

1985 Amendments to the Tax Law

Motor Fuel Tax

ARTICLE 1

<u>Law Section</u>	<u>Chapter</u>	<u>Legislative Bill Section</u>	<u>TSB-M*</u>	<u>Brief Summary</u>
7	387	1	---	Effective July 19, 1985 provides that the procedures for the enforcement of money judgments under Article 52 CPLR does not apply to the Tax Commission, any officer or employee of the Department of Taxation and Finance, or the Comptroller or any officer or employee of the Department of Audit and Control, as a garnishee, with respect to any amount of money to be refunded or credited to a taxpayer.

ARTICLE 12-A

282-1	44	2	85(5)M	Effective June 1, 1985 includes a person or other entity which imports motor fuel into the state for storage within the state as a distributor.
282-5	44	2	85(5)M	Effective June 1, 1985 includes a reference to Section 1101(b)(5) of Article 28, Sales and Use Tax, as a definition of sale.
283-2	44	3	85(5)M	Effective June 1, 1985 lists the instances where the Tax Commission may refuse to register a person as a distributor.
283-3	44	3	85(5)M	Effective June 1, 1985 requires the filing of a bond or the depositing of securities pursuant to Article 12-A, 28 and 29 and allows the Tax Commission to increase the required amount of bond or securities at any time.

<u>Law Section</u>	<u>Chapter</u>	<u>Legislative Bill Section</u>	<u>TSB-M*</u>	<u>Brief Summary</u>
283-4	44	3	85(5)M	Effective June 1, 1985 includes the sanction of suspension of a registration as well as the sanction of cancellation of a registration. Lists those instance where the Tax Commission may suspend or cancel a registration.
283-5	44	3	85(5)M	Effective June 1, 1985 provides for a hearing prior to most instances where an application for registration is denied or where a registration is cancelled or suspended. Gives those instances where no hearing is provided. Requires a distributor to inform the Tax Department, in writing, of any change in its address and, if the distributor is a corporation or partnership, to inform the Tax Department, in writing, of any change in its officers, directors or partners or their residence addresses as shown on the application for registration.
283-6	44	3	85(5)M	Effective June 1, 1985 allows ninety days to file a petition for a hearing after receiving a proposed notice of cancellation or suspension or a proposed refusal to register. Upon timely application for a hearing, gives the Tax Department three months to issue a notice of refusal to register or to register the applicant.
283-8	44	3	85(5)M	Effective June 1, 1985 provides that a conviction for a felony includes a conviction in a court of any state or of the United States that is a felony in New York State but does not include a conviction in a court in any state or of the United States that is not a felony in New York State. If a conviction for a felony is subsequently set aside or reversed upon appeal and the accused is acquitted or discharged, a registration which had been cancelled or suspended shall be restored. Gives instances where

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				the Tax Commission may again register a person as a distributor who was convicted of a felony.
284-1	44	4	85(5)M	Effective June 1, 1985 imposes motor fuel tax on motor fuel imported into or caused to be imported into New York State by a distributor for use, distribution, storage or sale in the State or on motor fuel which is produced, refined, manufactured or compounded by a distributor in this State. Also, exempts from tax kero-jet fuel when sold to a distributor which is an airline or motor fuel sold to the United States, New York State or a charitable hospital.
284-3	44	5	85(5)M	Effective June 1, 1985 repeals old sections 284-3 and 284-4. Imposes personal liability of Article 12-A taxes where Article 12-A taxes have not been paid or passed through. Allows a distributor-purchaser to report Article 12-A taxes in accordance with the ordinary reporting requirements and a nondistributor-purchaser to file a return and pay Article 12-A taxes within 24 hours of the day motor fuel is received.
284-a	44	6	---	Effective June 1, 1985 imposes the additional motor fuel tax of three cents per gallon on motor fuel imported or manufactured within New York State by a distributor.
284-c	44	7	---	Effective June 1, 1985 imposes the supplemental motor fuel tax of one cent per gallon on motor fuel imported or manufactured within New York State by a distributor.

<u>Law Section</u>	<u>Chapter</u>	<u>Legislative Bill Section</u>	<u>TSB-M*</u>	<u>Brief Summary</u>
285-a	44	8	85(5)M	Effective June 1, 1985 presumes that all motor fuel (except motor fuel in the fuel tank of a motor vehicle or in small containers) in the State is subject to Article 12-A taxes. Requires a purchaser of motor fuel to certify that the taxes have been paid. Allows up to a 2% maximum loss due to shrinkage, evaporation and handling that a distributor establishes.
286-1	44	9	85(5)M	Effective June 1, 1985 adds persons who store motor fuel or diesel motor fuel for compensation to the persons required to keep records.
286-2,3	44	9	85(5)M	Effective June 1, 1985 authorizes the Tax Commission to require non-distributors required to keep records to file monthly returns.
286-b-2	44	10	85(5)M	Effective June 1, 1985 authorizes the Tax Commission to require the master or other person in charge of a vessel to file monthly information returns.
287	44	10-a	85(5)M	Effective June 1, 1985 changes the filing date of the motor fuel tax return and the diesel tax return from the twenty-seventh to the twentieth.
288-1	44	11	85(5)M	Effective June 1, 1985 authorizes the Tax Commission to determine the amount of penalty under amended subdivisions (1) and (2) of Section 289-b which are imposed on owners of filling stations and responsible persons associated with corporations, partnerships and individual proprietorships.
288-2	44	11	85(5)M	Effective June 1, 1985 allows the Tax Commission to determine the amount of tax due at any time if a distributor fails to notify the department in writing of a change of its address and, if a corporation or partnership, of any change of its officers, directors or partners or their residence addresses.

<u>Law Section</u>	<u>Chapter</u>	<u>Legislative Bill Section</u>	<u>TSB-M*</u>	<u>Brief Summary</u>
288-3	44	11	85(5)M	Effective June 1, 1985 allows the Tax Commission three years after the information is received to determine the amount of tax due if a distributor notifies the Department, in writing, of a change of its address and, if a corporation or a partnership, of a change of its officers, directors or partners or their residence addresses.
288-5	44	11	---	Effective June 1, 1985 provides that interest must be deposited as well as tax and penalty prior to the commencement of a proceeding under Article 78 CPLR to review a decision of the Tax Commission.
289	44	12	85(5)M	Effective June 1, 1985 provides that warrants shall cover the interest owed by a distributor as well as taxes and penalties. Also, if the warrant is filed with the Department of State, the lien created by the filing of such warrant shall apply to personal property as well as real property.
289-b-1(a)	44	13	85(5)M	Effective June 1, 1985 increases the civil penalty for failure to file a tax return or pay tax within the time required by law from 5% to 10% for the first month or any part thereof and 1% for each additional month or any part thereof during which such failure continues with the aggregate penalty limited to 30% of the tax due. If the return is not filed within 60 days of the required date, the minimum penalty is \$100 or 100% of the tax required to be shown on the return, whichever is less. In no event shall such minimum penalty be less than the previously mentioned penalty of 10% for the first month and 1% for each additional month or any part thereof during which such failure continues.

<u>Law Section</u>	<u>Chapter</u>	<u>Legislative Bill Section</u>	<u>TSB-M*</u>	<u>Brief Summary</u>
289-b-1(b)	44	13	85(5)M	Effective June 1, 1985 provides for interest at a rate set by the Tax Commission on taxes not paid on or before the last date prescribed in Article 12-A for payment.
289-b-1(c)	44	13	85(5)M	Effective June 1, 1985 allows the Tax Commission to remit all or part of the civil penalty that it determines was due to a reasonable cause.
289-b-1(d)	44	13	85(5)M	Effective June 1, 1985 provides that the penalty for failure to timely pay tax due to fraud shall be 50% of the tax due plus 50% of the appropriate interest on unpaid tax attributable to fraud. Interest is to be computed in the same manner as for nonfraud cases.
289-b-1(e)	44	13	85(5)M	Effective June 1, 1985 imposes a civil penalty equal to twice the amount of tax on any filling station owner who willfully and knowingly has in his custody, possession or control motor fuel on which Article 12-A taxes have not been paid at the time of purchase.
289-b-1(f)	44	13	85(5)M	Effective June 1, 1985 provides for the determination, assessment, payment and collection of penalty and interest in the same manner as taxes. Also, provides for the daily compounding of interest.
289-b-2,3	44	13	85(5)M	Effective November 1, 1985 repeals these sections.
289-b-2	44	13	85(5)M	Effective June 1, 1985 imposes a civil penalty on responsible persons of a distributor who fails to pay the tax required under Article 12-A. Such civil penalty equals the taxes owed by the distributor plus penalties and interest owed by the distributor.

<u>Law Section</u>	<u>Chapter</u>	<u>Legislative Bill Section</u>	<u>TSB-M*</u>	<u>Brief Summary</u>
289-c-3(g)	44	14	85(5)M	Effective June 1, 1985 provides for reimbursement of motor fuel taxes paid by the State of New York or its agencies instrumentalities, public corporations (including a public corporation created pursuant to agreement or compact with another state or Canada) or political subdivisions, a fire company or fire department as defined in Section 3 of the Volunteer Firefighters Benefit Law, or a volunteer rescue squad supported in whole or in part by tax money.
289-c-8	44	14-a	85(5)M	Effective June 1, 1985 a refund or credit will be allowed a registered or licensed distributor of another state where motor fuel which is imported, manufactured or sold or purchased in this state is exported from this state for sale outside this state. Allows interest on the refund unless the return is processed within 30 days of the receipt of a processible claim for refund or if the amount of interest is less than one dollar.
<u>Article 37</u>				
1812	65	39	85(8)M	Effective November 1, 1985 lists the criminal penalties associated with motor fuel taxes.

Alcoholic Beverage Tax

ARTICLE 1

<u>Law Section</u>	<u>Chapter</u>	<u>Legislative Bill Section</u>	<u>TSB-M</u>	<u>Brief Summary</u>
7	387	1	---	Effective July 19, 1985 provides that the procedures for the enforcement of money judgments under Article 52 CPLR does not apply to the Tax Commission, any officer or

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				employee of the Department of Taxation and Finance, or the Comptroller or any officer or employee of the Department of Audit and Control, as a garnishee, with respect to any amount of money to be refunded or credited to a taxpayer.
			<u>ARTICLE 18</u>	
430	65	42	85(6)M	Effective July 16, 1985 provides that interest must be deposited as well as tax and penalty prior to the commencement of a proceeding under Article 78 CPLR to review a decision of the Tax Commission. Also provides that the Tax Commission, of its own motion, pay make a redetermination.
431-2	65	43	85(6)M	Effective July 16, 1985 provides that warrants shall cover the interest owed as well as the tax and penalty. Also, if the warrant is filed with the Department of State, the lien created by filing of such warrant shall apply to personal property as well as real property.
431-3	65	43	85(6)M	Effective July 16, 1985 allows the Tax Commission to request the State Liquor Authority to revoke or suspend any licenses of a distributor who fails to pay interest required under article 18.
433-i(a)(i)	65	44	85(6)M	Effective July 16, 1985 allows the Tax Commission to impose a civil penalty of 10% of the tax for the first month or any part thereof and a penalty of 1% for each additional month or part thereof on a distributor who fails to file a return or pay any tax by the due date. The penalties may not exceed 30% in the aggregate.



<u>Law Section</u>	<u>Chapter</u>	<u>Legislative Bill Section</u>	<u>TSB-M*</u>	<u>Brief Summary</u>
433-1(a)(iii)	65	44	85(6)M	Effective July 16, 1985 allows the Tax Commission to impose a minimum civil penalty of \$100 or 100% of the tax required to be shown on the return, whichever is less, when a person fails to file a return within 60 days of the due date. In no event shall such minimum penalty be less than the previously mentioned penalty of 10% for the first month and 1% for each additional month or any part thereof during which such failure continues.
433-1(b)	65	44	85(6)M	Effective July 16, 1985 allows the Tax Commission to set the rate and collect interest on taxes not paid on or before the due date without regard to any extension of time for payment.
433-1(c)	65	44	85(6)M	Effective July 16, 1985 allows the Tax Commission to remit penalties for failure to file a return or pay tax if due to reasonable cause.
433-i(d)	65	44	85(6)M	Effective July 16, 1985 provides that the penalty for failure to timely pay tax due to fraud shall be 50% of the tax due plus 50% of the appropriate interest on unpaid tax attributable to fraud. Interest is to be computed in the same manner as for non-fraud cases.
433-1(e)	65	44	85(6)M	Effective July 16, 1985 allows the Tax Commission to determine, assess and collect penalty and interest in the same manner as tax. Also, allows interest to be compounded daily.
434-1	65	45	85(6)M	Effective July 16, 1985 allows the Tax Commission to set the interest rates.
437-4	65	46	85(6)M	Effective July 16, 1985 allows the payments of interest to be made to designated depository banks.

<u>Law Section</u>	<u>Chapter</u>	<u>Legislative Bill Section</u>	<u>TSB-M*</u>	<u>Brief Summary</u>
438-1	65	17	85(6)M	Effective July 16, 1985 allows the Tax Commission to prescribe interest for failure to affix stamps.

Article 37

1813	65	39	85(8)M	Effective November 1, 1985 lists the criminal penalties associated with alcoholic beverage taxes.
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Cigarette Tax

ARTICLE 1

<u>Law Section</u>	<u>Chapter</u>	<u>Legislative Bill Section</u>	<u>TSB-M</u>	<u>Brief Summary</u>
7	387	1	---	Effective July 19, 1985 provides that the procedures for the enforcement of money judgments under Article 52 CPLR does not apply to the Tax Commission, any officer or employee of the Department of Taxation and Finance, or the Comptroller or any officer or employee of the Department of Audit and Control, as a garnishee, with respect to any amount of money to be refunded or credited to a taxpayer.

Article 20

477	65	18	85(6)M	Effective July 16, 1985 repeals this section.
477-a	65	18	85(6)M	Effective July 16, 1985 repeals this section.
478	65	47	85(6)M	Effective July 16, 1985 provides that interest must be deposited as well as tax and penalty prior to the commencement of a proceeding under Article 78 CPLR to review a decision of the Tax Commission.

<u>Law Section</u>	<u>Chapter</u>	<u>Legislative Bill Section</u>	<u>TSB-M*</u>	<u>Brief Summary</u>
479	65	48	85(6)M	Effective July 16, 1985 provides that warrants shall cover the interest owed as well as the tax and penalty. Also, if the warrant is filed with the Department of State, the lien created by filing of such warrant shall apply to personal as well as real property.
481-I(a)(i)(A)	65	49	85(6)M	Effective July 16, 1985 allows the Tax Commission to impose a civil penalty of 10% of the tax for the first month or part thereof and a penalty of 1% for each additional month or part thereof on a distributor who fails to file a return or pay any tax by the due date. The penalties may not exceed 30% in the aggregate.
481-1(a)(i)(C)	65	49	85(6)M	Effective July 16, 1985 allows the Tax Commission to impose a minimum civil penalty of \$100 or 100% of the tax required to be shown on the return, whichever is less, when a person fails to file a return within 60 days of the due date. In no event shall such minimum penalty be less than the previously mentioned penalty of 10% for the first month and 1% for each additional month or any part thereof during which such failure continues.
481-1(a)(ii)	65	49	85(6)M	Effective July 16, 1985 allows the Tax Commission to set the rate and collect interest on taxes not paid on or before the due date.
481-1(a)(iii)	65	49	85(6)M	Effective July 16, 1985 allows the Tax Commission to remit penalties for failure to file a return or pay tax if due to reasonable cause.

481-1(a)(iv)	65	49	85(6)M	Effective July 16, 1985 provides that the penalty for failure to timely pay tax due to fraud shall be 50% of the tax due plus 50% of the appropriate interest on unpaid tax attributable to fraud. Interest is to be computed in the same manner as for non-fraud cases.
481-1(a)(v)	65	49	85(6)M	Effective July 16, 1985 allows the Tax Commission to determine, assess and collect penalty and interest in the same manner as tax. Also, allows interest to be compounded daily.

Article 20-A

New Article 20-A is added to regulate and control the sales price of cigarettes within the state at the wholesale and retail levels for the purpose of stabilizing the cigarette industry in New York State. Chapter 898 of the New York laws of 1985 amended chapter 897 by changing the effective date of this new Article from November 1, 1985 to September i, 1985.

<u>Law Section</u>	<u>Chapter</u>	<u>Legislative Bill Section</u>	<u>TSB-M</u>	<u>Brief Summary</u>
483(a)	897	2	---	Effective September 1, 1985 defines the <u>basic cost of cigarettes</u> , <u>wholesale dealer</u> , <u>chain store</u> and <u>retail dealer</u> .
483(b)-1	897	2	---	Effective September 1, 1985 defines the <u>cost to the retail dealer</u> as the cost of cigarettes plus the cost of doing business. In the absence of satisfactory proof of a lesser cost, the cost of doing business is presumed to be 5% of the basic cost of cigarettes plus the cost of doing business by the wholesale dealer.
483(b)-2	897	2	---	Effective September 1, 1985 defines the <u>cost to the wholesale dealer</u> as the cost of cigarettes plus the cost of doing business. In the absence of satisfactory proof of a lesser cost, the cost of doing business is presumed to be 3 ½% of the basic cost of cigarettes, plus ½% of the basic cost of cigarettes for cartage if performed or paid for by the wholesale dealer, plus ½% of the basic cost of cigarettes for credit extended in

<u>Law Section</u>	<u>Chapter</u>	<u>Legislative Bill Section</u>	<u>TSB-M*</u>	<u>Brief Summary</u>
				connection with sales which are made on a basis other than cash.
484(a)-1	897	2	---	Effective September 1, 1985 a wholesale dealer or retail dealer is in violation of Article 20-A if there is an intent to injure competitors or destroy or substantially lessen competition or to avoid the collection or the paying over of cigarette taxes or to advertise, offer to sell or sell cigarettes at less than cost to such wholesale dealer or retail dealer, as the case may be.
484(a)-2	897	2	---	Effective September 1, 1985 a wholesale dealer is in violation of Article 20-A if the wholesale dealer induces or attempts to induce or procures or attempts to procure, any purchase of cigarettes at less than the basic cost of cigarettes, or any rebate or concession in connection with the purchase of cigarettes.
484(a)-3	897	2	---	Effective September 1, 1985 a retail dealer is in violation of Article 20-A if the retail dealer induces or attempts to induce or procures or attempts to procure, any purchase of cigarettes at less than the cost to the wholesale dealer, or any rebate or concession in connection with the purchase of cigarettes.
484(a)-4	897	2	---	Effective September 1, 1985 the license of any wholesale dealer who violates any provision of Article 20-A is to be suspended, after due notice and opportunity of a hearing, for a period of five to thirty days for a first offense, and is to be revoked for a second offense.
484(a)-5	897	2	---	Effective September 1, 1985 the evidence needed to prove a violation of Article 20-A is given in this section.

<u>Law Section</u>	<u>Chapter</u>	<u>Legislative Bill Section</u>	<u>TSB-M*</u>	<u>Brief Summary</u>
484(b)	897	2	---	Effective September 1, 1985 allows any person injured by any violation or threatened violation of Article 20-A, or the Tax Commission to maintain an action in the Supreme Court to prevent, restrain or enjoin a violation, or threatened violation, of any provision of Article 20-A.
484(c)	897	2	---	Effective September 1, 1985 any contract, express or implied, in violation of any provision of Article 20-A is declared to be an illegal and void contract, and no recovery thereon shall be had.
485(a)-1	897	2	---	Effective September 1, 1985 gives the type of evidence bearing on the costs to the retail dealer or to wholesale dealer that the Tax Commission receives and considers.
485(a)-2	897	2	---	Effective September 1, 1985 excludes merchandise given gratis or payment made to a retail or wholesale dealer by the manufacturer for display, advertising, promotional purposes or otherwise from the determination of the cost of cigarettes to the retail dealer or wholesale dealer.
485(b)	897	2	---	Effective September t, 1985 the cost to the retail dealer or wholesale dealer in all advertisements, offers for sale or sales involving two or more items, at least one of which items is cigarettes, must not be below the cost to the retail or the cost to the wholesale dealer, respectively, of the total costs of all articles, products, commodities, gifts and concessions included in such transactions.

<u>Law Section</u>	<u>Chapter</u>	<u>Legislative Bill Section</u>	<u>TSB-M*</u>	<u>Brief Summary</u>
485(c)	897	2	---	Effective September 1, 1985 a wholesale dealer who sells cigarettes to another wholesale dealer is not required to include in his selling price, the cost to the wholesale dealer, as defined by section 483(b)-2, except that no such sale may be made at a price less than, the basic cost of cigarettes, as defined by section 483(a)-1.
486(a)	897	2	---	Effective September 1, 1985 the provisions of Article 20-A do not apply to an isolated transaction, not in the usual course of business, or to cigarettes offered for sale by any fiduciary or other officer acting under the order or direction of any court.
486(b)	897	2	---	Effective September 1, 1985 a retail dealer may advertise, offer to sell, or sell at the price of a competitor who is selling the same article at the competitor's cost as a retail dealer. A wholesale dealer may advertise, offer to sell or sell cigarettes at a price made in good faith to meet the price of a competitor who is rendering the same type of services and is selling the same article at cost to him as a wholesale dealer.
486(c)	897	2	---	Effective September 1, 1985 the cost of cigarettes to a retail dealer or wholesale dealer on sales outside of the ordinary channels of trade may not be used as a basis for justifying a price lower than one based upon the replacement cost of the cigarettes to the retail dealer or wholesale dealer in the quantity last purchased through the ordinary channels of trade.

<u>Law Section</u>	<u>Chapter</u>	<u>Legislative Bill Section</u>	<u>TSB-M*</u>	<u>Brief Summary</u>
487	897	2	---	Effective September 1, 1985 the secrecy requirements related to this Article and the penalties for violating the secrecy requirements are discussed.
1814	65	39	85(8)M	Effective November 1, 1985 lists the criminal penalties associated with the cigarette tax. Also, contains those provisions from old sections 481-2 and 481-4 which relate to the criminal penalties.
1829	897	4	---	Effective September 1, 1985 any wholesale dealer who violates any provision of Article 20-A will be guilty of a misdemeanor.

Article 37

<u>Law Section</u>	<u>Chapter</u>	<u>Legislative Bill Section</u>	<u>TSB-M*</u>	<u>Brief Summary</u>
1846	65	39	85(6)M	Effective July 16, 1985 the provisions of repealed section 477 are incorporated in this new section with the following changes. The Tax Commission must publish for at least 5 consecutive days the notice of sale in a newspaper published or circulated in the county where the seizure was made (1846(a)). Also, the Tax Commission must transfer to the Department of Correctional Services any cigarettes seized pursuant to this section if the price offered at public sale is less than the price that the Department of Correctional Services would have to pay for the cigarettes for sale to or use by its inmates (1846(c)).



1847	65	39	85(6)M	Effective July 16, 1985 the provisions of repealed section 477-a are incorporated in this new section with the following changes. Adds Yonkers to the cities where seized property must be delivered to the custody of the police department of such city if such property was seized within the City of Yonkers (1847(b)). Adds the corporation counsel of the City of Yonkers to those corporation counsels in the cities of New York and Buffalo who have a duty to pursue the matter of a seizure (1847(c)). Requires the publication of a notice of sale of forfeited property for at least five successive days before the day of sale in a newspaper published or circulated in the county where the seizure took place (1847(f)).
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Highway Use Tax

ARTICLE 1

<u>Law Section</u>	<u>Chapter</u>	Legislative Bill <u>Section</u>	<u>TSB-M*</u>	<u>Brief Summary</u>
7	387	1	---	Effective July 19, 1985 provides that the procedures for the enforcement of money judgments under Article 52 CPLR does not apply to the Tax Commission, any officer or employee of the Department of Taxation and Finance, or the Comptroller or any officer or employee of the Department of Audit and Control, as a garnishee, with respect to any amount of money to be refunded or credited to a taxpayer.

Article 21

<u>Law Section</u>	<u>Chapter</u>	Legislative Bill <u>Section</u>	<u>TSB-M*</u>	<u>Brief Summary</u>
501-8	44	16	---	Effective June 1, 1985 eliminates the definition of automotive fuel from this section.

501-10	44	17	---	Effective June 1, 1985 defines automotive fuel as diesel fuel as defined in section 282-a and motor fuel as defined in section 282-2.
510	65	50	85(6)M	Effective July 16, 1985 allows a person 90 days instead of 30 days to apply to the Tax Commission for a hearing. Also, provides that interest must be deposited as well as tax and penalty prior to the commencement of a proceeding under Article 78 CPLR to review a decision of the Tax Commission.
511-2	65	51	85(6)M	Effective July 16, 1985 provides that warrants shall cover the interest owed as well as tax and penalty. Also, if the warrant is filed with the Department of State, the lien created by filing of such warrant shall apply to personal property as well as real property.
512-I(a)	65	52	85(6)M	Effective July 16, 1985 allows the Tax Commission to impose a civil penalty of 10% of the tax for the first month or any part thereof and a penalty of 1% for each additional month or part thereof on a person who fails to file a return or pay any tax by the due date. The penalties may not exceed 30% in the aggregate. The minimum penalty imposed on a person who does not file a return within 60 days of the due date is \$100 or 100% of the tax required to be shown on the return, whichever is less. In no event shall such minimum penalty be less than the previously mentioned penalty of 10% for the first month and 1% for each additional month or any part thereof during which such failure continues.
512-1(b)	65	52	85(6)M	Effective July 16, 1985 allows the Tax Commission to set the rate and collect interest on taxes not paid on or before the due date.
512-1(c)	65	52	85(6)M	Effective July 16, 1985 allows the Tax Commission to remit penalties for failure to file a return or pay tax if due to reasonable cause.

512-1(d)	65	52	85(6)M	Effective July 16, 1985 provides that the penalty for failure to timely pay tax due to fraud shall be 50% of the tax due plus 50% of the appropriate interest on unpaid tax attributable to fraud. Interest is to be computed in the same manner as for non-fraud cases.
512-1(e)	65	52	85(6)M	Effective July 16, 1985 provides for the daily compounding of interest.
513	65	53	85(6)M	Effective July 16, 1985 allows interest on refunds or credits of overpayments made in error at the rate set by the Tax Commission. (Not applicable to refunds or credits made under the provisions of section 503-a-3.)

Article 37

<u>Law Section</u>	<u>Chapter</u>	Legislative Bill <u>Section</u>	<u>TSB-M*</u>	<u>Brief Summary</u>
1815	65	39	85(8)M	Effective November 1, 1985 contains the provisions of repealed section 512 relating to criminal penalties.

\* For further information, see the applicable memoranda.