic funds transfer program to the alcoholic beverage tax for filers with a tax liability threshold of \$5 million.

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# Continued Support of 1994-95 and 1995-96 Reductions

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The major tax reductions enacted during the prior two fiscal years will continue on schedule. These provisions will significantly reduce the tax burden on State taxpayers and will promote the continued growth of the State's economy.

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## Continuation of Personal Income Tax Reduction Program

The State implemented the second year of the three-year personal income tax reduction program enacted in 1995. The third year of the plan will take place as scheduled. Liabilities for the 1996 and 1997 tax years will be reduced by:

- Decreasing the top rate from 7.59375 percent in 1995 to 7.125 percent in 1996 and 6.85 percent in 1997 and thereafter;
- Expanding the income threshold where the top rate becomes effective from \$25,000 in 1995 to \$40,000 by 1997 for married filers; and
- Increasing the standard deduction for single taxpayers from \$6,600 in 1995 to \$7,500 by 1997 and, for married taxpayers, from \$10,800 to \$13,000.

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## Continuation of Business Tax Reductions

The State will continue the phaseout and elimination of the "temporary" corporate tax surcharge which had been set at 15 percent from 1990 to 1994. As Table 1 indicates, the surcharge rate gradually declines each year until its complete phaseout in 1997.

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Table 1: Effective  
Corporate Tax Surcharge  
Rates<sup>1</sup>

Tax Years	Rate
Tax Years Ending After 6/30/90 and Before 7/1/94	15.0%
Tax Years Ending After 6/30/94 and Before 7/1/95	12.5%
Tax Years Ending After 6/30/95 and Before 7/1/96	7.5%
Tax Years Ending After 6/30/96 and Before 7/1/97	2.5%
Tax Years Ending After 6/30/97	0.0%

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1. The surcharge applicable to the Petroleum Business Tax phases out at a different schedule as follows: June 1, 1990 to May 31, 1994 - 15%; June 1, 1994 to May 31, 1995 - 12.5%; June 1, 1995 to May 31, 1996 - 7.5%; June 1, 1996 to May 31, 1997 - 2.5%; June 1, 1997 and thereafter - 0%.

# Multi-Year Revenue Impacts of Tax Actions

The multi-year impact of the tax reductions enacted in the past three fiscal years is shown in Tables 2 through 5.

Table 2: New York State Tax Reduction Program Enacted in FY 1994-95 (\$ in Millions)

	1996-97	1997-98	1998-99
Personal Income Tax	\$183.0	\$281.0	\$357.0
User Taxes and Fees	150.2	149.0	151.0
Sales and Use Taxes	28.0	28.0	28.0
Motor Fuel Tax	34.6	32.4	33.4
Alcoholic Beverage Taxes	1.6	1.6	1.6
Hotel/Motel Taxes	86.0	87.0	88.0
Container Taxes	0.0	0.0	0.0
Business Taxes	996.7	1,170.0	1,180.5
Corporation Franchise Tax	451.5	526.9	517.5
Corporation & Utilities Tax	220.0	250.0	257.0
Insurance Tax	84.0	103.0	100.0
Bank Tax	88.0	106.0	104.0
Petroleum Business Taxes	153.2	184.1	202.0
Other Taxes	39.1	39.0	37.0
Estate & Gift Taxes	15.0	15.0	15.0
Real Property Gains Tax	20.6	20.5	18.5
Pari-Mutuel Taxes	3.5	3.5	3.5
Taxes Subtotal	\$1,369.0	\$1,639.0	\$1,725.5

Table 3: New York State  
Tax Reduction Program  
Enacted in FY 1995-96  
(\$ in Millions)

	1996-97	1997-98	1998-99
Personal Income Tax	\$2,307.0	\$4,054.0	\$4,226.0
User Taxes and Fees	61.2	61.4	61.7
Sales and Use Taxes	3.5	3.5	3.5
Motor Fuel Tax	15.7	15.9	16.2
Alcoholic Beverage Taxes	16.0	16.0	16.0
Hotel/Motel Taxes	0.0	0.0	0.0
Container Taxes	26.0	26.0	26.0
Business Taxes	19.9	20.0	19.5
Corporation Franchise Tax	0.0	0.0	0.0
Corporation & Utilities Tax	0.0	0.0	0.0
Insurance Tax	0.0	0.0	0.0
Bank Tax	0.0	0.0	0.0
Petroleum Business Taxes	19.9	20.0	19.5
Other Taxes	59.0	60.1	52.1
Estate & Gift Taxes	45.0	45.0	45.0
Real Property Gains Tax	0.0	2.1	2.1
Pari-Mutuel Taxes	14.0	13.0	5.0
<b>Taxes Subtotal</b>	<b>\$2,447.1</b>	<b>\$4,195.5</b>	<b>\$4,359.3</b>

Table 4: New York State  
Tax Reduction Program  
Enacted in FY 1996-97  
(\$ in Millions)

	1996-97	1997-98	1998-99
Personal Income Tax	\$0.0	\$48.5	\$96.0
User Taxes and Fees	20.8	27.1	27.1
Sales and Use Taxes	20.8	27.1	27.1
Motor Fuel Tax	0.0	0.0	0.0
Alcoholic Beverage Taxes	0.0	0.0	0.0
Hotel/Motel Taxes	0.0	0.0	0.0
Container Taxes	0.0	0.0	0.0
Business Taxes	2.2	23.0	41.0
Corporation Franchise Tax	0.0	0.0	0.0
Corporation & Utilities Tax	0.0	6.0	15.0
Insurance Tax	0.0	0.0	0.0
Bank Tax	0.0	0.0	0.0
Petroleum Business Taxes	2.2	17.0	26.0
Other Taxes	60.0	80.0	90.0
Estate & Gift Taxes	0.0	0.0	0.0
Real Property Gains Tax	60.0	80.0	90.0
Pari-Mutuel Taxes	0.0	0.0	0.0
<b>Taxes Subtotal</b>	<b>\$83.0</b>	<b>\$178.6</b>	<b>\$254.1</b>

Table 5: Impact of Total  
Tax Reduction Program  
(\$ in Millions)

	1996-97	1997-98	1998-99
Personal Income Tax	\$2,490.0	\$4,383.5	\$4,679.0
User Taxes and Fees	232.2	237.5	239.8
Sales and Use Taxes	52.3	58.6	58.6

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Motor Fuel Tax	50.3	48.3	49.6
Alcoholic Beverage Taxes	17.6	17.6	17.6
Hotel/Motel Taxes	86.0	87.0	88.0
Container Taxes	26.0	26.0	26.0
Business Taxes	1,018.8	1,213.0	1,241.0
Corporation Franchise Tax	451.5	526.9	517.5
Corporation & Utilities Tax	220.0	256.0	272.0
Insurance Tax	84.0	103.0	100.0
Bank Tax	88.0	106.0	104.0
Petroleum Business Taxes	175.3	221.1	247.5
Other Taxes	158.1	179.1	179.1
Estate & Gift Taxes	60.0	60.0	60.0
Real Property Gains Tax	80.6	102.6	110.6
Pari-Mutuel Taxes	17.5	16.5	8.5
Taxes Subtotal	\$3,899.1	\$6,013.1	\$6,338.9

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# Summary of 1996-97 Tax Provisions

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## Real Property Gains Tax Repeal

The budget repeals the real property gains tax effective June 15, 1996. The State enacted the gains tax in 1983 as a revenue raiser. The tax imposed a 10 percent levy on the gain derived from nonresidential property transfers of \$1 million or more.

While the legislation repeals the tax for transfers occurring after June 15, 1996, the gains tax remains in effect for transfers that occurred prior to that date. In particular, gains tax already determined to be due under condominium and cooperative plans continues to be owed. The legislation also contains special rules regarding the final computation of tax in the case of partial or successive transfers, such as those made under a condominium or cooperative plan.

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## Personal Income Tax

### Enhanced Child Care Credit

The budget legislation enhances the value of the child care credit for taxpayers with New York adjusted gross income (NYAGI) of less than \$14,000. For the 1996 tax year, the credit increases from 20 percent of the federal credit to 30 percent of the federal credit for taxpayers with NYAGI under \$10,000. The credit phases down from 30 percent at \$10,000 of NYAGI to 20 percent at \$14,000 and above. For tax years after 1996, the 30 percent increases to 60 percent. Beginning in 1996, the entire credit becomes refundable to resident taxpayers.

### The Farmer's Protection and Farm Preservation Act of 1996

#### Farmer School Property Tax Credit

Effective for taxable years beginning in 1997, the new law establishes a real property tax credit for farmers under the personal income and corporate franchise taxes. The credit is available to taxpayers primarily engaged in farming. To be eligible, two-thirds of the taxpayers federal income must come from farming. 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 equals 100 acres in 1997, 175 acres in 1998, and 250 acres after 1998. The credit phases out for

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taxpayers with New York adjusted gross income (for income tax) or entire net income (for corporate tax) in excess of \$100,000. Recapture provisions provide for an add back 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.

#### Credit for the Rehabilitation of Historic Barns

The new law provides a tax credit under both the personal income and corporate franchise taxes for the rehabilitation of historic barns in New York State. The credit equals 25 percent of qualified rehabilitation expenditures. The definition of a qualified rehabilitated barn has 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 be first placed in service before 1936, or qualify as a certified historic building, and qualify for the credit based on substantial rehabilitation. The credit is not available for conversions to residential use. Generally, a building will have been considered substantially rehabilitated only if the expenditures exceed the greater of the adjusted basis of the barn or \$5,000.

A taxpayer may 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. New York currently allows an investment tax credit for qualified property, including buildings and structural components of buildings, that the taxpayer principally uses (more than 50 percent) in producing goods by manufacturing, farming, agriculture, or other similar processes, as well as for rehabilitating retail property.

In addition, the Real Property Tax Law is amended to allow local governments to grant an exemption for the increase in property value resulting from the rehabilitation of these historic buildings.

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## Sales Tax

### One Week Clothing Exemption

The legislation provides an exemption from the 4 percent State sales and use tax for clothing and footwear costing under \$500 (with a local option to exempt from local sales and use tax) during the one week period of January 18, 1997 through January 24, 1997. It also provides an exemption from the 0.25 percent sales and use tax in the twelve county Metropolitan Commuter Transportation District.

In addition, it requires the Department of Taxation and Finance (the Department) to prepare a report evaluating the effectiveness of the clothing exemption. The study is due on or before November 1, 1997.

### Promotional Materials

The budget extends the sales and use tax exemption for promotional materials to certain promotional materials distributed by U.S. mail or common carrier to customers in New York State. It also exempts certain services purchased in connection with the exempt promotional material, such as a mailing list service and a printer's storage service. The exemption covers printed materials and other promotional materials produced, processed, fabricated, printed or imprinted by the vendor of the promotional materials. However, it generally does not exempt any free gifts to be included in a mailing, such as product samples.

### Municipal Parking

The legislation adds a new exemption for municipally owned and operated parking facilities. Outside New York City, the exemption is from State and local sales taxes. Within New York City, the exemption is from the State tax and the 6 percent tax imposed for the benefit of the Municipal Assistance Corporation.

### Shopping Papers

The budget simplifies compliance with the sales and use tax exemption for shopping papers by providing that the allowable advertising content percentage (90 percent) is determined on an annual basis rather than for each issue.

### Electronic Filing Hardship

The legislation creates an additional hardship category for vendors required to remit State and local sales and compensating use taxes by Electronic Funds Transfer (EFT). It provides that a qualifying vendor may remit sales and use taxes by EFT or certified check at the same time that it files its part-quarterly and quarterly sales tax returns. To qualify for the hardship provision, a vendor must meet two criteria. First, its liability for State and local sales and compensating use taxes during the "lookback period" must be less than \$4 million. Second, within any two of the most

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recent four consecutive sales tax quarters, the taxpayer must have been a materialman, as defined by the Lien Law, primarily engaged in furnishing building materials to contractors, subcontractors or repairmen for the improvement of residential real property. The vendor must also be authorized by the Lien Law to file a mechanics lien upon the real property and improvements.

Commercial Aircraft and  
Vessels

The budget expands the current sales and use tax exemption for “commercial” aircraft and vessels to include aircraft and vessels that transport, in qualifying commerce, tangible personal property used in the owner’s business. The exemption covers machinery and equipment installed in the newly exempt aircraft and vessels, maintenance and repair services, and fuel.

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Petroleum Business  
Tax

Railroad Diesel Fuel Rate  
Reduction

The petroleum business tax (PBT) rate on diesel motor fuel used by railroads will decline 7 cents per gallon on January 1, 1997. Based on current projected PBT rates, this represents a rate reduction of approximately 48 percent. This new rate will continue to be indexed annually with other petroleum business tax rates. Reimbursements are provided where purchasers absorb the full PBT rate and then subsequently sell gallons to be used for rail purposes.

Full Exemption for  
Manufacturing

The legislation fully exempts residual petroleum and non-automotive diesel gallonage used for manufacturing purposes from the petroleum business tax effective January 1, 1998. Based on current projected PBT rates, the full exemption for residual petroleum used in manufacturing represents a 6.1 cent per gallon tax reduction. The full exemption for non-automotive diesel used in manufacturing represents a 7.7 cent per gallon tax reduction. Reimbursements are provided where purchasers absorb the otherwise applicable PBT rate and then subsequently sell gallons to be used for manufacturing purposes.

Commercial Gallonage  
Rate Reduction

The budget fully exempts from the PBT supplemental tax, residual petroleum and non-automotive diesel gallonage used for “commercial gallonage” purposes effective March 1, 1997. Based on current projected petroleum business tax rates, the non-automotive diesel commercial gallonage rate will decline 2.9 cents per gallon on the above date. The commercial gallonage rate for residual petroleum product will also decline 2.9 cents per gallon on the same date. This new rate will continue to be

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indexed annually with other PBT rates. Reimbursements are provided where purchasers absorb the full PBT rate and then subsequently sell gallons to be used for “commercial gallonage” purposes.

Diesel Fuel Rate  
Reduction

The PBT rate on automotive diesel product declines 0.75 cents per gallon on January 1, 1998. The automotive diesel rate declines an additional 1 cent per gallon on April 1, 1999. These remaining rates will continue to be indexed annually with other PBT rates.

Utility Rate Reduction

The PBT rate on residual petroleum product and non-automotive diesel product used to generate electricity declines by 0.5 cents per gallon effective April 1, 1999. The rate decline will be administered through an increase of 0.5 cents in the basic credit provided to utilities under current law. The rates and credit will continue to be indexed annually with other PBT rates.

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Providing for  
Trucking and  
Railroad  
Corporations to be  
Taxed Under Article  
9-A of the Tax Law

The budget provides for the transition of trucking and railroad companies from taxation under section 183 and section 184 of Article 9 of the Tax Law to taxation under Article 9-A (Franchise Tax on Business Corporations). The legislation contains a one-time revocable election to remain under Article 9. The election to remain under Article 9 must be made on or before March 15, 1998. Companies coming into existence after 1997 must elect by the due date of their first return. Companies affected by the bill include those that are principally engaged in trucking and railroad activity as measured by gross receipts. The tax on capital stock imposed by section 183 would apply to trucking and railroad companies after 1997, only if they make the election to remain in Article 9, otherwise they would be subject to Article 9-A. In rare instances where such a company is a subsidiary of a banking corporation, it would become subject to Article 32 (Franchise Tax on Banking Corporations).

The tax rate imposed by section 184 (Additional Franchise Tax on Transmission and Transportation Corporations and Associations) applicable to trucking and railroad companies is reduced from 0.75 percent to 0.6 percent on gross earnings effective for 1997 and thereafter. The revenue distribution between the General Fund and the Mass Transit Operating Assistance Fund (MTOA) is amended to save harmless MTOA.

Once taxable under Article 9-A, companies principally engaged in trucking or railroading activities would apportion income and capital to New York by applying the ratio of their mileage instate to their mileage

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everywhere. In contrast to the usual 9-A three-factor formula based on payroll, property and receipts, the mileage formula is derived from the trucking allocation methodology in section 184. Companies that use the mileage allocation will be permitted to file combined returns only with other companies that use the same methodology.

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## Other Significant Provisions

### Three-month Amnesty Program

The legislation establishes a three-month tax amnesty program. Between November 1, 1996 and January 31, 1997, certain taxpayers can apply for a waiver of penalty relating to certain unpaid tax liabilities for taxable periods ending, or transactions or uses occurring, on or before December 31, 1994. The taxes covered by this amnesty program are the same taxes that were included under the 1985 program. These taxes are the personal income tax, the corporate franchise tax imposed under Article 9-A, certain taxes imposed under Article 9, the sales and use tax, and the estate and gift tax. Three additional taxes that did not exist in 1985 are also covered by the program: the beverage container tax, the passenger car rental tax, and the hotel occupancy tax.

The amnesty program excludes several groups of taxpayers. The excluded groups include those with outstanding liabilities owed under “sin” taxes (i.e., the alcoholic beverage tax and the tax on cigarettes and tobacco products), the real estate transfer tax, the real property gains tax, corporate franchise taxes imposed on banks and insurance companies, large corporations (those with more than 500 employees in the United States), regulated utilities, and entities principally engaged in the conduct of aviation (with a tax liability under Article 9 of the Tax Law). Other criteria for exclusion include taxpayers that are involved in a criminal investigation or civil or criminal litigation relating to the penalty for which amnesty is sought. Finally, taxpayers that received benefits under New York State’s 1985 and 1994 amnesty programs are ineligible for amnesty for the taxes for which they received those benefits.

### Petroleum Business Tax Refunds on Aviation Gasoline and Kero-Jet Fuel

Last year’s budget reduced the tax rate on aviation gasoline through a reimbursement mechanism. The reimbursement scheme was used for enforcement reasons. This year’s budget legislation provides for reimbursements of petroleum business tax paid on aviation gas for situations where the means to obtain a refund was precluded. An example of this is when the aircraft operator purchases fuel from a fixed base operator which is not registered as a retail seller of aviation gasoline,

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or where the fuel is purchased from a registered motor fuel distributor but is delivered into a bulk storage facility at an airport. Refunds are necessary in these situations to provide equitable treatment to those individuals who, through no fault of their own, could not avail themselves of last year's petroleum business tax reduction.

The budget also provides aviation fuel businesses with a reimbursement where they purchase kero-jet with the petroleum business tax included and consume a portion of the fuel out of state. The reimbursement is for the portion of the tax allocable on the fuel consumed outside the State.

Real Estate Investment  
Trusts

Legislation enacted in 1994 provided a preferential tax rate to conveyances of real property to a real estate investment trust (REIT), upon its initial formation, given certain requirements were met. Those provisions would have sunset on September 1, 1996. The new legislation makes permanent provisions contained in both the State and New York City real estate transfer taxes concerning such REITs.

The bill also extends the preferential tax rate to certain conveyances of real property to REITs other than those in connection with the initial formation of a REIT. This extension of the reduced tax rate to existing REITs sunsets on September 1, 1999.

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Subchapter S Correction	<p>Personal income tax reduction provisions enacted in 1995 were accompanied by a corporate tax amendment intended to hold the S corporation differential tax rate constant. For tax years beginning in 1996 and after, the rate used for the differential equals 7.875 percent. However, for the 1995 tax year only, the rate equals 7.59375 percent. This produced an unintended S corporation rate increase in 1995 for small S corporations. The new law changes the rate used to calculate the S corporation differential in 1995 from 7.59375 percent to 7.875 percent for small S corporations to correct the unintended tax increase.</p>
Tax on Motor Vehicle Damage Awards (Article 15)	<p>The legislation delays the implementation of the tax on motor vehicle damage insurance awards from September 1, 1996 to July 1, 1997.</p>
Estate and Gift Tax Correction	<p>A 1994 increase in the unified credit resulted in unintended tax increases on certain gifts and estates. This results from the unique way in which the tax is computed - i.e., on a lifetime basis, with credits for prior tax paid or payable. For taxpayers using the minimum \$500 credit, the credit increase causes a decrease in the credit for prior tax, thereby increasing current-year tax liability.</p> <p>The budget legislation limits estate and gift tax liabilities to the liability that would result had the increase in the unified credit not occurred. It provides retroactive relief to taxpayers affected by the 1994 unified credit increase. It also ensures that any future increases in the unified credit, or reductions in tax rates, will not cause unintended tax increases.</p>
Alcoholic Beverage Tax Electronic Funds Transfer	<p>This provision expands the current electronic funds transfer (EFT) program authorized under section 10 of the Tax Law by requiring certain taxpayers subject to the alcoholic beverage tax (ABT) to remit payment by electronic funds transfer or certified check. The proposal follows the general framework applied to current EFT programs for sales tax and petroleum taxes. The annual ABT liability threshold requiring EFT participation would be set at \$5 million. Annual participation would be determined each June based on alcoholic beverage tax liability for the previous June through May period which immediately precedes the preceding June through May period.</p>
Highway Use Tax and Fuel Use Tax Refund Extension	<p>The budget extends the period within which taxpayers have to file a refund under the highway use and fuel use taxes from two to four years from the liability period which gave rise to the refund. The refund period now matches the period in which the Department can issue assessments.</p>

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The refund provisions cover excess credits under the fuel use tax and overpayments/erroneous payments under both taxes.

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# Appendix: Summary of FY 1996-97 Budget Bill Tax Provisions

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## Summary of FY 1996-97 Budget Bill Tax Provisions

Section	Page	Subject	Description	Effective Date
171	74	Gains Tax	Repeals the Real Property Gains Tax.	Transfers occurring on or after June 15, 1996
172-174	74-78	Gains Tax	Deletes references to the Gains Tax in other sections of the Tax Law.	Immediately
175	78	Gains Tax	Repeals criminal provisions associated with the Gains Tax.	Transfers occurring on or after June 15, 1996
176	78	Gains Tax	Deletes the Gains Tax from secrecy provisions.	Immediately
177	78	Gains Tax	Deletes the Gains Tax from the Tax Expenditure Report.	Immediately
178	78	Gains Tax	Repeals requirements in the Real Property Law concerning the Gains Tax.	Immediately
179	78	Gains Tax	Repeals requirements in the Real Property Law concerning Gains Tax owed in a mortgage foreclosure sale.	Transfers occurring on or after June 15, 1996
180	78-80	Gains Tax	Transition provisions for transfers occurring prior to June 15, 1996, and for partial and successive transfers such as condominium and cooperative plans.	Immediately
181	80-81	Petroleum Business Tax (Article 13-A) New Definitions	Adds three new definitions to Article 13-A for commercial gallonage, manufacturing gallonage & railroad diesel.	Immediately
182	81	Petroleum Business Tax (Article 13-A) Railroad Diesel	Provides for 1.3 cents per gallon reduction in base rate for diesel product used by railroads --starting January 1, 1997.	Immediately
183	81	Petroleum Business Tax (Article 13-A) Manufacturing Gallonage	Provides for full exemption from 13-A tax for non-automotive diesel used in manufacturing --starting January 1, 1998.	Immediately
184	81	Petroleum Business Tax (Article 13-A) Manufacturing Gallonage	Provides for full exemption from 13-A tax for residual petroleum product used in manufacturing --starting January 1, 1998.	Immediately
185	81-82	Petroleum Business Tax (Article 13-A) Reimbursements	Provides for reimbursements of applicable 13-A tax for gallonage which qualifies as: commercial gallons, manufacturing gallons & railroad diesel. Reimbursements are provided where purchasers absorb the tax and subsequently sell fuel to be used for one of the above purposes.	Immediately

## Summary of FY 1996-97 Budget Bill Tax Provisions (Con't)

Section	Page	Subject	Description	Effective Date
186	82-83	Petroleum Business Tax (Article 13-A) Utility Credit	Increases the utility credit against the base tax by one-half cent per gallon for both residual and unenhanced diesel gallons --starting April 1, 1999.	Immediately
187	83-84	Petroleum Business Tax (Article 13-A) Supplemental Tax Changes	Exempts railroad diesel gallonage from the supplemental tax --starting January 1, 1997. Exempts commercial gallonage from the supplemental tax --starting March 1, 1997. Provides for 3/4 cent reduction in supplemental rate for automotive diesel gallons --starting January 1, 1998 and provides for an additional 1 cent reduction from such rate --starting April 1, 1999.	Immediately
188	84-85	Petroleum Business Tax (Article 13-A) Technical Change (manufacturing exemption)	Eliminates existing manufacturing exemption from supplemental tax effective January 1, 1998. This exemption is now redundant due to the exemptions introduced under sections 183& 184 of this bill which, in effect, provide for a full PBT exemption for manufacturing use.	January 1, 1998
189	85	Petroleum Business Tax (Article 13-A) Technical Change (commercial gallon credit)	Repeals section 301-k --commercial gallonage credit --effective March 1, 1997. This gallonage would then be exempted from full supplemental tax under section 187 of this bill.	March 1, 1997
190	85-89	Petroleum Business Tax (Article 13-A) Fund Distribution	Amends PBT funds distribution --Specific provisions are not applicable.	Immediately
191-200	89-102	Provides for the Transition of Trucking and Railroad Companies from Taxation under Article 9 to Article 9-A	Trucking and railroad companies would be subject to Article 9-A beginning in 1998 unless they elected to remain in Article 9.	Trucking and railroad companies would be subject to Article 9-A for taxable years beginning after 1997 unless they elect to remain in Article 9.
201-206	102-104	Personal Income Tax: Enhanced Child Care Credit	Enhances the current child care credit by providing up to 30% of the federal credit in 1996 and up to 60% after 1996 for taxpayers with NYAGI under \$14,000. For residents, the entire credit becomes refundable.	Provisions apply to taxable years beginning on or after January 1, 1996.
207	104	Personal Income Tax: Farmer's Protection and Farm Preservation Act	Creates the Farmer's Protection and Farm Preservation Act of 1996.	Provision applies to taxable years beginning on or after January 1, 1997.
208-210	104-106	Personal Income and Corporate Franchise Tax Credit for Rehabilitation of Historic Barns	Provides a personal income tax credit and a corporate franchise tax credit for the rehabilitation of historic barns in New York State. The credit equals 25 percent of qualified expenditures.	Provisions apply to taxable years beginning on or after January 1, 1997.

## Summary of FY 1996-97 Budget Bill Tax Provisions (Con't)

Section	Page	Subject	Description	Effective Date
211-216	106-112	School Property Tax Credit To Farmers	Provides a refundable school property tax credit for farmers against their personal income or corporate franchise taxes with a phase-out of the credit for incomes in excess of \$100,000.	Provisions apply to taxable years beginning on or after January 1, 1997.
217	112	Temporary Clothing Exemption	Amends section 1101 to define clothing and footwear.	Immediately
218	112	Temporary Clothing Exemption	Amends section 1107 (4% MAC sales and use tax) to retain the tax on clothing and footwear.	Immediately
219	112	Temporary Clothing Exemption	Amends section 1115 to exempt clothing and footwear costing less than \$500 from the State 4% tax and the 0.25% tax imposed in the twelve county MCTD for the period beginning January 18, 1997, and ending January 24, 1997.	Sales made and uses occurring during the period January 18, 1997 through January 24, 1997, although made or occurring under a prior contract.
220	112	Temporary Clothing Exemption	Amends section 1210 to retain the local sales taxes on clothing and footwear.	Immediately
221	113	Temporary Clothing Exemption	Provides that localities, including New York City, may elect to provide the temporary clothing exemption. Provides the form for the resolution. Resolution must be enacted by November 15, 1996, and mailed to the Commissioner by November 20, 1996.	Immediately
222	114	Temporary Clothing Exemption	Related to the potential temporary exemption of clothing and footwear from the section 1107 tax.	Immediately
223	115	Temporary Clothing Exemption	Provides that the Commissioner will submit a report on or before November 1, 1997 to describe and evaluate the temporary clothing exemption.	Immediately
224	115	Promotional Materials	Exempts printed promotional materials and related services, including storage services, when the promotional materials are mailed or shipped to customers or potential customers without charge.	March 1, 1997
225-226	116	Municipal Parking Services	Exempts municipal parking services from the State sales tax, local sales tax outside New York City and the 6 % parking tax imposed in New York City.	December 1, 1996
227	117	Shopping Papers	Modifies the sales tax exemption for shopping papers by providing that the advertising content percentage is determined on an annual basis.	September 1, 1996
228	118	Electronic Funds Transfer Hardship Provision	Creates an additional hardship category for taxpayers required to remit State and local sales tax by EFT. Provides that a qualifying taxpayer may remit sales and use taxes, by EFT or certified check, at the same time the taxpayer files its part-quarterly and quarterly sales tax returns.	April 1, 1997

## Summary of FY 1996-97 Budget Bill Tax Provisions (Con't)

Section	Page	Subject	Description	Effective Date
229	118	Estate Tax Fix	Fixes the estate tax to ensure that increases in the unified credit or decreases in tax rates do not inadvertently cause tax increases. Provides retroactive tax relief to estates adversely affected by an increase in the unified credit in June 1994.	Applicable to estates of decedents dying after effective date, and if they elect, to estates of decedents dying on or after June 10, 1994.
230	119	Gift Tax Fix	Fixes the gift tax to ensure that increases in the unified credit or decreases in tax rates do not inadvertently cause tax increases. Provides retroactive tax relief to gift tax taxpayers adversely affected by an increase in the unified credit in June 1994.	Applicable to gifts made after December 31, 1993, by any donor who did not die prior to June 10, 1994.
231	119-120	Petroleum Business Tax (Article 13-A) Carrier Tax	Makes a technical correction to a provision that inadvertently shortened the time period in which refunds can be claimed for excess credits under section 301-h from 2 years to 1 year 11 months.	Effective for fuel purchased January 1, 1995 through December 31, 1995 -- then repealed.
232	120	Petroleum Business Tax (Article 13-A) Carrier Tax	Extends the time period in which taxpayers have to claim a refund for excess credits under section 301-h from two years to four years from the period in which the excess was derived.	January 1, 1996 --Effective for fuel purchased after January 1, 1994.
233	120-121	Highway Use Tax (Article 21)	Extends the time period in which taxpayers have to claim a refund for excess credits under section 503-a from two years to four years from the period in which the excess was derived.	January 1, 1995 --Effective for fuel purchased after this date.
234	121-122	Highway Use Tax (Article 21)	Extends the time period in which taxpayers have to claim a refund for erroneous payments under section 513 from two years to four years from the time such payment was made.	January 1, 1994 --Effective for fuel purchased and payments made after this date.
235	122-123	Fuel Use Tax (Article 21-A)	Extends the time period in which taxpayers have to claim a refund for excess credits under section 524 (a) from two years to four years from the period in which the excess was derived. Also extends for a similar time period, refunds for overpayments and erroneous payments under sections 524 (c), (d).	January 1, 1996 --Effective for fuel purchased after January 1, 1994.
236	123	Commercial Vessels and Aircraft	Expands class of exempt vessels and aircraft to include those used to carry the goods of the vessel or aircraft purchaser in qualifying commerce.	December 1, 1996 -- Applies to sales made and services rendered on or after that date although made or rendered under a prior contract.
237-240	123-125	Petroleum Business Tax (Article 13-A) Reimbursement for Aviation Fuels	Provides for PBT reimbursements to aviation fuel businesses for kero-jet purchased in the State but consumed outside the State. Provides for PBT reimbursements on aviation gas in two situations precluded by current Law .	September 1, 1995

## Summary of FY 1996-97 Budget Bill Tax Provisions (Con't)

Section	Page	Subject	Description	Effective Date
241-241a	125-126	S Corporation Differential Rate Fix for Small S Corporations	Changes 1995 S corporation differential tax rate for small S corporations from 7.59375 to 7.875 to prevent unintended tax increase for these taxpayers .	Provisions take effect immediately and apply to taxable years beginning prior to January 1, 1996.
252	130-131	Article 15	Extends effective date from September 1, 1996 to July 1, 1997.	Immediately --Deemed to be in full force and effect on and after June 12, 1991.
253-254	131	Alcoholic Beverage Tax: Electronic Funds Transfer	Adds certain ABT taxpayers to those required to remit on an EFT basis.	N/A
255	131	ABT-EFT Threshold for Participation	Establishes a \$5 million threshold for ABT-EFT taxpayers.	N/A
256	131	ABT-EFT Participation Exclusion	Allows for cessation of EFT participation if liability declines.	N/A
257	132	ABT-EFT Liability Calculation	Either 3/4 of preceding year's month or 90% of actual liability through the 22nd of the month.	N/A
258-259	132	ABT-EFT Conforming Language	N/A	N/A
260	133-133	ABT-EFT Effective Dates	First payment due three business days following December 22, 1996.	December 26, 1996
261-264	133-134	ABT-EFT Conforming Language	N/A	N/A
265-268	122	Three-month Amnesty Program	Establishes three-month amnesty program similar to the 1985 amnesty program.	Immediately --Amnesty period November 1, 1996 - January 31, 1997.
429	207	REITs	Makes permanent preferential tax rate under the State's transfer tax for conveyances of property to a REIT upon its initial formation.	Immediately
430	207-208	REITs	Extends the preferential REIT tax rate under the transfer tax to certain conveyances other than those in connection with the initial formation of the REIT.	Immediately --Sunsets on September 1, 1999.
431-433	208-212	REITs	Parallel amendments concerning the New York City transfer tax.	Immediately --REIT extender sunsets on September 1, 1999.
434	212	REITs	Repeals grandfather provision of 1994 law.	Immediately
435	212	REITs	Adds a grandfather provision for new REIT law.	Immediately
436	212	REITs	Savings clause applicable to REIT provisions contained in sections 430-432.	Immediately

ABT -- Alcoholic Beverage Tax  
EFT -- Electronic Funds Transfer  
MAC -- Municipal Assistance Corporation  
MCTD -- Metropolitan Commuter Transportation District  
PBT -- Petroleum Business Tax  
REIT -- Real Estate Investment Trust