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New York State Department of Taxation and Finance

Office of Tax Policy Analysis

September 2006

Summary of Tax Provisions in SFY 2006-07 Budget

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Appendices

Overview of State Fiscal Year 2006-07 Budget Tax Actions

The State Fiscal Year (SFY) 2006-07 budget process differed from most years in that several tax related provisions were enacted to reach final budget agreement. Chapters 25, 53, 58, 59 and certain provisions of Chapter 62 of the Laws of 2006 together provide for various tax relief measures. In addition, Chapter 61 of the Laws of 2006 amends Chapter 62 while Chapters 105, 109 and 440 of the Laws of 2006 provide further amendments to the legislation enacted as part of the 2006-07 State budget. Appendix A provides a guide to the tax provisions in these budget bills, listing each provision and its bill section, page, description and effective date.

Listed below are synopses of the tax provisions contained in the legislation. The next section provides descriptions of tax actions enacted since 1996. It is followed by a complete description of all of the tax provisions in the 2006-07 enacted budget legislation. Finally, the report concludes with two appendices. Appendix A, as described above, followed by Appendix B, which gives a brief summary of tax actions from State fiscal year 1996-97 through 2005-06.

Personal Income Tax

Personal income tax provisions in the budget will:

- Increase the standard deduction for married couples.
- Create a refundable Empire State child credit.
- Exempt monies received by New York National Guard members called to active service in the State by the Federal Government.
- Provide an enhanced State earned income tax credit (EITC) for certain non-custodial parents.
- Make permanent the existing 10 percent limitation on the amount of a taxpayer's State EITC which can be offset against a debt owed by a taxpayer to the Office of Temporary and Disability Assistance.

- Enhance the farmers' school credit by increasing the base acreage and income phase-out range, including Christmas tree farms as eligible for the credit, and allowing the flow through of income of corporate farms to shareholders.

- Create a refundable land conservation easement credit.

- Create a $200 refundable credit for residents serving as active volunteer firefighters or volunteer ambulance workers.

- Clarify the treatment of the taxability of certain income for nonresidents.

Business Taxes

Business tax provisions in the budget will:

- Extend the commercial bank tax provisions and the transition provisions related to the Gramm-Leach-Bliley Act for two years until 2008.

- Permanently eliminate the differential tax on entire net income for S corporations.

- Create a new exemption to the corporate franchise tax for certain corporations no longer doing business in the state.

- Amend the calculation of the limitation on tax for certain annuities companies.

- Create "qualified investment" and "significant capital investment" categories within the QEZE credits which allow a taxpayer to select the start of their benefit period and allow for subsequent extensions and allow a "deemed new" category of qualifying business.

- Create Clean Energy Research and Development Enterprises designation within the EZ/QEZE program.

- Create Clean Energy Enterprises designation and allow for EZ/QEZE Investment Zone benefits.

- Move year-four Empire Zone designations forward into year two.

- Create a refundable biofuel production credit.

- Increase the film production credit annual credit cap and extend the sunset date through 2011.

- Create a credit for qualified commercial production in New York State.
- Extend the sunset date of one qualifying criterion for Environmental Zone credit rate enhancements from September 1, 2006 to September 1, 2010.
- Increase the statewide, aggregate credit limit for the low-income housing credit from $8 million to $12 million.
- Extend Power for Jobs program through 2007.

Sales and Use Tax

Sales and use tax changes will:

- Make permanent the sales tax exemption for 75 percent of the admission charge to a qualifying place of amusement.
- Allow the year-round sales and use tax exemption for clothing and footwear priced under $110 to take effect.
- Increase the vendor credit.
- Simplify the administration of the sales and use tax registration program for persons contracting with the State.

Other Provisions

Other miscellaneous provisions will:

- Extend the preferential New York State real estate transfer tax and New York City real property transfer tax rates for qualifying transfers to existing real estate investment trusts.
- Increase real estate transfer tax revenues to be deposited in the State's Environmental Protection Fund from $137 million to $212 million beginning in SFY 2007-08.
- Amend various sections of the Wagering and Racing Law.
- Provide a full exemption from excise tax, petroleum business tax (PBT) and State and local sales taxes for fuel products identified as E-85, Compressed Natural Gas (CNG) and hydrogen, when suitable for use in a motor vehicle engine. Provided for reduced tax rates under the excise tax, PBT and sales tax for fuel products identified as B-20.

STAR

STAR provisions in the budget will:

- Increase the base figure for the enhanced STAR exemption by 13.6 percent.
- Authorize the Local Property Tax Rebate Program.
- Increase the New York City STAR credit from $125 to $230 for married couples and from $62.50 to $115 for all others.

Highlights of Prior-Year Budget Tax Legislation

The tax reductions and initiatives included in this year's budget legislation build upon an array of tax cuts and programs enacted over the previous decade. Listed below are some highlights of tax legislation enacted since 1996. Appendix B provides greater detail on these and other provisions.

Fiscal Year 1996-97

- Repealed the real property gains tax.
- Created a new tax credit for farmers' school property taxes, and expanded the child care credit.
- Enacted a temporary exemption from sales tax for clothing and footwear costing less than $500.
- Enacted a variety of rate reductions and exemption/credit enhancements in the petroleum business tax.
- Reduced the rate of tax on the additional franchise tax for transportation and transmission companies, and allowed trucking and railroad companies the option of being taxed under the general corporate franchise tax.

Fiscal Year 1997-98

- Created the school tax relief ("STAR") program, which when fully effective provides State homeowners a minimum $30,000 full value exemption against school property taxes. The minimum exemption for homeowners age 65 and over is $50,000, and New York City residents also receive a personal income tax credit.
- Replaced the estate tax with a "pickup tax" equal to the maximum federal credit for state death taxes, effective February 1, 2000, and repealed the gift tax, effective January 1, 2000.
- Enhanced the farmers school property tax and child care credits under the personal income tax, and created a new deduction under the "New York State College Choice Tuition Savings Program."

- Extend the lower New York State real estate transfer tax and New York City real property transfer tax rates for qualifying transfers to existing real estate investment trusts.
- Increase real estate transfer tax revenues to be deposited in the State's Environmental Protection Fund from $137 million to $187 million beginning in SFY 2007-08.
- Amend various sections of the Wagering and Racing Law
- Increase the base figure for the enhanced STAR exemption by 13.6 percent.

Fiscal Year 1998-99

- Accelerated the STAR program enacted with the 1997-98 budget. This included providing the higher exemption and New York City resident income tax credit amounts to elderly residents, previously scheduled to be phased in by the 2001-02 school year, and 2001 tax year, in the 1998-99 school year and 1998 tax year, respectively.
- Reduced tax rates, including the alternative minimum tax rate and the fixed dollar minimum tax, under the corporate franchise tax.
- Created an investment tax credit for brokers/dealers in the financial services sector.
- Expanded the permanent sales tax exemption for clothing to include footwear, and raised the threshold amount from $100 to $110.
- Enacted a sales tax exemption for textbooks purchased by college students.
- Enriched the child care credit under the personal income tax.
- Conformed to federal tax relief for family owned businesses under the estate tax.
- Reduced the truck mileage tax by 25 percent.

Fiscal Year 1999-00

- Increased the earned income credit under the personal income tax from 20 percent to 25 percent of the federal credit.
- Reduced the bank tax rate from 9 percent to 7.5 percent.

- Reduced the insurance tax rate from 9 percent to 7.5 percent, and the premiums cap rate for non-life companies from 2.6 percent to 2.0 percent.
- Added two additional sales tax-free weeks for clothing costing less than $500.
- Reduced the corporate franchise tax alternative minimum tax rate from 3 percent to 2.5 percent.
- Provided a wide array of new business and sales tax credits and exemptions.

Fiscal Year 2000-01

- Eliminated the corporate utility gross receipts tax on companies providing energy services, instead taxing these businesses under the corporate franchise tax.
- Repealed the sales tax on separately purchased electricity and gas.
- Added a fourth phase of the Power for Jobs Program.
- Reduced the corporate franchise tax rate on small businesses from 7.5 percent to 6.85 percent, and reduced the S corporation differential tax rate by 45 percent.
- Created a new "Empire Zones Program Act."
- Created a new refundable credit or itemized deduction under the personal income tax for college tuition expenses.
- Increased the standard deduction for married couples from $13,000 to $14,600 over three years.
- Enriched and expanded the earned income and child care credits.
- Enhanced the sales tax exemption for property and services used to provide telecommunications, Internet access, and digital cable television services.
- Created a new sales tax exemption for certain equipment and services used by radio and TV broadcasters.

Fiscal Year 2001-02

- Added eight new Empire Zones.

Fiscal Year 2002-03

- Provided State, New York City, and Yonkers personal income tax exemptions for tax years 2000 and 2001 (and 2002 for deaths occurring in 2002) for persons dying as a result of the terrorist actions of September 11, 2001, conformed the estate tax to the federal Victims of Terrorism Tax Relief Act of 2001, and included special investment tax credit (ITC) provisions to benefit Lower Manhattan businesses.

- Established a tax amnesty program for taxpayers with unpaid liabilities under the personal income tax, sales and compensating use tax, corporate franchise taxes (other than the bank and insurance taxes), estate tax, and various excise taxes. Participants could receive a waiver of certain penalties and a 2% reduction in the applicable interest rate relating to unpaid liabilities.

- Enacted a cost-of-living adjustment to the maximum income allowed under the enhanced School Tax Relief (STAR) exemption for persons age 65 and over.

- Modified the definition of brokers or dealers in securities for New York income allocation rules to include those marketing over-the-counter derivatives.

- Increased the amount of the first quarterly installment of estimated tax for certain taxpayers and changed the order in which tax credits must be taken under Tax Law Articles 9, 9-A, 32 and 33.

- Increased the aggregate limit for the low income housing tax credit.

- Permitted gas pipeline companies with contracts in effect when New York's energy taxes were restructured and reduced to continue to recover tax costs as those contracts intended.

- Added community development loans or investments to the assets that may be used in qualifying as a "thrift" banking corporation.

- Made clarifications to the Empire Zones program and authorized ten new Empire Zones and establish criteria regarding zone boundaries.

- Created three temporary sales tax exemption periods in the Liberty Zone and Resurgence Zone in Lower Manhattan.

- Conformed the State and local sales taxes and the telecommunications excise tax to the Federal Mobile Telecommunications Sourcing Act.

- Lowered the threshold for mandatory electronic funds transfer (EFT) participation for sales tax vendors.

- Provided a new index to adjust the base retail price, for purposes of calculating the prepaid sales tax on cigarettes.

- Raised the excise tax rate on tobacco products.

Fiscal Year 2003-04

- Temporarily increased New York State personal income tax rates by adding two new brackets for tax years 2003 through 2005. The new top rate and bracket for all filing statuses for tax years 2003 to 2005 is 7.7 percent of taxable income in excess of $500,000 and the new "second to highest" tax rates and taxable income bracket vary by filing status and tax year. The supplemental tax which recaptures the benefits of the lower tax rates was also amended.

- Temporarily increased the New York City Resident personal income tax by adding two New York City resident income tax rates and brackets for tax years 2003 through 2005, in addition to the top 3.4 percent (3.648 percent including the 14 percent additional tax surcharge) that previously applied for tax year 2003. The new top rate and bracket for all filing statuses for all three years 2003-2005 is 4.45 percent of taxable income in excess of $500,000. The new second to highest rate/bracket varies by filing status and tax year. Also like the state tax, a new supplemental tax was created to recapture the benefits of the lower tax rates.

- Required that flow-through entities such as partnerships, limited liability companies, and S corporations make quarterly estimated tax payments of New York State income tax for nonresident owners such as partners, members, and shareholders. Individual taxpayers who are compliant with their tax and filing responsibilities may obtain a waiver from the entity-level payment and continue to make estimated payments on their own.

- Created a new estimated tax requirement for nonresidents with certain sales or transfers of New York real property. In order for the deed to be recorded and transferred, the nonresident seller must remit estimated tax on the gain, at the highest rate of tax.

- Decoupled New York's tax code from the federal tax code for both corporate and personal income tax purposes with respect to the 30 percent depreciation bonus contained in the federal *Job Creation and Worker Assistance Act of 2002* (P.L. 107-147) .

- With certain limited exceptions, required taxpayers who deduct interest or royalty expenses for amounts paid to a related member for the use of intangible assets to add back those deductions to their taxable income.

- Eliminated the income base component for non-life insurers and made the premiums tax the sole basis of tax. In addition, the premiums tax rate was raised to 1.75 percent on accident and health premiums and 2 percent on all other non-life premiums. The limitation on tax will no longer apply to non-life insurers. Life insurers will continue to be subject to the income-based tax, but will now be subject to a floor amount.

- Extended for one year the transition provisions relating to the passage of the federal *Gramm-Leach-Bliley Act.*

- Extended for two years certain provisions of the Tax Law and the Administrative Code of the City of New York relating to the taxation of commercial banks.

- Provided that for purposes of Article 9-A, S corporations shall be subject only to the fixed dollar minimum tax for tax years beginning in 2003, 2004, and 2005.

- Increased the State sales and use tax rate from 4 percent to 4.25 percent from June 1, 2003 through May 31, 2005.

- Suspended the exemption for clothing and footwear priced under $110 from June 1, 2003 through May 31, 2004 and provided for two week-long temporary exemptions for such clothing and footwear.

- Enacted the Simplified Sales and Use Tax Administration Act authorizing New York to enter into the Streamlined Sales and Use Tax Agreement.

- Included a line on the New York State personal income tax return to enable taxpayers to report unpaid sales and compensating use taxes.

- Included the New York City excise tax on cigarettes in the State sales tax base.
- Required the Commissioner to promulgate regulations necessary to implement collections of taxes on sales made to non-native Americans on recognized reservations in the State.
- Allowed wine and liquor stores the option of opening on Sundays, provided they close another day so that they are open no more than six days per week.
- Created a new waste tire management fee of $2.50 per tire on sales of certain new tires.

Fiscal Year 2004-05

- Increased the credit for long-term care insurance premiums from 10 to 20 percent (also applies for business taxes).
- Established a new credit for film production activity in New York (also applies under the personal income tax and New York City unincorporated business income and general corporation taxes.)
- Increased the Statewide annual aggregate limit for the low-income housing credit from $4 million to $6 million (also applies to the personal income tax).
- Extended credits for alternative fuel vehicles for an additional year (also applies to personal income tax).
- Extended the Qualified Emerging Technology Company (QETC) credit to biotechnology.
- Established a fourth Certified Capital Company (CAPCO) program under the insurance tax.
- Extended the Empire Zones program from September 13, 2004 to March 31, 2005.
- Extended and modified the Power for Jobs Program under Article 9.
- Created two new exemptions for aviation fuel under the petroleum business tax.
- Provided a new sales tax exemption for maintenance and certain other services performed on private aircraft.

- Created a credit or refund for sales tax on certain vessels used in local transportation of passengers on water.
- Extended the sales tax exemption for alternative fuel vehicles for an additional year.

Fiscal Year 2005-06

- Created a refundable nursing home assessment tax credit.
- Provided a refundable credit for the special additional mortgage recording tax paid by lenders on residential mortgages.
- Extended the temporary Limited Liability Company fee increase through 2006.
- Created requirements for the business allocation percentage to be based on a single receipts factor.
- Made significant reforms to the Empire Zone/Qualified Empire Zone Enterprise program with respect to zone boundaries, zone designations, taxpayer eligibility, and benefits.
- Lowered the tax rate from 6.85 percent to 6.5 percent for small businesses and expanded the availability of the small business rate.
- Created a new refundable tax credit for qualified emerging technology companies consisting of components for research and development property, research expenses, and high-technology training expenditures for qualified emerging technology companies.
- Increased the cap under capital base from $350,000 to $1 million for certain taxpayers.
- Extended Power for Jobs program through 2006.
- Increased by one-eighth of one percent the sales and compensating use tax rate in the Metropolitan Commuter Transportation District (MCTD) – effective June 1, 2005.
- Suspended the year-round sales tax exemption for clothing and footwear priced under $110 through March 31, 2006, while providing for two one week-long sales tax exemptions to be held from the Tuesday immediately preceding Labor Day through Labor Day, and from the last Monday of January through the

following Sunday.

- Created tax shelter and reportable transaction disclosure requirements and created a voluntary disclosure program from October 1, 2005 through March 1, 2006 whereby taxpayers can get certain penalties waived by filing amended returns disclosing participation in tax shelters.

- Mandated electronic filing for preparers filing more than 200 original returns, using authorized tax preparation software.

- Created reciprocity between the State and City and other states with regard to applying tax overpayments against warranted tax debts owed New York.

- Required the Department to implement a system to collect State motor fuel and diesel motor fuel excise and petroleum business taxes, cigarette excise taxes and sales and use taxes on sales of fuels and cigarettes made to non-native Americans on recognized reservations in the State.

Summary of SFY 2006-07 Tax Provisions

Personal Income Tax

Marriage Penalty Reduction

Part C of Chapter 62 of the Laws of 2006 raises the standard deduction for married couples to eliminate the marriage penalty in the personal income tax. The standard deduction for married couples filing a joint return (and qualifying widow) is raised from $14,600 to $15,000 and married filing separate returns is increased from $6,500 to $7,500. The change is effective beginning in tax year 2006.

Empire State Child Credit

Part A of Chapter 62 of the Laws of 2006, as amended by Part N of Chapter 61 of the Laws of 2006 and Part L-1 of Chapter 109 of the Laws of 2006, creates the new refundable Empire State Child Credit. For children ages 4-16, resident taxpayers may claim a credit equal to the greater of a) $100 times the number of children who qualify for the Federal child tax credit, or b) 33 percent of the taxpayer's allowed Federal child tax credit. The Federal credit is currently a maximum of $1,000 per qualifying child.

The Federal credit phases-out beginning at $110,00 of Modified Federal Adjusted Gross Income (MFAGI) for married taxpayers filing jointly, and $75,000 for others. New York taxpayers with MFAGI above these thresholds may only claim a New York credit equal to 33 percent of their allowed Federal credit. The credit is first effective for taxable years beginning on or after January 1, 2006.

National Guard Exemption

Part D of Chapter 62 of the Laws of 2006 exempts monies received by New York National Guard members who are called up to active service in the State by the Federal Government. The Tax Law already allows members of the New York National Guard who are called up to active service by the Governor to subtract the monies received for their active service performed within the State from their Federal adjusted gross income. This legislation provides the same exemption to members of the New York National Guard who are called up to serve by the Federal Government to perform active service within the State pursuant to Title 10 of the United States Code. Commensurate with the existing law, this provision is effective retroactive to taxable years beginning on and after January 1, 2004.

Enhanced State EITC for Certain Non-Custodial Parents

Part I of Chapter 58 of the Laws of 2006 provides an enhanced State earned income tax credit (EITC) for certain non-custodial parents in lieu of the existing State EITC that they may claim. To qualify for the enhanced credit, claimants must be resident taxpayers, age 18 and over, and have a minor child with whom they do not reside. They must also have a child support order in effect requiring support payments through a support collection unit established pursuant to §111-h of the Social Services Law, for at least half of the tax year, and must have made the required support payments.

The enhanced credit is equal to the greater of: a) 20 percent of the Federal EITC that the taxpayer would otherwise be able to claim for one qualifying child as a custodial parent or, b) 2.5 times the Federal EITC for taxpayers without qualifying children. The credit is fully refundable, but unlike the existing State EITC, the amount of credit allowed is not reduced by the amount of the State household credit used by the taxpayer.

Taxpayers are not allowed more than one credit if they have multiple children or support orders. A credit claim will only be allowed after the Office of Temporary and Disability Assistance (OTDA) verifies eligibility for the prior tax year. OTDA must provide the Tax Department with information for this purpose by January 15th of each year. The credit is available for taxable years beginning on or after January 1, 2006 and before January 1, 2013.

OTDA Overpayment Limit

Part O of Chapter 62 of the Laws of 2006 makes permanent the existing 10 percent limitation on the amount of a taxpayer's State earned income tax credit (EITC) which can be offset against a debt owed by a taxpayer to the Office of Temporary and Disability Assistance (OTDA). Previously, this provision was due to expire on December 31, 2006.

Enhanced Farmers' School Tax Credit

Part K of Chapter 62 of the Laws of 2006 enhances the farmers' school tax credit under both the personal income tax and the corporate franchise tax by increasing the base acreage from 250 to 350 acres, raising the income phase-out range from $100,000-$150,000 to $200,000-$300,000, including Christmas tree farms as eligible for the credit, and allowing the flow through of income of corporate farms to shareholders. The provisions are effective for taxable years beginning on or after January 1, 2006.

Land Conservation Easement Credit	Part F of Chapter 62 of the Laws of 2006 creates a refundable personal income tax and corporate franchise tax credit equal to 25 percent of the taxpayer's school district, county and city/town real property taxes paid on land that is under a conservation easement held by a public or private conservation agency. The maximum allowable tax credit is $5,000. The credit is first effective in tax year 2006. This part also modifies the farmer's school tax credit, to include as qualified agricultural property, land that is set aside subject to a conservation easement.
Volunteer Firefighters and Ambulance Workers Credit	Part U of Chapter 62 of the Laws of 2006, as amended by Part N of Chapter 61 of the Laws of 2006, creates a $200 refundable credit for residents serving as active volunteer firefighters or volunteer ambulance workers. To receive the credit, the taxpayer must be an active volunteer for the entire taxable year and must not be receiving a real property tax exemption relating to such service. In the case of a husband and wife filing jointly who both qualify for the credit, the amount of the credit is $400. The credit is effective for taxable years beginning on or after January 1, 2007.
Clarification of the Treatment of the Taxability of Certain Income for Nonresidents	Part N of Chapter 62 of the Laws of 2006 amends the Tax Law in relation to the method used by a nonresident and part-year resident to report New York source income derived from stock option grants, stock appreciation rights and restricted stock. It directs the Commissioner of Taxation and Finance to promulgate regulations on the calculation of tax on option income earned by nonresidents and part-year residents within 180 days of the effective date, or October 25, 2006. The new regulations may apply to taxable years beginning on or after January 1, 2006 and shall be controlling for those years notwithstanding any Tax Appeals Tribunal decision to the contrary.

Business Taxes

Extension of Bank Tax and GLBA Provisions

Part I of Chapter 62 of the Laws of 2006 extends for two years certain provisions of the Tax Law and the Administrative Code of the City of New York relating to the taxation of commercial banks which were scheduled to sunset for taxable years beginning on or after January 1, 2006. These include amendments made in 1985 to the bank taxes imposed by New York State and New York City that created the current bank tax structure in Article 32 of the Tax Law. Also extended are amendments made in 1987 to the bad debt deduction provisions of both these taxes.

This section also extends for two years the transitional provisions relating to the enactment and implementation of the Federal Gramm-Leach Bliley Act, which were scheduled to sunset for taxable years beginning on or after January 1, 2006. The provisions of this section are effective immediately and apply to taxable years beginning on or after January 1, 2006.

Permanent Elimination of Differential Tax for S Corporations

Part S of Chapter 62 of the Laws of 2006 permanently eliminates the differential tax on entire net income (ENI) for S corporations under the corporate franchise tax. The differential tax was temporarily eliminated for tax years beginning in 2003, 2004, and 2005. The change made S corporations subject to the fixed dollar minimum tax as the sole basis of the corporate franchise tax during this time. The amendment makes the repeal of the differential tax permanent, while continuing to impose the fixed dollar minimum tax. The provisions of this section are effective immediately and apply to taxable years beginning on or after January 1, 2006.

Exemption for Certain Corporations No Longer Doing Business in the State

Part O of Chapter 61 of the Laws of 2006 creates a new exemption under the corporate franchise tax. The exemption applies to a corporation that is no longer doing business, employing capital, or owning or leasing property in this State in a corporate or organized capacity that has filed a final tax return with the tax department for the last tax year it was doing business and has no outstanding tax liability. A corporation that has met these requirements will no longer be subject to the corporate franchise tax, as long as its basis of tax would be the fixed dollar minimum tax. The provisions of this section are effective immediately and apply to taxable years beginning on or after January 1, 2006.

Marginal Tax Rate on Annuities Premiums

Part E of Chapter 62 of the Laws of 2006 amends the limitation of the insurance tax as it applies to life insurance companies whose total premiums consist of more than 95 percent of annuity premiums. Previously, a company that derived more than 95 percent of total premiums from annuities included the total amount of annuity premiums in the calculation of the limitation. The amendment provides that only those premiums of the insurance company which are in excess of 95 percent of total premiums are included in the computation of the limitation. The provisions of this section are effective immediately and apply to taxable years beginning on or after January 1, 2006.

Empire Zone (EZ)/Qualified Empire Zone Enterprise (QEZE) Amendments

Part AA of Chapter 62 of the Laws of 2006, as amended by Part N of Chapter 61 and as further amended by Part V-1 of Chapter 109 of the Laws of 2006, makes three changes to the QEZE tax incentives:

- Qualified investment projects (QUIPs) – owners of a qualified investment project may choose between the date of certification of the business enterprise at the location of the QUIP or the date when property constituting the QUIP is first placed in service as the starting date of their benefit period. A QUIP is a project located in in EZ at which 500 or more new jobs will be created and which will consist of tangible personal property and other tangible property, including buildings and structure components of buildings, with a basis of $750 million or more. Also, the owner of the QUIP may not employ more than 200 persons in New York State at the time the project commences.

- Significant capital investment projects (SCIPs) – owners of a significant capital investment project can receive a ten year benefit period extension, starting with the tax year in which the property comprising the SCIP investment is placed in service. The original ten year benefit period and the extension are considered one continuous benefit period for purposes of the QEZE credits. A SCIP is a project located in an EZ which will be either a newly constructed facility or an addition or expansion of a QUIP consisting of tangible personal property and other tangible property, including buildings and structure components of buildings, with a basis of $750 million or more. In addition, the SCIP must be constructed after the basis of the QUIP equals or exceeds $750 million and will create 500 or more new jobs. The Commissioner of Empire State Development is responsible for approving applicants as

QUIPs and SCIPs.

- New business designation – taxpayers are deemed new if they meet four criteria. They must be approved as a QUIP or SCIP, have a base period of zero years, place property, or a project which includes such property, in service which comprises a QUIP or SCIP, and be certified by December 31, 2007.

It will also allow owners of QUIPs and SCIPs to receive a refund of 50 percent of excess EZ investment tax credit, EZ wage tax credit, and EZ employment incentive credit (EZ-EIC). Generally, the first two credits are only refundable to new businesses and the EZ-EIC is non-refundable. Taxpayers claiming the EZ-ITC and EZ-EIC will be allowed the refunds for a maximum of ten taxable years with respect to the QUIP and SCIP, starting with the first taxable year in which property comprising such project is placed in service.

Clean Energy Research and Development Enterprises

Part HH of Chapter 59 of the Laws of 2006 made two amendments to the EZ/QEZE program. It created the clean energy research and development enterprise (CERDE) designation. A CERDE is defined as "any electric generating facility that used pulverized coal technology, circulating fluidized bed technology or integrated gasification combined cycle technology and that is capable of capturing carbon dioxide for sequestration or capable of being retrofitted to capture carbon dioxide for sequestration." The new law classifies a CERDE as a regionally significant project which allows it to be located outside of the EZ's investment or development zone boundaries.

EZ Designation Acceleration

Part II of Chapter 59 of the Laws of 2006 accelerates the designation of EZs. Originally, 12 new zones were to be phased in equally over a four-year period. Part II moves the 4th year's allotment to year two, so that three EZs will be designated in year one, six in year two, and three in year three.

Clean Energy Enterprises

Part W-1 of Chapter 109 of the Laws of 2006 amended the EZ/QEZE program by creating the clean energy enterprise (CEE) designation. A CEE is defined as "any business primarily engaged in research, development or manufacturing of renewable energy or energy efficiency technologies or products; provided, however, that an initial clean coal electric generating facility capable of capturing carbon dioxide for sequestration or capable of being retrofitted to capture carbon dioxide for sequestration." A business is primarily engaged in research, development or manufacturing of renewable energy or energy efficiency technologies or products if eighty percent or more of its property in New York is utilized for such purposes. The Commissioner of Empire State Development certifies companies as CEEs. A CEE may be located anywhere in the state and will compute its benefits as if located in an Investment Zone.

Biofuel Production Credit

Part X of Chapter 62 of the Laws of 2006 provides that taxpayers under the corporation and utilities, corporate franchise, and personal income taxes will be allowed to claim a refundable credit for the production of biofuel. The credit equals 15 cents per gallon after the production of the first 40,000 gallons per year presented to market. The credit is capped at $2.5 million per taxpayer per year for up to four consecutive years per biofuel plant. The credit sunsets after December 31, 2012.

Empire State Film Production Credit Amendments

Part Y of Chapter 62 of the Laws of 2006, as amended by Part N of Chapter 61 of the Laws of 2006 amends the film credit to increase the annual credit cap and extend the sunset date of the credit. The cap is raised from $25 million annually to $60 million annually in 2006 through 2011. The original sunset date was extended from four years after enactment of the original bill (2008) to December 31, 2011.

Empire State Commercial Production Credit

Part V of Chapter 62 of the Laws of 2006, as amended by Part N of Chapter 61 of the Laws of 2006, and further amended by S.8442, creates a new corporate franchise and personal income tax credit to encourage production of commercials in New York State. The Governor's Office for Motion Picture and Television Development will administer the credit, determining credit eligibility and allocating the $7 million aggregate credit amount allowed annually.

The credit consists of three components:

- 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 shall 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.

Fifty percent of the credit is refundable, with the remainder fully refundable in the following year. An additional credit is available in New York City if the City adopts the appropriate local laws. The credit sunsets on December 31, 2011.

Extension of Environmental Zones (EN-Zones) for the Brownfield Redevelopment Tax Credit and the Tax Credit for Remediated Brownfields

Part G of Chapter 62 of the Laws of 2006 provides that taxpayers claiming brownfields credits on sites located in EN-Zones can receive enhanced credit rates. For an area to be designated as an EN-Zone, it must meet one of two tests. It must have a poverty rate of at least 20 percent and an unemployment rate of at least 1.25 times the statewide rate, or have a poverty rate of at least two times the poverty rate for the county in which the area is located. Under the latter provision, the site also had to be the subject of a brownfield site cleanup agreement pursuant to section 27-1409 of the Environmental Conservation Law entered into prior to a certain date. The budget extends that date from September 1, 2006 to September 1, 2010.

Low-income Housing Credit

Part P of Chapter 62 of the Laws of 2006 increases the statewide, aggregate credit limit for the low-income housing credit from $8 million to $12 million. The New York State low income housing tax credit program is based on the existing Federal program and requires an agreement between the taxpayer and the Commissioner of the New York State Division of Housing and Community Renewal 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 is allowed as

	a credit against tax for ten tax years. Unused credits may be carried forward indefinitely. The total amount of credit available is $12 million each year. The credit program applies to corporate franchise, personal income, bank, and insurance taxpayers.
Power for Jobs Extension	Part U of Chapter 59 of the Laws of 2006 extends the tax credits available to regulated public utilities for providing low cost power to businesses allocated power under the Power for Jobs program through December 31, 2007. The provisions are effective immediately, and deemed to have been in effect on and after April 1, 2006.
Alternative Fuel Vehicle Refueling Property Technical Fix	Part W-1 of Chapter 109 of the Laws of 2006 addressed the alternative fuel vehicle refueling property credit. Previously, the credit was tied to a federal deduction, but the deduction was changed to federal tax credit this past year. Therefore, this part updates the references to the Internal Revenue Code to reflect this change. Further, this part also extends the credit to Article 22. Prior to this change, the credit was only available under Articles 9 and 9-A. Finally, the bill extends the sunset date from July 26, 2008 to December 31, 2010.

Sales and Use Tax

Amusement Park Admissions	Part M of Chapter 62 of the Laws of 2006 makes permanent the sales tax exemption for 75 percent of the admission charge to a qualifying place of amusement. This legislation is effective immediately. The current exemption is set to expire on October 1, 2006.
Clothing and Footwear Exemption	The enacted budget allowed the year-round sales and use tax exemption for clothing and footwear items priced under $110 per item or pair (with local option) to take effect on April 1, 2006. The 2005-06 enacted budget provided that, if the SFY 2006-07 Executive Budget does not propose a new reduction in any tax, then the suspension of the year-round exemption for clothing and footwear priced under $110 is extended through March 31, 2007. Because the 2006-07 Executive Budget did contain such a tax reduction, the clothing exemption took effect as scheduled in 2006. Chapter 25 of the Laws of 2006 gives localities imposing sales tax the option of electing the clothing exemption from their local sales tax on June 1, 2006. It also allows localities that had previously elected the exemption to repeal their election on June 1, September 1, or December 1 of 2006. Prior law only allowed localities to elect or repeal the exemption on March 1 of any year.

Vendor Credit

Part H of Chapter 62 of the Laws of 2006 increases the vendor credit by changing the calculation of the vendor credit from 1.5 percent of the quarterly State sales tax capped at a maximum credit of $150 per quarter to 5 percent of the quarterly State and local sales and use taxes with the maximum vendor credit capped at $200 per quarter. This increase in the vendor credit is phased in over two years as follows: SFY2006-07: beginning September 1, 2006 the vendor credit will be calculated at 5 percent of the State and local sales taxes remitted capped at $175 per quarter; SFY 2007-08: beginning March 1, 2007 the vendor credit will be calculated at 5 percent of the State and local sales and use taxes remitted with the maximum vendor credit capped at $200 per quarter.

Sales Tax Registration of State Contractors

Part L of Chapter 62 of the Laws of 2006 simplifies the administration of the sales and use tax registration program for persons contracting with the State. The changes are applicable to a procurement begun on or after January 1, 2005 if the resulting contract is awarded, amended, extended or assigned after enactment of the Budget.

Other Miscellaneous Provisions

Pari-mutuel Tax

Part OO of Chapter 62 of the Laws of 2006 reduces by 0.2 percent the tax payments made by tracks and OTBs on track to track and out-of-state thoroughbred simulcasting for one year effective April 1, 2006. This 0.2 percent reduction in tax payments by the tracks and OTBs are offset by a 0.2 percent increase in the OTB and track payments on these wagers to the Thoroughbred Breeding Fund.

In addition, these provisions make a permanent 0.2 percent reduction in the taxes paid on wagering on NYRA races at OTBs and all thoroughbred races at simulcast theaters. For these wagers placed at the OTBs and the simulcast theaters, there are no offsetting payments to the Thoroughbred Breeding Fund.

Real Estate Investment Trusts (REITs)

Part J of Chapter 62 of the Laws of 2006 extends for three years the lower New York State real estate transfer tax and New York City real property transfer tax rates for qualifying transfers of real property to existing real estate investment trusts (REITs).

The respective tax rates are reduced by 50 percent for qualifying REIT transfers. The rate reductions previously expired on September 1, 2005, but are now extended retroactively and apply to qualifying REIT transfers occurring on or after September 1, 2005, and through September 1, 2008.

Real Estate Transfer Tax (RETT) Revenue Distribution	Part B of Chapter 59 of the Laws of 2006, as amended by Part U-1 of Chapter 109 of the Laws of 2006, increases the amount of real estate transfer tax revenue to be deposited in the State's Environmental Protection Fund. Beginning in State Fiscal Year 2007-2008, the amount of revenue to be deposited into the fund increases from $137 million to $212 million. In addition, at the direction of the Director of the Budget, an additional amount of $75 million may be deposited in the fund during SFY 2006-2007. For the prior fiscal year, this additional amount was $25 million. This provision is effective April 1, 2006.
Alternative Fuel Sales	Part W-1 of Chapter 109 of the Laws of 2006 provides a full exemption from excise tax, petroleum business tax (PBT) and State and local sales taxes for fuel products identified as E-85 (85 percent ethanol/15 percent gasoline), compressed natural gas (CNG) and hydrogen, when suitable for use in a motor vehicle engine. The legislation also provides reduced tax rates under the excise tax and PBT for fuel product identified as B-20 [20 percent bio-product (e.g., soybean oil), 80 percent diesel fuel]. The rate reduction will be 20 percent under both taxes. Further, the State sales tax on B-20 will be imposed at 80 percent of the fixed cents per gallon rate applicable for motor fuels under this tax. If a locality also chooses the fixed cents per gallon option for motor fuels, the local sales tax on B-20 will be imposed at 80 percent of the fixed cents per gallon rate applicable in that locality. If the locality does not make the fixed rate per gallon choice, the local sales tax will be imposed on 80 percent of the receipts from the retail sale of B-20. These provisions are effective September 1, 2006 and will sunset September 1, 2011.

STAR

STAR Adjustment	Chapter 53 of the Laws of 2006 contains appropriation language for the STAR program including an adjustment for the 2006-07 school year. The base figure for the enhanced STAR exemption for eligible senior citizens will be increased by 13.6 percent rounded to the nearest $10.
STAR Rebates	Chapter 105 of the Laws of 2006 as amended by Part F of Chapter 109 of the Laws of 2006 authorizes the Local Property Tax Rebate Program. Local property taxpayers who receive either the basic or enhanced STAR exemption and paid their school taxes will receive rebate checks equal to $9,000 multiplied by the product of the school district tax rate and the county sales price differential factor,

if any. Senior citizens that qualify for the enhanced STAR exemption receive a rebate as computed above times 1.67. There is also an adjustment factor for qualified taxpayers whose residences are in the Big 5 city school districts (New York City, Yonkers, Buffalo, Rochester, and Syracuse). A separate formula is used for residents of certain cooperative apartments which are entitled to other real property tax exemptions under the Private Housing Finance Law whereby the base factor in the formula equals $3,000.

The Office of Real Property Services (ORPS) is responsible for assembling the list of eligible real property owners from the final assessment rolls provided by local assessors by July 31st. ORPS then provides the list of rebate-eligible parcel owners, the mailing addresses and information necessary for the computation of the rebate amount to the Tax Department no later than August 15th. The Department must issue checks to the extent possible, by October 31st.

Special mailings are to be made by the Department to owners of cooperative housing corporations and mobile home parks for distribution to their residents. In addition, in 2006 STAR qualified taxpayers who could have completed the STAR application, but did not, by March 1st, can obtain a certification from their local assessor. These groups of rebate eligible individuals have until January 20th of the following year to apply to the Department for their rebate.

After 2006, the legislation provides that in the event that the enacted State budget does not contain an appropriation to pay the rebates, then a personal income tax refundable tax credit equal to the rebates takes effect.

New York City STAR Credit

Chapter 105 of the Laws of 2006 as amended by Part F of Chapter 109 of the Laws of 2006 also increases the New York City STAR credit against the New York City income tax. Beginning in tax year 2006, the refundable credit is raised from $125 to $230 for married couples and from $62.50 to $115 for all others. This section also changes the reimbursement percentage due to New York City from the State in the 2006-07 city fiscal year to 37.5 percent in both September and December and 25 percent in June. Previously, the three payments were in equal one-third installments—in September, December and March.

Appendix A: Summary of FY 2006-07 Tax Provisions

Summary of Tax Provisions in SFY 2006-07 Budget

Section(s)	Page(s)	Section(s)	Page(s)	Section(s)	Page(s)	Subject	Description	Effective Date
Chapter 62 of the Laws of 2006 (S.6460-C)		Chapter 61 of the Laws of 2006 (S.7265)		Chapter 109 of the Laws of 2006 (S.8471)				
Part A	3-4	Part N Section 1	32	Part L-1	65	Empire State Child Credit	For children ages 4-16, resident taxpayers may claim a refundable credit equal to the greater of a) $100 times the number of qualifying children, ages 4-16, who qualify for the Federal child tax credit, or b) 33 percent of taxpayer's allowed Federal credit. New York taxpayers with incomes in the Federal phase-out range may only claim a New York credit equal to 33 percent of their allowed Federal credit.	TYBOA January 1, 2006
Part C	6-7					Increase the Standard Deduction	Increases standard deduction for married filing joint (and qualifying widow) from $14,600 to $15,000, married separate from $6,500 to $7,500.	TYBOA January 1, 2006
Part D	7					National Guard Exemption	Exempts monies received by New York National Guard members who are called up to active service in the State by the Federal Government under Title 10 of the U.S. Code.	TYBOA January 1, 2004
Part E	7					Marginal Tax Rate on Annuities Premiums	Amends the calculation of the limitation on tax for certain annuities companies under Article 33.	TYBOA January 1, 2006
Part F	7-10					Land Conservation Easement Credit	Creates a refundable tax credit for 25 percent of the taxpayer's school district, county and city/town real property taxes paid on land that is under a conservation easement. The maximum credit allowed in $5,000.	TYBOA January 1, 2006
Part G	10-11					Brownfields EN-Zone Extender	Extends the sunset date of one qualifying criterion for EN-Zone credit rate enhancements from 9/1/06 to 9/1/10.	Immediately

Summary of Tax Provisions in SFY 2006-07 Budget

Section(s)	Page(s)	Section(s)	Page(s)	Section(s)	Page(s)	Subject	Description	Effective Date
Chapter 62 of the Laws of 2006 (S.6460-C)		Chapter 61 of the Laws of 2006 (S.7265)		Chapter 109 of the Laws of 2006 (S.8471)				
Part H	11-12					Vendor Credit	Increases the vendor credit by changing the calculation of the vendor credit from 1.5 percent of the quarterly State sales tax capped at a maximum credit of $150 per quarter to 5 percent of the quarterly State and local sales and use taxes with the maximum vendor credit capped at $200 per quarter.	Effective September 1, 2006 the vendor credit will be calculated at 5 percent of the State and local sales taxes remitted capped at $175 per quarter. Effective March 1, 2007 the vendor credit will be calculated at 5 percent of the State and local sales and use taxes remitted with the maximum vendor credit capped at $200 per quarter.
Part I	12-19					Bank Tax and GLBA Provisions	Extends the commercial bank tax provisions under Article 32 and the transition provisions related to the Gramm-Leach-Bliley Act (GLBA) for two years until 2008.	TYBOA January 1, 2006; sunsets for TYBOA January 1, 2008
Part J	19-20					Real Estate Investment Trusts (REITs)	Extends the lower New York State real estate transfer tax and New York City real property transfer tax rates for qualifying transfers to existing real estate investment trusts (REITs).	Immediate; full force and effect on or after September 1, 2005
Part K	20-24					Enhanced Farmers' School Tax Credit	Enhances the farmers' school tax credit by increasing the base acreage from 250 to 350 acres, raising the income phase-out range from $100,000-$150,000 to $200,000-$300,000, including Christmas tree farms as eligible for the credit, and allowing the flow through of income of corporate farms to shareholders.	TYBOA January 1, 2006

Summary of Tax Provisions in SFY 2006-07 Budget

Section(s)	Page(s)	Section(s)	Page(s)	Section(s)	Page(s)	Subject	Description	Effective Date
Chapter 62 of the Laws of 2006 (S.6460-C)		Chapter 61 of the Laws of 2006 (S.7265)		Chapter 109 of the Laws of 2006 (S.8471)				
Part L	24-29					Sales Tax Registration of State Contractors	Simplifies the administration of the sales and use tax registration program for persons contracting with the State.	Applicable to a procurement begun on or after January 1, 2005 if the resulting contract is awarded, amended, extended or assigned after enactment of the Budget.
Part M	29-30					Admissions to Amusement Parks	Makes permanent the sales tax exemption for 75 percent of the admission charge to a qualifying place of amusement. The current exemption is set to expire on October 1, 2006.	Immediately
Part N	30					Clarify Treatment of the Taxability of Certain Income for Nonresidents and Part-Year Residents	Clarifies the treatment of income received from stock options, restricted stock and stock appreciation rights by nonresidents and part-year residents. It directs the Tax Department to promulgate regulations on the calculation of tax on option income earned by nonresidents and part-year residents.	TYBOA January 1, 2006
Part O	30					OTDA Overpayment Limit	Makes permanent the existing 10 percent limitation on the amount of a taxpayer's State earned income tax credit (EITC) which can be offset against a debt owed by a taxpayer to the Office of Temporary and Disability Assistance (OTDA). Previously this provision was due to expire on December 31, 2006.	Immediately
Part P	30-31					Low-income Housing Credit	Increases cap to $12 million.	Immediately

Summary of Tax Provisions in SFY 2006-07 Budget

Section(s)	Page(s)	Section(s)	Page(s)	Section(s)	Page(s)	Subject	Description	Effective Date
Chapter 62 of the Laws of 2006 (S.6460-C)		Chapter 61 of the Laws of 2006 (S.7265)		Chapter 109 of the Laws of 2006 (S.8471)				
Part S	32					S Corporation Differential Tax	Permanently eliminates the differential tax on entire net income (ENI) for S corporations under Article 9-A.	TYBOA January 1, 2006
Part U	34-35	Part N, Section 4	33			Volunteer Firefighters and Ambulance Workers Credit	Creates a $200 refundable credit for residents serving as active volunteer firefighters or volunteer ambulance workers.	TYBOA January 1, 2007
Part X	44-49					Biofuel Production Credit	Creates a refundable biofuel production credit of 15 cents per gallon, capped at $2.5 million per taxpayer per year, with a 4 consecutive year per plant limit.	TYBOA January 1, 2006
Part Y	49-51	Part N, Section 7	33			Empire State Film Production Credit	Amends the film production credit to increase the annual credit cap to $60 million and extend the sunset date through 2011.	Immediately
Part AA	54-56	Part N, Sections 8 and 9	33-34	Part V-1	84-89	Empire Zones (EZ)/ Qualified Empire Zone Enterprise (QEZE) Amendments	Creates “qualified investment” and “significant capital investment” categories which allow a taxpayer to select the start of their benefit period and allow for subsequent extensions. Also, deems certain businesses “new” for purposes of the QEZE credits. Finally, makes EZ-ITC, EZ-EIC, and EZ-WTC 50 percent refundable for such projects.	TYBOA January 1, 2006
				Chapter 440 of the Laws of 2006 (S.8442)				
Part V	35-44	Part N, Section 5 (NYC credit only)	33	NA	1-5	Empire State Commercial Production Credit	Creates a credit for qualified commercial production in New York State. The credit consists of 3 components: incremental costs; work done inside the MCTD; and work done outside the MCTD. New York City is authorized to adopt an analogous local credit. The State credit is capped at $7 million per year and the City credit is capped at $3.5 million per year.	TYBOA January 1, 2007
		Part O	34-35			Franchise Tax Exemption	Create a new exemption to the corporate franchise tax for certain corporations no longer doing business in the state.	TYBOA January 1, 2006

Summary of Tax Provisions in SFY 2006-07 Budget

Section(s)	Page(s)	Section(s)	Page(s)	Section(s)	Page(s)	Subject	Description	Effective Date
Chapter 25 of the Laws of 2006 (S.7193-A)				Chapter 109 of the Laws of 2006 (S.8471)				
	1					Local options for clothing sales tax exemption	Authorizes localities to elect or repeal the year-round clothing sales tax exemption prior to March 1, 2007.	Immediately
Chapter 53 of the Laws of 2006 (S.6453-C)								
	113					STAR Adjustment	The base figure for the enhanced STAR exemption is increased by 13.6 percent.	2006-07 school year
Chapter 58 of the Laws of 2006 (S.6458-C)								
Part I	76-77					Enhanced State EITC for Certain Non-Custodial Parents	Provides an enhanced State EITC for certain non-custodial parents, age 18 and over, equal to the greater of a) 20 percent of the Federal EITC that the taxpayer would otherwise be able to claim for one qualifying child (if he/she were a custodial parent) or b) 2.5 times the EITC for taxpayers without qualifying children. Claimants must have a child support order in effect and have made required support payments.	TYBOA January 1, 2006 and before January 1, 2013
Chapter 59 of the Laws of 2006 (S.6459-C)								
Part B	4-5			Part U-1	81-82	Real Estate Transfer Tax (RETT) Revenue Distribution	Increases RETT revenues to be deposited in the State's Environmental Protection Fund from $137 million to $212 million beginning in SFY 2007-2008. Also gives the Director of the Budget discretion to deposit an additional $75 million during SFY 2006-2007 (previously this amount was $25 million).	Immediately; full force and effect on or after April 1, 2006

Summary of Tax Provisions in SFY 2006-07 Budget

Section(s)	Page(s)	Section(s)	Page(s)	Section(s)	Page(s)	Subject	Description	Effective Date
Chapter 59 of the Laws of 2006 (S.6459-C)				Chapter 109 of the Laws of 2006 (S.8471)				
Part U	43-52					Power for Jobs Extension	Extends authorization for the Section 186-a tax credit through December 2007.	Immediately; full force and effect on or after April 1, 2006
Part HH	72-74					Clean Energy Research and Development Enterprises (CERDEs)	Creates CERDE designation and adds to the list of regionally significant projects.	Immediately
Part II	74					EZ Designation Acceleration	Moves year-4 EZ designations forward into year- 2.	Immediately
Part OO	80-89					Pari-mutuel Tax	Amends various sections of the Wagering and Racing Law to reduce by 0.2 percent the tax payments by tracks and OTBs for track-to-track and out-of-state thoroughbred simulcasting wagers for one year effective April 1, 2006. Amends various sections of Wagering and Racing Law to increase track and OTB payments to thoroughbred breeding fund by 0.2 percent for track-to-track and out-of-state thoroughbred simulcasting wagers. Amends various sections of the Wagering and Racing Law to 0.2 percent reduce the taxes paid on wagering on NYRA races at OTBs and all thoroughbred races at simulcast theaters by 0.2 percent.	

Summary of Tax Provisions in SFY 2006-07 Budget

Section(s)	Page(s)	Section(s)	Page(s)	Section(s)	Page(s)	Subject	Description	Effective Date
		Chapter 105 of the Laws of 2006 (S.8174)		Chapter 109 of the Laws of 2006 (S.8471)				
		NA	1-6	Part F	37-45	STAR Rebates	Authorizes a local property tax rebate for STAR eligible property owners equal to $9,000 multiplied by the product of the school district tax rate and the county sales price differential factor, if any. Senior citizens that qualify for the enhanced STAR exemption receive a rebate as computed above times 1.67. There is also an adjustment factor for qualified taxpayers whose residences are in the Big 5 city school districts. Checks to be issued by the Tax Department by October 31st. After 2006, in the event that the enacted State budget does not contain an appropriation to pay the rebates, then the personal income tax is amended to include a refundable tax credit equal to the rebates described above.	TYBOA January 1, 2006
		NA	5-6	Part F	40-41	NYC STAR Credit	The NYC STAR credit is increased from $125 to $230 for married couples and from $62.50 to $115 for all others.	TYBOA January 1, 2006
				Part W-1	89-94	Altelrnative Fuels Sales	Provides a full exemption from excise tax, petroleum business tax (PBT) and State and local sales taxes for fuel products identified as E-85, compressed natural gas (CNG) and hydrogen, when suitable for use in a motor vehicle engine. Provides partial rate reductions for B-20 under these taxes.	September 1, 2006; sunsets September 1, 2011
				Part W-1	94-99	Alternative Fuel Vehicle Refueling Property Technical Fix	Makes IRC conformity changes, extends credit to Article 22, and extends sunset date from July 26, 2008 to December 31, 2010.	TYBOA January 1, 2006
				Part W-1	100-101	Clean Energy Enterprises (CEEs)	Creates CEE designation, applicable statewide, and allows for EZ/QEZE Investment Zone benefits.	Immediately

TYBA Taxable years beginning after
TYBOA Taxable years beginning on or after
TMBOA Taxable months beginning on or after
TYEOA Taxable years ending on or after
NA Not applicable—bill was stand-alone legislation.

Appendix B: Summary of Tax Actions in Fiscal Years 1996-97 Through 2005-06

Fiscal Year 1996-97 Tax Actions

Real Property Gains Tax

The budget eliminated 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 was effective June 15, 1996

Personal Income Tax

- Enacted 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).

- Enacted a tax credit for the costs of rehabilitating historic barns in the State (also available under the corporate franchise tax).

Sales and Use Tax Reductions

- Exempted clothing and footwear costing less than $500 from the 4 percent State sales tax and the 0.25 percent tax imposed in the Metropolitan Commuter Transportation District (MCTD) for the period January 18, 1997 to January 24, 1997, and provided localities (including New York City) with the option to enact the exemption for the same period.

- Expanded the exemption for printed promotional materials and related services, including storage services, when the promotional materials are mailed or shipped to customers.

- Exempted municipal 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.

- Simplified the sales tax exemption for shopping papers.

- Expanded the exemption for commercial vessels and aircraft.

Petroleum Business Tax Relief	• Reduced the PBT rate on diesel motor fuel used by railroads by 7 cents per gallon on January 1, 1997.
	• Exempted from the PBT residual petroleum product and non-automotive diesel gallonage used for manufacturing purposes beginning January 1, 1998.
	• Exempted residual petroleum and non-automotive diesel gallonage used for commercial purposes from the PBT supplemental tax effective March 1, 1997.
	• Reduced 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.
	• Increased 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.
Further Tax Reductions	• Reduced 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.
	• Allowed 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.
Other Significant Provisions	• Established 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.
	• Extended 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.
	• Made 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 provided temporary additional tax relief for property transferred into existing REITs.
	• Changed 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.

- Expanded the electronic funds transfer (EFT) hardship provisions for certain building suppliers.

- Delayed the implementation of the tax on motor vehicle damage insurance awards from September 1, 1996 to July 1, 1997.

- Provided for reimbursements of petroleum business taxes on aviation fuels.

- Corrected unintended tax increases for certain taxpayers under estate and gift taxes which resulted from a 1994 law change.

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

Fiscal Year 1997-98 Tax Actions

STAR

The budget created a new program that reduced residential school property taxes. The State School TAx Relief ("STAR") program took effect for taxes levied in fiscal years beginning on July 1, 1998 for the 1998-99 school year. As passed, STAR would provide, when fully effective during the 2001-2002 school year, exemptions against school property taxes, resulting in at least a $30,000 full value exemption for homeowners under the age of 65, and at least a $50,000 full value exemption for homeowners age 65 and over with incomes at or below $60,000.

As part of the property tax relief program, the budget also provided residents of New York City with reductions in the resident City personal income tax. Similar to the property tax relief program, the State will reimburse New York City for its reduced personal income tax revenues.

Estate & Gift Tax

- The unified credit against the estate tax was increased from $2,950 to $10,000, thereby increasing the exemption equivalent from $115,000 to $300,000, beginning on or after October 1, 1998.

- The unified credit for gift taxes was increased for gifts up to $300,000 made on or after January 1, 1999.

- The gift tax was repealed for gifts made on or after January 1, 2000.

- The estate tax was replaced with a "pickup" of the tax equal to the maximum federal credit for State death taxes, increasing the exemption level for estates to the current federal level beginning February 1, 2000, with a cap on the exemption equivalent of the pickup of $1 million.

Personal Income Tax

- Enhanced the Farmers' School Property tax credit by exempting up to the first $30,000 of nonfarm federal gross income in the determination of eligibility for the credit. It also provided for subtracting principal payments on farm debt when calculating the income limit for the phase-out of the credit.

- Increased the child and dependent care credit to 100 percent of the federal child care credit for taxpayers with adjusted gross income of $17,000 or less.

- Extended the Employment Incentive Credit and Economic Development Zone Employment Incentive Credit to businesses whose owners are taxable under the personal income tax.

- Established a new solar credit for residential investment in solar electric generating equipment.

- Provided an exemption from State and local taxation for the pension income of retired Manhattan and Bronx Surface Transit Operating Authority employees, similar to that allowed other public employees.

- Created the New York State College Choice Tuition Savings Program. New York State residents and nonresidents can establish savings accounts to pay for qualified higher education expenses.

Sales Tax

- Exempted clothing, excluding footwear, costing less than $100 from the four percent State sales tax and the 0.25 percent tax imposed in the twelve-county Metropolitan Commuter Transportation District (MCTD), for the periods September 1, 1997 through September 7, 1997 and September 1, 1998 through September 7, 1998. Provided that the exemption for such clothing becomes permanent on December 1, 1999, with local option.

- Provided relief to various businesses and consumers selling and purchasing goods and services through coin-operated devices.

- Increased the vendor allowance to three and one-half percent of the State sales tax collected and raised the cap from $100 to $150 per quarter.

- Exempted sales of and services to buses used to provide passenger transportation service, including charter and tour services.

- Exempted members of homeowners' associations, including condominium owners and co-op shareholders, from the four percent State, and 0.25 percent MCTD taxes on parking services. Also exempted local sales tax on these services outside the City of New York.

Corporate Tax Provisions

- Created a new tax credit, through the Power for Jobs program, against the tax on furnishing of utility services imposed under the corporation and utility tax.
- Reduced corporation and utility tax rates for electricity, gas and telephone services.
- Extended the investment tax credit carryforward period from 10 to 15 years under the corporation franchise tax.
- Allowed credits for electric vehicles, clean fuel vehicles using natural gas, methanol and other alternative fuels, and clean fuel refueling facility property.
- Created a new tax credit for employers who employ individuals with disabilities.
- Reduced the premiums tax rate and limitation on tax liability for life insurers subject to the corporation franchise tax on insurance companies.
- Allowed insurers subject to the corporation franchise tax on insurance companies to claim a credit for investments in certified capital companies;
- Allowed the formation of captive insurance companies and providing these insurers with preferential tax treatment under the corporation franchise tax on insurance companies.
- Provided a prospective net operating loss deduction for banking corporations for losses incurred on or after January 1, 2001.
- Conformed the treatment of New York S corporations to the treatment of federal Subchapter S corporations and allowed certain banks to elect New York S corporation status.
- Extended, for four years through 2000, certain provisions of the bank tax that apply to commercial banks.
- Extended, for four years through 2000, the 17 percent Metropolitan Transportation Business Tax Surcharge for taxpayers conducting business in the Metropolitan Commuter Transportation District.

Other Significant Provisions

Created the "Taxpayer Bill of Rights Act of 1997."

- Eliminated the one cent non-refillable beverage container tax (Article 18-A) starting October 1, 1998.
- Extended until October 31, 2002, the alcoholic beverage tax enhanced enforcement provisions enacted as part of Chapter 508 of the Laws of 1993.
- Clarified the operation of the petroleum business tax (PBT) and granted refunds and credits under the PBT and motor fuel excise tax.
- Repealed the tax on motor vehicle damage insurance awards (Article 15).

Fiscal Year 1998-99 Tax Actions

STAR

The budget accelerated the STAR program enacted with the 1997-98 budget. It provided a minimum $50,000 exemption in the 1998-99 school year for senior citizens age 65 and over with incomes of $60,000 or less. This exemption level was previously $12,500, with the $50,000 amount scheduled to phase in during the 2001-02 school year. The legislation also simplified the income definition used to determine the higher senior exemption, and removed income from individual retirement arrangements from the definition.

The legislation also accelerated the higher credit for all senior citizens against the New York City resident personal income tax. These individuals will receive a credit of $125 (married) or $62.50 (all others) beginning in the 1998 tax year. Previously, they would have received a $12 credit, with the higher amounts not applying until the 2001 tax year.

Corporation Franchise Tax

Reduced the corporation franchise tax rate for large and small businesses.

- Reduced the alternative minimum tax for corporation franchise taxpayers.
- Reduced the fixed dollar minimum tax for small business taxpayers.

- Reduced the Article 22 equivalent rate for determining the S corporation differential tax.

- Established the "New York State Emerging Industry Jobs Act" to provide an emerging technology employment tax credit and an emerging technology capital credit.

- Provided an investment tax credit for brokers/dealers in the financial services sector.

- Required that the MTA Surcharge be calculated as if the Article 9-A corporate franchise tax rate had not changed. The change maintained the same amount of MTA Surcharge revenue that would have prevailed in the absence of the Article 9-A rate reduction.

Sales Tax Changes

- Expanded the existing temporary clothing exemption scheduled for September 1-7, 1998 to include footwear and increased the threshold at which an article of clothing becomes taxable to $500.

- Provided for a new temporary exemption period for articles of clothing and footwear selling for less than $500 during the week from January 17th through January 24th, 1999.

- Expanded the permanent exemption scheduled to begin on December 1, 1999 to include footwear and raised the threshold at which items of clothing and footwear become taxable from $100 to $110.

- Increased the sales tax exemption threshold for coin-telephone calls from 10 cents or less to 25 cents or less.

- Expanded the exemption for telephone central office equipment.

- Exempted textbooks purchased by full time or part time college students.

- Exempted computer system hardware used in designing and developing computer software for sale.

Personal Income Tax

- Increased the income level at which the maximum child care credit of 100 percent of the federal credit applies. Beginning in tax year 1999, this level increased from $17,000 to $35,000 of New York adjusted gross income. In addition, the income level at which the credit equals 20 percent of the federal credit increased from $30,000 to $50,000.

- Increased the maximum acreage limitation under the farmer's school property tax credit from 175 to 250 for the 1998 tax year. The maximum 250 acres was previously scheduled to apply beginning in the 1999 tax year. This change also applied under the corporation franchise tax.

- Created a new subtraction modification for gain from the sale of qualified emerging technology investments, as defined in the "New York State Emerging Industries Jobs Act." Taxpayers must add the gain to income when they sell the investments, resulting in a deferral of tax for the period they hold the investments. This tax benefit also applied under the corporation franchise tax, the bank tax and the insurance tax.

- Created a new exclusion for reparation payments and items of income from stolen assets or insurance payments for victims of Nazi persecution.

Other Provisions

- Conformed the estate and gift tax to the most recent federal amendments, including the exclusion for family-owned business assets.

- Reduced the alcoholic beverage tax on beer from 16 cents to 13.5 cents per gallon.

- Reduced the supplemental tax portion of the truck mileage tax by 50 percent.

Fiscal Year 1999-00 Tax Actions

Earned Income Tax Credit

The budget legislation increased the earned income tax credit under the personal income tax from 20 percent of the federal credit to 22.5 percent in 2000 and 25 percent for tax years beginning after 2000. The increase is contingent upon the federal government's approving the increase as maintenance of effort toward the Temporary Assistance to Needy Families program.

Bank Tax Rate Reduction

The legislation decreased the bank tax rate from 9 percent to 7.5 percent over a three-year period.

Insurance Tax Rate Reduction

The legislation also reduced the insurance tax rate on entire net income from 9 percent to 7.5 percent over a three-year period. In addition, it reduced the cap rate on premiums for non-life insurance companies from 2.6 percent to 2.0 percent over the three-year period.

Sales Tax Clothing Exemption

The budget legislation delayed implementation of the permanent exemption for clothing and footwear priced under $110 from December 1, 1999 to March 1, 2000. However, it added two additional tax-free weeks for clothing costing less than $500. These weeks occurred September 1-7, 1999 and January 15-21, 2000.

The legislation also provided localities with the flexibility to opt in or out of the permanent exemption effective in March of each year.

Other Personal Income Tax Reductions

- Enriched the farmers' school tax credit by expanding the definition of qualified property to include certain set-aside land, and increased base acreage by certain conservation acreage.

- Extended the "qualified emerging technology company" employment and capital credits from the corporation franchise tax to the personal income tax.

- Streamlined innocent spouse relief by conforming to federal provisions.

Other Business Tax Reductions

- Extended the credits for "qualifying emerging technology companies" to remanufacturers of certain commodities that would otherwise enter the solid waste stream (applied also to personal income tax).

- Created a new credit of $500 per automated external defibrillator purchased by all business taxpayers (including the personal income tax).

- Reduced the corporation franchise tax alternative minimum tax rate from 3 percent to 2.5 percent.

- Repealed provisions relating to mergers, acquisitions, and consolidations.

- Provided reductions in the subsidiary capital tax base in the corporation franchise tax for bank and insurance subsidiaries, and for gas and electric subsidiaries.

- Expanded the CAPCO program to provide an additional $30 million to be invested in certified capital companies.

- Doubled economic development zone and zone equivalent area (ZEA) wage credits, and for ZEAs, increased claim period from two to five years.

- Expanded alternative fuel tax credits to certain vehicles leased to government entities, provided the company produces the vehicles in New York and creates at least 25 full-time jobs in manufacturing the vehicles.

- Permitted air freight forwarders to file combined returns with their affiliated airlines, and to allocate their income by the specialized airline industry allocation factors.

- Reduced the corporate tax on airlines by changing the formula used to apportion income to New York.

- Ensured that natural gas used to produce electricity for ultimate consumption is not subject to the gas import tax.

- Eliminated the excess dividends tax for telecommunications companies which provide local telephone service with fewer than one million access lines.

Other Sales Tax Provisions

- Expanded exemptions for farming activities.

- Provided an exemption for machinery, equipment and apparatus used to upgrade cable television systems to provide telecommunications services for sale. Also exempted machinery and equipment purchased by telecommunications companies for transmission of Internet access services.

- Extended exemption for hardware used in designing and developing computer software to include hardware used in Internet web site design and development.

- Exempted certain theatrical property and services from tax.

- Exempted repair and maintenance services to manufacturing equipment from non-New York City local sales taxes.

- Reduced the use tax on self-manufactured items which manufacturers use in their businesses.

- Extended the exemption for hot drinks and certain food items sold from vending machines to include vending machines which accept credit and debit cards.

- Extended special record keeping and on-site inspection provisions applicable to parking garages located in Manhattan.

Other Tax Reductions

- Provided a 20 percent petroleum business tax rate reduction for diesel and residual oils used for non-residential heating, and a full reimbursement when these fuels are used in mining or extracting.

- Reduced the beer excise tax by 1 cent per gallon, and expanded the small brewers exemption.

- Exempted from all taxes qualified settlement funds and grantor trusts established for victims or targets of Nazi persecution and amounts received by victims from such funds or trusts.

- Conformed the estate and gift tax to federal law, enriching the deduction for family owned businesses and other provisions.

- Extended lower State and New York City real estate transfer tax rates for transfers to existing real estate investment trusts.

- Reduced the tax applicable to on-track wagering at New York Racing Association racetracks.

- Reduced the boxing and wrestling tax.

Fiscal Year 2000-01 Tax Actions

Energy Tax Reduction

The Article 9 corporate utility franchise tax on gross receipts was amended to no longer apply to companies providing energy services. Effective January 1, 2000 companies providing energy services, including gas and electric providers and pipelines, became taxable under Article 9-A. The other Article 9 gross receipts taxes were substantially reduced over a five-year period. The tax on energy as a commodity and the natural gas import tax will be eliminated by 2005. In addition, a refundable tax credit was provided for any of the gross receipts taxes and the gas import tax on manufacturing uses of energy paid on or after January 1, 2000.

Because it is possible to purchase the commodity of gas or electricity outside of New York, a compensating use tax on electricity and natural gas was imposed by the legislation, effective June 1, 2000. In addition, effective September 1, 2000 the sales tax on charges for separately purchased transmission and distribution of electricity and gas was phased down and will be eliminated by September 1, 2003.

Power for Jobs

A fourth phase of the Power for Jobs Program was added providing 300 megawatts of lower cost power to employers. Allocations began during the Fall of 2000 and three year contracts for the reduced cost power began on or after January 1, 2001.

Personal Income Tax Reductions

The legislation created a new refundable credit or an itemized deduction for allowable college tuition expenses paid by resident taxpayers on behalf of the taxpayer, the taxpayer's spouse, or dependents to enroll or attend qualifying in- or out-of-state institutions of higher education. The credit and deduction are available only for undergraduate study. The maximum amount of allowable college tuition expenses is $10,000 phased in equally over a four-year period beginning in tax year 2001.

The legislation also:

- Increased the standard deduction for married couples filing a joint tax return from $13,000 to $13,400 in tax year 2001, $14,200 in tax year 2002, and $14,600 thereafter;

- Increased the earned income tax credit (EITC) for low and moderate-income working families from 25 percent of the federal credit in 2001 to 27.5 percent in 2002, and to 30 percent of the federal credit after 2002; and

- Increased the child and dependent care credit from 100 percent of the federal to 110 percent for taxpayers with incomes under $25,000, and applied the 100 percent credit to incomes up to $50,000, up from $35,000. The income level at which the credit equals 20 percent of the federal also increased, from $50,000 to $65,000.

Finally, the legislation created new credits for:

- Twenty percent of the cost of installing fuel cell electric generating equipment in the taxpayer's principal residence, up to a maximum credit amount of $1,500;

- Up to $250 of costs associated with each of the following: 1) removing existing residential fuel oil storage tanks, 2) permanently closing existing residential fuel oil storage tanks, and 3) purchasing and installing new replacement tanks; and

- Ten percent of the cost of purchasing qualifying long-term care insurance.

Business Tax Reductions

- Reduced the corporate franchise tax rate for small businesses from 7.5 percent to 6.85 percent for businesses with entire net income of $200,000 or less. For small businesses with entire net income between $200,000 and $290,000, the rate ranges from 6.85 percent to 7.5 percent.

- Reduced the S corporation differential tax rate by 45 percent.

- Created an "Empire Zones Program Act" to encourage the development of businesses in economic development zones (EDZs) throughout the State.

- Provided an array of tax credits to encourage the construction of environmentally sensitive or "green" buildings.

- Allowed the use of the economic development zone employment incentive credit against the alternative minimum tax.

- Exempted qualified homeowners associations, which have no homeowners' taxable income, from payment of the fixed dollar minimum tax under the corporate franchise tax.

- Allowed the acquiring corporation a certain portion of the investment tax credit (ITC) associated with assets transferred by the transferor corporation in certain transactions.

- Prevented the elimination of investment tax credits for companies involved in mergers and acquisitions.

- Provided a new tax credit for qualified transportation improvement contributions.

- Special provisions under Article 9-A relating to the sale or lease of electric vehicles or clean fuel vehicle property installed in motor vehicles to governmental entities, scheduled to sunset in 2001, were extended to 2003.

- Created a new credit program entitled the "New York State Low Income Housing Tax Credit Program."

- Allowed securities brokers/dealers to allocate receipts based on the location of their customers, rather than under an approach based on where they perform their services.

- Created transitional provisions relating to the enactment and implementation of the federal Gramm-Leach-Bliley Act of 1999 to allow certain corporations that were taxed under the corporate franchise tax or bank tax in 1999 to maintain that taxable status in 2000. Also permitted certain corporations that are owned by financial holding companies or are financial subsidiaries of banks to elect to be taxed under either the corporate franchise tax or bank tax for the 2000 taxable year.

- Established a third Certified Capital Company (CAPCO) program under which insurance taxpayers can claim a credit for 100 percent of the amount invested in CAPCOs.

- Allowed bank taxpayers to situs receipts from management, administrative, or distribution services to regulated investment companies based on the location of the customer. This conformed the situsing method for banks to the method allowed for general business corporations.

- Extended the ITC available to corporations, banks, and personal income taxpayers that are broker/dealers in securities to insurance taxpayers.

Sales and Use Tax Deductions

- Expanded the existing farm production exemption for tangible personal property, building materials, utility services, and services provided to farm real property. Provided commercial horse boarding operations with the same exemptions provided to farms.

- Provided companies developing and operating Internet data centers in New York an exemption for most property and services used in their web site hosting facilities.

- Exempted food and drink sold through a vending machine when such items cost 75 cents or less.

- Modernized and enhanced the exemption for property and services used to provide telecommunications services and Internet access services for sale. Exempted certain purchases for conversion to digital cable television service.

- Provided radio and television broadcasters an exemption for machinery and equipment and certain services used in the production and transmission of live or recorded programs.

- Exempted manufacturing and industrial pollution control equipment and machinery.

Other Tax Reductions

- Eliminated the pari-mutuel tax on all races taking place at New York Racing Association (NYRA) race tracks during the three days surrounding a Breeders' Cup Event held at a NYRA track.

- Provided for a 33 percent petroleum business tax (PBT) rate reduction for both diesel motor fuel and residual oil used for non-residential heating purposes.

- Repealed two PBT minimum taxes.

- Reduced the beer tax from 12.5 cents to 11 cents per gallon.

- Accelerated the effective date for the expansion of the small brewers exemption under the beer tax retroactively to January 1, 2000 from the original effective date of March 1, 2001.

- Reduced the supplemental tax portion of the truck mileage tax by 20 percent.

Fiscal Year 2001-02 Tax Actions

- The major action of the 2001-02 budget was an increase in the size of the Empire Zones program through the addition of eight new zones.

Fiscal Year 2002-03 Tax Actions

Victims' Relief and Lower Manhattan Business Development

- Provided a State, New York City, and Yonkers personal income tax exemption for tax years 2000 and 2001 (and 2002 for deaths occurring in 2002) for persons dying as a result of the terrorist actions of September 11, 2001. It also conformed the estate tax to the federal Victims of Terrorism Tax Relief Act of 2001, which provides for an increased exemption and tax reductions for estates above $2.9 million.

- Allowed different treatment regarding ITC recapture for property damaged or destroyed on September 11, 2001; and

- Extended the sunset date of the financial services ITC by five years.

Finally, to promote consumer activity and tourism in Lower Manhattan, the budget legislation designated specific three-day periods in June, July, and August 2002 when certain sales of tangible personal property, restaurant meals, hotel occupancy, and cabaret/roof garden charges in a designated area of Lower Manhattan will be exempt from the State and Metropolitan Commuter Transportation District (MCTD) sales and use taxes. New York City has exercised its option to provide the exemption from its local sales tax, so such sales will be completely sales tax-free.

Tax Amnesty

Taxpayers with unpaid liabilities under the personal income tax, sales and compensating use tax, corporate franchise taxes (other than the bank and insurance taxes), estate tax, and various excise taxes may be eligible to participate in a tax amnesty program covering unpaid liabilities for certain periods depending upon the type of tax. Amnesty participants can receive a waiver of certain penalties and a 2 percent reduction in the applicable interest rate relating to unpaid liabilities. After the amnesty period concludes, the interest rate applicable to all underpayments will increase by 2 percent.

Personal Income Tax

Personal income tax provisions in the budget :

- Reduced the threshold for mandatory remittance of withholding tax via electronic funds transfer (EFT).
- Clarified the dollar limitation on tuition expenses for purposes of the college tuition tax credit and itemized deduction, attributed tuition paid by a dependent student to the parent, and included New York City personal income tax conforming amendments.
- Amended the residential petroleum tank replacement credit.

Business Taxes

Other provisions in the State budget relating to business taxes:

- Modified the definition of brokers or dealers in securities for New York income allocation rules to include those marketing over-the-counter derivatives.
- Changed the order in which tax credits must be taken under Tax Law Articles 9, 9-A, 32 and 33.
- Increased the amount of the first quarterly installment of estimated tax for certain taxpayers.
- Increased the aggregate limit for the low income housing tax credit.
- Permitted gas pipeline companies with contracts in effect when New York's energy taxes were restructured and reduced to continue to recover tax costs as those contracts intended.
- Added community development loans or investments to the assets that may be used in qualifying as a "thrift" banking corporation.
- Made clarifications to the Empire Zones program.
- Authorized ten new Empire Zones and establish criteria regarding zone boundaries.

Sales and Use Tax

The sales and compensating use tax provisions in the budget legislation:

- Amended the State and local sales taxes and the telecommunications excise tax to respond to the federal Mobile Telecommunications Sourcing Act, and included certain technical corrections with respect to the sales and use taxation of prepaid telephone calling cards.

- Lowered the threshold for mandatory electronic funds transfer (EFT) participation for sales tax vendors.

- Provided a new index to adjust the base retail price, for purposes of calculating the prepaid sales tax on cigarettes, and made clear that the tax required to be prepaid per package of cigarettes is to be rounded to the nearest whole cent;.

- Allowed energy service companies that operate in an area where use of a single retailer model has been approved by the Public Service Commission to qualify for the reduced sales tax rate on certain charges for the transmission and distribution of gas and electricity.

STAR

A separate budget bill provided for annual cost-of-living adjustments to the maximum income allowed under the enhanced School TAx Relief (STAR) exemption for persons age 65 and over.

Other Taxes

Provisions addressing other taxes will:

- Extend the lower New York State real estate transfer tax and New York City real property transfer tax rates for qualifying transfers to existing real estate investment trusts (REITs);

- Extend the enhanced alcoholic beverage tax enforcement provisions until October 31, 2007; and

- Raise the excise tax rate on tobacco products and impose a floor tax on all tobacco products possessed in the State as of a certain date.

Fiscal Year 2003-04 Tax Actions

Personal Income Tax

- Temporarily added two New York State income tax rates and brackets for tax years 2003 through 2005. The new top rate and bracket for all filing statuses for tax years 2003 to 2005 is 7.7 percent of taxable income in excess of $500,000. The supplemental tax which recaptures the benefits of the lower tax rates is also amended.

- Like the State tax, the legislation temporarily added two New York City resident income tax rates and brackets for tax years 2003 through 2005, in addition to the top 3.4 percent rate (3.648 percent including the 14 percent additional tax surcharge) that previously applied for tax year 2003. The new top rate and bracket for all filing statuses for all three years 2003-2005 is 4.45 percent of taxable income in excess of $500,000.

- Extended the higher New York City resident income tax rates, scheduled to expire after 2003, through 2005. After 2005, the rates will fall to, for example, a top rate of 1.61 percent in 2006 and 1.48 percent after 2006.

- Decoupled New York's tax code from the federal tax code for both corporate and personal income tax purposes with respect to the depreciation bonus. Bonus depreciation is no longer allowed for taxpayers whose tax year begins in 2003 and who place property in service on or after June 1, 2003. Bonus depreciation claimed by taxpayers for dates prior to the above two restrictions is still allowed, and an exception applies for Liberty Zone property.

- Made various changes to limited liability company fees. The fees increased from $50 per member to $100 per member, and the minimum fee increased from $325 per entity to $500 per entity. Likewise, the maximum fee increased from $10,000 to $25,000. The fee also extended to apply to single member entities which are exempt from the minimum fee requirements. Finally, the bill amended the due date for filing returns and paying the fee from the fifteenth day of the fourth month following the end of the taxable year (usually April 15th) to within 30 days of the end of the taxable year (usually by January 30th).

- Required personal income and corporate franchise taxpayers to add back to federal adjusted gross income (FAGI) the expense deduction allowed under Internal Revenue Code section 179 for certain SUVs. An exemption to this addback is allowed for eligible farmers.

- Created a new requirement that flow-through entities such as partnerships, limited liability companies, and S corporations make quarterly estimated tax payments of New York State income tax for nonresident owners such as partners, members, and shareholders. The payment is based on such person's or corporation's portion of the entity's New York-source entity income after certain deductions, and paid at the highest rate of tax for the year.

- Created a new estimated tax requirement for nonresidents with certain sales or transfers of New York real property. In order for the deed to be recorded and transferred to the buyer, the nonresident seller must remit estimated tax on the gain, at the highest rate of tax.

Business Taxes

- Required taxpayers who deduct interest or royalty expenses for amounts paid to a related member for the use of intangible assets to add back those deductions to their taxable income. No addback is required if the royalty payments are made to an unrelated third party for a valid business purpose and are made at arm's length, or if the payments are subject to treatment under a tax treaty.

- Amended Article 33 to significantly change the way insurance companies are taxed. Previously, all Article 33 taxpayers (except captive insurers) were subject to an income-based tax computed on the highest of four bases plus a tax on subsidiary capital, as well as an additional tax on premiums. Total tax liability for both life and non-life insurers could not exceed 2 percent of net premiums under the limitation on tax. This section eliminated the income base component for non-life insurers and makes the premiums tax the sole basis of tax. In addition, the premiums tax rate is raised to 1.75 percent on accident and health premiums and 2 percent on all other non-life premiums. The limitation on tax will no longer apply to non-life insurers. Life insurers will continue to be subject to the income-based tax, but will now be subject to a floor amount. Under the new floor, tax liability before the application of credits may not be less than 1.5 percent of net premiums. The fixed dollar minimum tax of $250 will still apply to both life and non-life insurers. These provisions are effective immediately and apply to taxable years beginning on or after January 1, 2003.

- Extends for two years certain provisions of the Tax Law and the Administrative Code of the City of New York relating to the taxation of commercial banks which were scheduled to sunset for taxable years beginning on or after January 1, 2003.

- Provides that for purposes of Article 9-A, S corporations shall be subject only to the fixed dollar minimum tax for tax years beginning in 2003, 2004, and 2005. Normally, S corporations are subject to a differential tax computed on a portion of the difference between the top personal income tax rate and the corporate tax rate, which is higher. Other provisions resulted in the top personal income tax rate (7.7 percent) exceeding the corporate tax rate (7.5 percent) for these years, making the differential tax inapplicable. After 2005, the top personal income tax rate will return to 2002 levels (6.85 percent) and the differential tax will be restored. In addition, S corporations will be subject to the $800 fixed minimum amount for inactive corporations during these years. This provision is effective immediately and applies to taxable years beginning in 2003, 2004 and 2005.

Sales & Other Taxes

- Increased the state sales and use tax rates imposed by Tax Law sections 1105 and 1110 by 1/4 of a percentage point. The legislation requires that the tax rate remain at 4.25 percent from June 1, 2003 through May 31, 2005. It is scheduled to be returned to 4 percent on June 1, 2005.

- Amended the State and local clothing and footwear exemption. For the June 1, 2003 through May 31, 2004 period, the exemption for clothing and footwear priced under $110 is suspended. The legislation also provided for two week-long temporary exemptions for clothing and footwear priced under $110, with local option.

- Enacted the Simplified Sales and Use Tax Administration Act. The Act primarily authorizes New York to enter into the Streamlined Sales and Use Tax Agreement as one of the Streamlined Sales Tax “Implementing States.” The Act does not amend the sales tax impositions, exemptions or other provisions in Tax Law Article 28. Nor does it commit New York to enact any legislation in the future to conform its sales tax to the tax described in the Streamlined Sales and Use Tax Agreement.

- Required a line or lines to be included on the New York State personal income tax returns in order to enable taxpayers to report and pay unpaid state and local sales and compensating use taxes with their income tax returns. As a result of this amendment, individuals, estates and trusts which are not registered sales tax vendors may report and pay on their personal income tax returns any unpaid state and local sales and compensating use taxes due for the year covered by the income tax return.

- Provided that the New York City excise tax on cigarettes, currently at $1.50 per pack, is to be included in the state sales tax base. This change is effective September 1, 2003.

- Amended the Tax Law to require the Commissioner to promulgate regulations necessary to implement collections of sales and use taxes on "any retail sale item" as well as cigarette and fuel excise taxes on sales made to non-native Americans on recognized reservations in the state.

- Eliminated general taxpayer support for the regulation of the state's horse racing industry by assessing a 0.5 percent fee on the industry to finance on-track race judges, stewards, drug testing and the State Racing and Wagering Board that is the state's regulatory body that oversees the industry.

- Amended the Alcohol Beverage Control Law to allow wine and liquor stores the option of opening on Sundays. Stores exercising this option are allowed to open on Sundays from Noon until 9:00 P.M., but are required to close another day so that they are open no more than six days per week. The option to open Sundays started on May 18, 2003 and remains in effect for five years when it then expires.

- Created a new waste tire management fee on sales of new tires in the state. The new fee of $2.50 per new tire sold is imposed under the Environmental Conservation Law but the fee will be administered and collected by the Department. The fee will be collected from tire retailers, including car dealers, on sales of new tires for use on cars, trucks, motor homes, buses trailers, or any other vehicle that could qualify for registration under section 401 of the Vehicle and Traffic Law. The tire retailer will be required to remit to the Department $2.25 for each new tire sold during a sales tax quarter and will be allowed to keep 25 cents per tire sold to cover administrative costs. The tire fee does not apply to recapped or resold (used) tires. It also does not apply to mail-order, phone-order or Internet sales of tires.

Fiscal Year 2004-05 Tax Actions

Personal Income Tax

- Increased the credit for long-term care insurance premiums from 10 to 20 percent (also applies for business taxes).
- Included the gain from the sale of residential cooperative housing as New York-source income for nonresidents.

Business Taxes

- Extended the Metropolitan Commuter Transportation District business tax surcharge for four years.
- Temporarily created two new minimum tax amounts under the corporate franchise tax.
- Established a new credit for film production activity in New York (also applies under the personal income tax and New York City unincorporated business income and general corporation taxes.)
- Increased the Statewide annual aggregate limit for the low-income housing credit from $4 million to $6 million (also applies to the personal income tax).
- Extended credits for alternative fuel vehicles for an additional year (also applies to personal income tax).
- Extended the Qualified Emerging Technology Company (QETC) credit to biotechnology.
- Extended basic bank tax and federal Gramm-Leach-Bliley Act transition provisions.
- Established a fourth certified capital company program under the insurance tax.
- Extended the Empire Zones program from September 13, 2004 to March 31, 2005.
- Extended and modifed the Power for Jobs Program under Article 9.
- Created two new exemptions for aviation fuel under the petroleum business tax.

- Created two temporary fixed dollar minimum amounts of $5,000 and $10,000 and temporarily reduced the $225 amount to $100.

Sales and Use Tax

- Postponed reinstatement of the clothing and footwear exemption through May 31, 2005, while providing new one-week exemptions from August 31 through September 6, 2004, and January 31 through February 6, 2005.

- Provided a new exemption for maintenance and certain other services performed on private aircraft.

- Created a credit or refund for certain vessels used in local transportation of passengers on water.

- Extended the exemption for alternative fuel vehicles for an additional year.

- Required companies, including affiliates, entering into contracts with the State to comply with various sales and use tax obligations.

- Extended for four years the sales tax dedication mechanism for the Carousel Center in Syracuse.

Other Miscellaneous Provisions

Other miscellaneous provisions:

- Restored former practice with respect to the availability of hearings on certain notice and demands and notices of additional tax due.

- Allowed for seven-day sales of alcoholic beverages by wine and liquor stores.

- Fixed a potentially unconstitutional calculation in the estate tax for estates with property in other states.

- Extended the waste tire management fee to include tires sold for use on motorcycles, ATVs, and limited use vehicles.

New York City

- Authorization for three years of residential property tax rebates of up to $400.
- Created of an earned income credit equal to 5 percent of the federal credit.
- Limited mortgage recording tax avoidance where mortgages are spread between different properties.
- Required an add-back for expensing of certain sport utility vehicles under the unincorporated business, corporation, and bank taxes.
- Requirement for electronic funds transfer payments where annual property tax liability is $300,000 or more.
- Allowed the minimum interest rate for overpayments to fall below 6%.
- Allowed the Tax Department to offset income tax refunds to collect warranted tax judgments against all New York City taxes.

Fiscal Year 2005-06 Tax Actions

Personal Income Tax

- Created a refundable nursing home assessment tax credit.
- Provided a refundable credit for the special additional mortgage recording tax paid by lenders on residential mortgages.
- Extended the temporary Limited Liability Company fee increase through 2006.
- Required nonresident taxpayers to include long-term care insurance credit in their base tax before applying the income percentage allocating tax to New York.

Business Taxes

- Created requirements for the business allocation percentage to be based on a single receipts factor.
- Made significant reforms to the Empire Zone/Qualified Empire Zone Enterprise program with respect to zone boundaries, zone designations, taxpayer eligibility, and benefits.

- Lowered the tax rate from 6.85 percent to 6.5 percent for small businesses and expanded the availability of the small business rate.

- Created period two of the green buildings tax credit, allocating an additional $25 million; allowed for reallocation of unclaimed credits from periods one or two.

- Created a new refundable tax credit for qualified emerging technology companies consisting of components for research and development property, research expenses, and high-technology training expenditures for qualified emerging technology companies.

- Created a fifth Certified Capital Company (CAPCO) program for certain insurance companies that can claim a credit for 100 percent of their investment in a CAPCO.

- Provided insurance taxpayers the ability to sell or transfer unused CAPCO credits to an affiliated taxpayer.

- Increased the cap under capital base from $350,000 to $1 million for certain taxpayers.

- Extended Power for Jobs program through 2006.

Sales and Use Tax

- Increased by one-eighth of one percent the sales and compensating use tax rate in the Metropolitan Commuter Transportation District (MCTD) – effective June 1, 2005.

- Suspended the year-round sales tax exemption for clothing and footwear priced under $110 through March 31, 2006, while providing for two one week-long sales tax exemptions to be held from the Tuesday immediately preceding Labor Day through Labor Day, and from the last Monday of January through the following Sunday.

Other Provisions

- Created tax shelter and reportable transaction disclosure requirements and created a voluntary disclosure program from October 1, 2005 through March 1, 2006 whereby taxpayers can get certain penalties waived by filing amended returns disclosing participation in tax shelters.

- Mandated electronic filing for preparers filing more than 200 original returns, using authorized tax preparation software.

- Created reciprocity between the State and City and other states with regard to applying tax overpayments against warranted tax debts owed New York.

- Required the Department to implement a system to collect State motor fuel and diesel motor fuel excise and petroleum business taxes, cigarette excise taxes and sales and use taxes on sales of fuels and cigarettes made to non-native Americans on recognized reservations in the State.

- Extended by one year to May 31, 2006 authorization for the Quick Draw lottery game.

For more information concerning the data provided in this publication, please contact:

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