



January 1999

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# Analysis of Article 9-A General Business Corporation Franchise Tax Credits for 1995

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# Introduction and Purpose

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This report provides an accounting of credit activity under the General Business Corporation Franchise Tax (Article 9-A). The report does not include credit activity attributable to banks, insurance companies or utilities, because such entities are taxable under other articles of the tax law. This study is mandated by Section 109(a) of the Business Tax Reform and Rate Reduction Act of 1987 (BTRRRA). The data used to generate this report come from an annual study conducted by the Office of Tax Policy Analysis (OTPA). The study is based on the latest available data drawn from New York State corporation tax returns. These data pertain to corporations whose taxable year begins on or after January 1, 1995, and ends on or before November 30, 1996 (hereinafter referred to as the 1995 tax liability year).

The report includes a focus section. This year the focus section presents an analysis of the impact of changes in the alternative minimum tax (AMT) under Article 9-A.

Definitions and descriptions of the various tax credits for the time period analyzed appear in Appendix A. Highlights of tax law changes affecting corporate tax credit provisions beginning on or after January 1, 1996 appear in Appendix B. Appendix C contains corporate franchise tax law changes, such as the reduction in the AMT rate. Appendix D provides the legislative mandate for the report.

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## Highlights for 1995

- Corporate taxpayers *earned* a total of \$205.4 million in credits, *claimed* a total of \$1,495.1 million in credits and *used* a total of \$120.7 million in credits against their Article 9-A liability.
- The investment tax credit accounted for about 85 percent of all tax credits used.
- The manufacturing industry accounted for nearly 77 percent of the value of all tax credits used.

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- Over 70 percent of total credits used were in amounts of more than \$100,000.

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# Focus Section: Analysis of the Impact of Changes to the Alternative Minimum Tax (AMT) On Credit Usage

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## Purpose

This is the third in a series of focus sections in this report. It presents historical data illustrating how tax law changes to the alternative minimum tax (AMT) have affected overall credit usage. The analysis focuses on tax law changes in the AMT, drawing a parallel between these changes and the overall use of tax credits. It does not take into consideration nontax factors that may have also affected credit usage, such as economic trends and taxpayer behavior. The analysis compares the amount of credit usage to the level of credits carried forward over the period 1986 through 1990. In addition, a table showing the amount of total credits used by tax base for the years 1992 through 1995 is presented and analyzed.

## History of the Alternative Minimum Tax

Mirroring the provisions of the federal Tax Reform Act of 1986, New York imposed an AMT for corporations in 1987. The AMT attempts to create a more level playing field between those taxpayers with substantial income using tax exclusions, credits, and preferences, such as depreciation; and those with little, if any, tax incentives. New York's tax law conforms to nearly all of the federal AMT preference items.

Taxpayers calculate their entire net income (ENI) base tax, prior to the application of credits, and compare this amount to the other bases, including the alternative minimum taxable income base, to determine the highest tax. If, for example, ENI results in the highest base, a taxpayer can then use applicable tax credits against tax due. A taxpayer can only use enough credits to lower its tax liability to either the AMT or the fixed dollar minimum, whichever is higher. The AMT does provide for a minimum tax credit to be used against the ENI base. This credit is designed to prevent double-counting of income that might otherwise arise due to timing items of tax preference and adjustments. Regular tax

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credits, such as the investment tax credit, cannot be used against the AMT.

#### Tax Law Changes to the AMT

For tax years 1987 through 1989, the calculation of the alternative minimum taxable income base was the same as that of the ENI base, however, income was allocated to New York using a three-factor formula with a single weighted receipts factor. For tax years 1987 and 1988, the AMT rate was 3.5 percent. Beginning in 1989, the AMT rate increased to 5 percent.

The AMT calculation underwent significant changes in 1990. The base was broadened, requiring that various tax preference items such as depreciation and the net operating loss (NOL) deduction be added back. The AMT calculation remained the same from 1990 through 1993, with the same 5 percent rate.

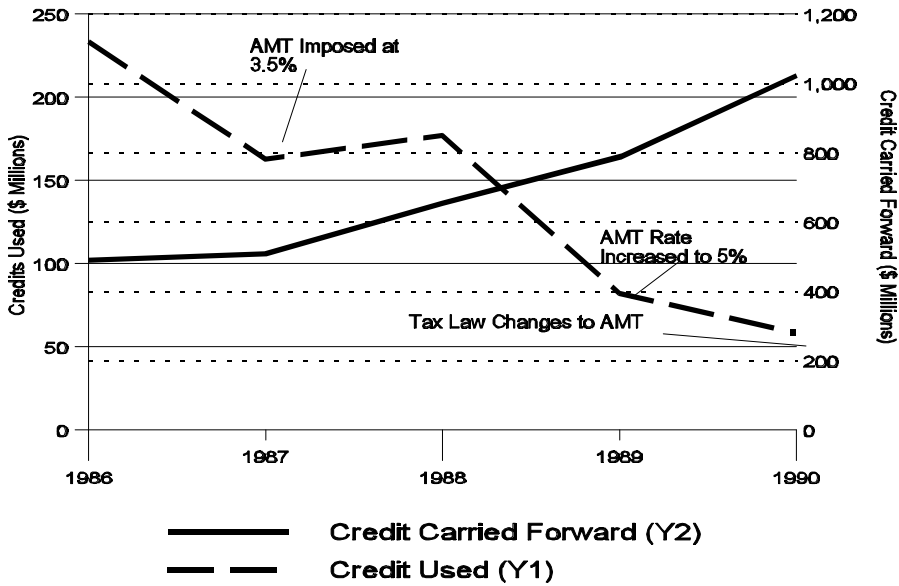
In 1994, the tax law was modified to provide a deduction in the computation of the AMT for an alternative net operating loss. For tax years beginning in 1994 only, the alternative net operating loss deduction (ANOLD) was limited to 45 percent of minimum taxable income, computed without regard to the ANOLD. Thereafter, like the federal AMT, it is limited to 90 percent of minimum taxable income without regard to the ANOLD. In addition, the AMT allocation formula was changed to provide for a double weighted receipts factor similar to that used in the ENI base computation. The AMT was further modified in 1995, with a reduction in the AMT rate back to 3.5 percent.

#### Analysis of Credit Usage

Much of the AMT's significance lies in its tax rate. Effectively, the narrower the difference between the regular corporate tax rate (9 percent) and the AMT rate (5 percent and 3.5 percent in 1995), the more readily a small amount of preferences and adjustments can trigger the AMT. The AMT also serves as a floor for credit usage. Taxpayers are not allowed to use credits against the AMT and their tax liability cannot fall below the AMT or the fixed dollar minimum, whichever is greater.

This latter impact is apparent upon analysis of the data on credit usage. As shown in Figure 1, between 1986 and 1987 -- when the AMT was first enacted -- total credit usage dropped from \$233.3 million to \$162.6 million. Credit usage declined further in 1989 when the AMT rate increased from 3.5 percent to 5 percent. Credit usage was \$176.6 million and \$81.8 million in 1988 and 1989, respectively.

Figure 1: Credits Used vs. Credits Carried Forward - 1986-1990



The significant negative tax law changes made to the AMT in 1990 further decreased the amount of credits used to \$57.9 million. During the same time period, as the amount of credits that could be used to offset liability declined, the pool of credits that were being carried forward for use in a future tax year increased dramatically. As Figure 1 shows, between 1986 and 1990 the total amount of credits available to be carried forward to subsequent years more than doubled from under \$500 million in 1986 to about \$1 billion in 1990.



Table 1 profiles credit usage by tax base from 1992 through 1995. The ENI and capital bases in each year represent taxpayers who began under these bases, used credits, and did not end up paying under either the AMT or the fixed dollar minimum. The fixed dollar minimum and AMT bases represent two different classes of taxpayers. The bases could include taxpayers who started under one of the other bases, such as ENI, but because of credits ended up either paying the fixed dollar minimum or the AMT. These bases could also include taxpayers who used credits to strictly offset their subsidiary capital tax.

As Table 1 shows, the positive tax law changes to the AMT effective in 1994 and 1995 have begun to reverse the prior downward trend in the use of tax credits. The total amount of credits used increased from \$67.7 million to \$92.7 million between 1993 and 1994. The data indicate that between those two years there was a substantial increase in the number of taxpayers with credits paying under the ENI base. This reflects the fact that more taxpayers were able to use credits without being subject to the restrictions of the AMT.

Although the number of credit filers paying under the AMT base in these years also increased, the overall number of taxpayers using credits climbed by 778, from 3,055 to 3,833. This could be attributable somewhat to the 1994 modifications to the AMT allowing a partial ANOLD. This change resulted in reduced AMT liability, thus enabling a greater number of taxpayers to use more of their available credits to offset their tax liability (although they were only allowed to reduce their liability down to the AMT or the fixed dollar minimum).

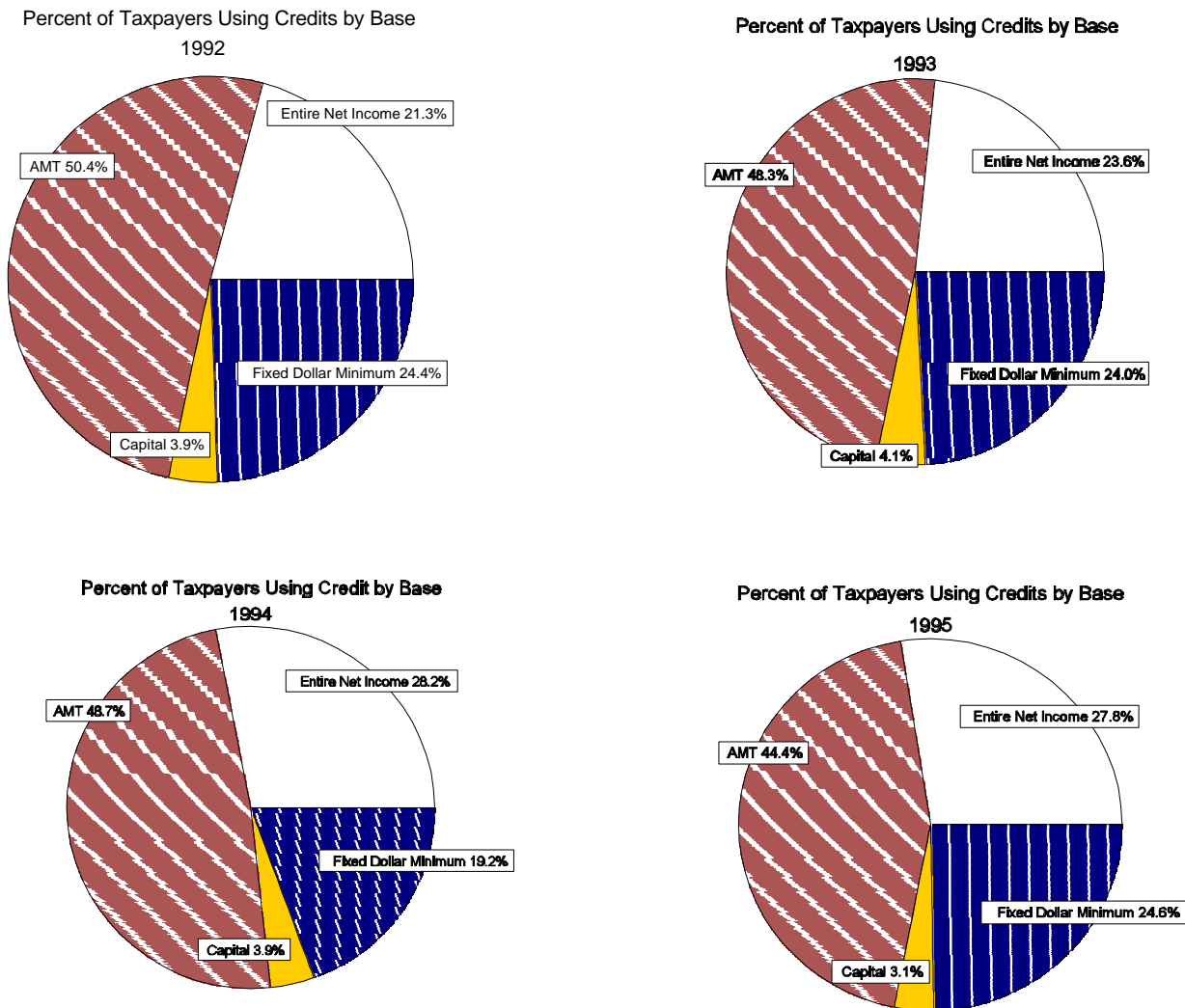
Table 1 also shows that credit usage increased again in 1995 to about \$120.7 million as ANOLD restrictions were loosened further and the AMT rate was reduced from 5 percent to 3.5 percent.

Table 1: Profile of Tax Credit Usage by Basis of Taxation

Basis of Taxation	1992		1993		1994		1995	
	Number	Amount	Number	Amount	Number	Amount	Number	Amount
Entire Net Income	559	\$10,956,690	720	\$17,938,285	1,082	\$22,518,716	1,104	\$26,866,628
Fixed Dollar Minimum Tax	642	5,412,674	733	5,953,736	737	5,952,904	980	7,221,112
Capital Base	102	338,836	125	535,469	148	1,077,131	125	754,840
Alternative Minimum Tax	1,325	50,321,898	1,477	42,677,928	1,866	63,175,324	1,767	85,811,925
Total	2,628	\$67,030,098	3,055	\$67,105,418	3,833	\$92,724,075	3,976	\$120,654,505

Figure 2 shows the distribution of taxpayers using credits by tax base from 1992 through 1995. It displays how the share of taxpayers under each base has changed over time. As the AMT tax law changes took effect beginning in 1994, taxpayers who used credits under the ENI base increased from 23.6 percent in 1993 to 28.2 percent in 1994. Further reflecting these changes, the share of AMT taxpayers fell from 48.7 percent to 44.4 percent from 1994 to 1995.

Figure 2: Percentage of Taxpayers Using Credits by Base





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# Analysis of Statistical Data

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## Description of Tables

The following tables present information for the corporate tax credits.

The tables present data on the number of taxpayers taking the credit, the total amount of credit, the average (mean) amount of credit and the median amount of credit,<sup>1</sup> for the following components of each credit:<sup>2</sup>

Credit Earned -	The amount of credit generated in the current tax year.
Credit Claimed -	The amount of credit which taxpayers are entitled to use during the taxable year, including credit carried forward from prior years.
Credit Used -	The amount of credit which taxpayers actually apply to their tax liability. <sup>3</sup>
Credit Carried Forward -	Any unused amount of credit which is allowed to be used to offset tax liability in future years.

A series of tables presents a profile of the credit(s) distributed by a different subgrouping. The subgroupings include: basis of taxation after credits, major industry group, size of entire net income, and size of credit used. Due to secrecy provisions, all subgroupings are not provided for all credits, and the tables do not present detailed information about refundable credits.

The major industry group category is based on Standard Industrial Classification Codes (SICs). The Internal Revenue Service asks taxpayers to identify their principal business activity using SIC codes on their tax returns. These codes identify the general type of business activity in which the entity is engaged. The major industry groups presented in this report consist of agriculture; mining; construction;

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manufacturing; transportation, communications, public utility services; wholesale trade; retail trade; finance, insurance and real estate; and services. Taxpayers who fail to provide SIC information, or who may report outdated codes, become unidentifiable by industry group and are classified as such in this report.

Historical data presented in this report may differ from that presented in previous reports. This can occur as a result of changes made to the data collection process for this report and minor adjustments made to the original data files.

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## Data Considerations

The data contained in these tables come directly from the returns of corporations claiming credits.

Taxpayers permitted to take the investment tax credit (ITC) and the employment incentive credit (EIC) report the amounts of these credits earned during the tax year on separate lines on tax form CT-46. However, when computing the credit claimed, used and carried forward, taxpayers combine the ITC and EIC on the CT-46. This study presents these combined amounts for each of the credit components.

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## Summary of Credit Activity

The following table summarizes tax credit activity by component and type of credit. The totals in the summary table may not match the detail tables due to rounding and disclosure requirements. This table also provides information on recaptured and refundable credits.

In all of the tables, ‘-’ indicates that the component does not apply to the credit or that the data for that component are not available. The letter ‘d’ indicates that the data can not be presented due to confidentiality restrictions of the tax law. However, total values for number of taxpayers, amount of credit and mean and median credit were computed using all taxpayers in the study. The available data for all tables do not reflect changes made on audit or as the result of amended filings.

Table 2: Comparison of Article 9-A Tax Credit Activity - 1994 and 1995

Component	1994 (\$ millions)						Total 1/
	Investment Credit	Special Additional Mortgage Recording Credit	Job Incentive Credit	EDZ Credits	Alternative Minimum Tax Credit	Mortgage Servicing Credit	
Total Credit Earned	\$184.7	4.3	-	5.9	-	-	\$194.8
Unused Credit from the Prior Year	1,213.0	1.9	-	7.0	-	-	1,221.9
Total Credit Available	1,397.7	6.2	-	12.8	-	-	1,416.8
Recaptured Credit	29.9	-	-	0.0	-	-	29.9
Credit Claimed	1,367.9	6.2	-	12.8	-	-	1,386.9
Credit Used	85.1	1.0	0.1	0.6	5.9	-	92.7
Refundable Credit	8.1	0.0	-	0.7	-	-	8.7
Credit Carried Forward	\$1,274.7	5.2	-	11.5	-	-	\$1,291.4

Component	1995 (\$ millions)						Total 1/
	Investment Credit	Special Additional Mortgage Recording Credit	Job Incentive Credit	EDZ Credits	Alternative Minimum Tax Credit	Mortgage Servicing Credit	
Total Credit Earned	\$187.7	1.4	-	16.3	-	-	\$205.4
Unused Credit from the Prior Year	1,315.3	0.5	-	10.9	-	-	1,326.7
Total Credit Available	1,503.0	1.9	-	27.2	-	-	1,532.1
Recaptured Credit	36.9	-	-	0.1	-	-	37.0
Credit Claimed	1,466.1	1.9	-	27.1	-	-	1,495.1
Credit Used 2/	101.9	0.2	0.1	4.3	12.0	0.0	120.7
Refundable Credit	20.5	0.2	-	1.7	-	-	22.4
Credit Carried Forward	\$1,343.7	1.7	-	21.1	-	-	\$1,366.5

1/ Total column reflects the horizontal summation of the individual credit components. Vertical calculations within the column are not valid.

2/ Taxpayers used a total of \$120.7 million in credits to reduce their tax liability. However, OTPA was unable to attribute \$2.2 million of this amount to any specific tax credit.

## Overview of Major Credit Provisions

This section provides an overview of credit provisions effective for tax years beginning prior to January 1, 1996. These credits are discussed in more detail in Appendix A. Appendix B describes tax credit changes effective for tax years beginning on or after January 1, 1996. Appendix C provides a summary of Article 9-A tax law changes enacted in 1998. Appendix D contains the legislative mandate for the report.

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Investment Tax Credit	The rate for the investment tax credit (ITC) equals 5 percent of the first \$350 million of investments, and 4 percent for investments over that amount.
Employment Incentive Credit	Taxpayers allowed an ITC may be eligible for the EIC. This credit is a two-year credit determined by the original investment credit base. The rate equals 1.5 percent if employment equals at least 101 percent, but less than 102 percent of base year employment. The rate equals 2 percent if employment equals at least 102 percent, but less than 103 percent of base year employment. The rate equals 2.5 percent if employment equals at least 103 percent of base year employment.
Credit on Research and Development Property Under the Investment Tax Credit	Research and development property (R&D) qualifies for the ITC. Taxpayers may either choose the R&D rate of 9 percent or the lower ITC rate. By electing the lower rate, taxpayers also become eligible for the EIC in subsequent years based on increased employment. (Because of the consolidation of these credits on the tax return, separate data on the amount of research and development credit under the ITC do not appear in this report.)
Pre-1987 Research and Development Tax Credit	An unused research and development tax credit may be carried forward to any tax year beginning before January 1, 1994. None of this credit was used in 1993.
Economic Development Zone Credits	These credits include an investment tax credit, a wage credit (for wages paid to targeted and non-targeted employees in such zones), and a capital corporation tax credit (for the purchase of original issue stock issued by a certified economic development zone capital corporation).
Alternative Minimum Tax Credit	In certain instances, taxpayers could be subject to double taxation on the same transaction under the regular tax system and the alternative minimum tax (AMT). To eliminate this double-tax result, the law provides a credit mechanism. The AMT credit equals the taxpayer's adjusted minimum tax, minus any amount used as a minimum tax credit in prior years. (For a complete explanation, see Appendix A.)

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## Endnotes

1. As used in this report, “Mean Amount of Credit” is defined as the average amount of credit in a given category. “Median Amount of Credit” is defined as the central value representing an equal number of credit values below and above it.
2. There is only data available for the “credit used” component for the Job Incentive Credit, the EDZ Capital Credit, the Alternative Minimum Tax Credit and the Mortgage Servicing Credit.
3. Taxpayers may use credits to reduce their tax liabilities computed under the entire net income base, capital base or subsidiary capital base. However, credits may not be used to reduce tax liability below the amount computed under the alternative minimum tax base or the fixed dollar minimum base, whichever is higher.



Table 3: Profile of Total New York State Tax Credits - 1994 and 1995

Credits Earned by Year and Credit

Credit	1994		1995	
	Number of Taxpayers	Amount of Credit Earned	Number of Taxpayers	Amount of Credit Earned
Investment Tax Credit	2,952	\$184,677,859	2,776	\$187,717,559
Special Additional Mortgage Recording Credit	66	4,261,641	35	1,354,453
Job Incentive Credit	-	-	-	-
EDZ Wage Credit	26	962,633	71	3,128,675
EDZ Capital Corporation Credit	-	-	-	-
EDZ Investment Tax Credit	51	4,911,026	90	13,187,685
ZEA Wage Credit	d/	d/	3	29,500
Alternative Minimum Tax Credit	-	-	-	-
Mortgage Servicing Tax Credit	-	-	-	-

Credits Claimed by Year and Credit

Credit	1994		1995	
	Number of Taxpayers	Amount of Credit Claimed	Number of Taxpayers	Amount of Credit Claimed
Investment Tax Credit	3,807	\$1,367,860,963	3,624	\$1,466,109,398
Special Additional Mortgage Recording Credit	109	6,195,867	82	1,863,354
Job Incentive Credit	-	-	-	-
EDZ Wage Credit	39	1,537,282	84	4,822,299
EDZ Capital Corporation Credit	-	-	-	-
EDZ Investment Tax Credit	58	11,277,246	96	22,257,695
ZEA Wage Credit	d/	d/	3	33,500
Alternative Minimum Tax Credit	-	-	-	-
Mortgage Servicing Tax Credit	-	-	-	-

Table 3: Profile of Total New York State Tax Credits - 1994 and 1995 (Con't)

Credits Used by Year and Credit

Credit	1994		1995	
	Number of Taxpayers	Amount of Credit Used	Number of Taxpayers	Amount of Credit Used
Investment Tax Credit	2,719	\$85,090,032	2,813	\$101,914,893
Special Additional Mortgage Recording Credit	89	1,009,172	67	188,334
Job Incentive Credit	5	68,510	6	67,819
EDZ Wage Credit	27	277,991	68	1,267,810
EDZ Capital Corporation Credit	0	0	d/	d/
EDZ Investment Tax Credit	24	340,258	55	3,003,469
ZEA Wage Credit	d/	d/	d/	d/
Alternative Minimum Tax Credit	968	5,937,491	877	12,031,063
Mortgage Servicing Tax Credit	-	-	0	\$0

Credits Carried Forward by Year and Credit

Credit	1994		1995	
	Number of Taxpayers	Amount of Credit Carried Forward	Number of Taxpayers	Amount of Credit Carried Forward
Investment Tax Credit	3,121	\$1,274,689,407	2,900	\$1,343,739,238
Special Additional Mortgage Recording Credit	60	5,186,694	57	1,675,018
Job Incentive Credit	-	-	-	-
EDZ Wage Credit	25	1,188,562	56	3,403,988
EDZ Capital Corporation Credit	-	-	-	-
EDZ Investment Tax Credit	51	10,310,492	90	17,682,978
ZEA Wage Credit	d/	d/	3	19,421
Alternative Minimum Tax Credit	-	-	-	-
Mortgage Servicing Tax Credit	-	-	-	-

Table 4: Profile of New York State Investment Tax Credit by Basis of Taxation - 1995 Liability Year

Credit Earned

Basis of Taxation	Number of Taxpayers	Amount of Credit Earned	% of Credit Earned	Median Credit Earned	Mean Credit Earned
Entire Net Income	487	\$23,366,892	12.45	\$3,862	\$47,981
Fixed Dollar Minimum Tax	869	44,664,429	23.79	3,125	51,398
Capital Base	64	1,111,936	0.59	1,823	17,374
Alternative Minimum Tax	1,356	118,574,302	63.17	8,114	87,444
Total	2,776	\$187,717,559	100.00	\$5,500	\$67,622

Credit Claimed

Basis of Taxation	Number of Taxpayers	Amount of Credit Claimed	% of Credit Claimed	Median Credit Claimed	Mean Credit Claimed
Entire Net Income	555	\$30,262,502	2.06	\$3,925	\$54,527
Fixed Dollar Minimum Tax	1,351	333,354,056	22.74	15,287	246,746
Capital Base	84	5,899,686	0.40	1,938	70,234
Alternative Minimum Tax	1,634	1,096,593,154	74.80	33,790	671,110
Total	3,624	\$1,466,109,398	100.00	\$18,656	\$404,556

Credit Used

Basis of Taxation	Number of Taxpayers	Amount of Credit Used	% of Credit Used	Median Credit Used	Mean Credit Used
Entire Net Income	547	\$15,469,350	15.18	\$3,326	\$28,280
Fixed Dollar Minimum Tax	763	6,270,853	6.15	804	8,219
Capital Base	78	634,695	0.62	1,294	8,137
Alternative Minimum Tax	1,425	79,539,995	78.05	3,834	55,818
Total	2,813	\$101,914,893	100.00	\$2,531	\$36,230

Credit Carried Forward

Basis of Taxation	Number of Taxpayers	Amount of Credit Carried Forward	% of Credit Carried Forward	Median Credit Carried Forward	Mean Credit Carried Forward
Entire Net Income	42	\$7,182,761	0.53	\$17,606	\$171,018
Fixed Dollar Minimum Tax	1,304	315,235,778	23.46	14,490	241,745
Capital Base	17	5,263,380	0.39	99,867	309,611
Alternative Minimum Tax	1,537	1,016,057,319	75.61	28,840	661,065
Total	2,900	\$1,343,739,238	100.00	\$21,582	\$463,358

Table 5: Profile of New York State Investment Tax Credit by Major Industry Group - 1995 Liability Year

Credit Earned

Major Industry Group	Number of Taxpayers	Amount of Credit Earned	% of Credit Earned	Median Credit Earned	Mean Credit Earned
Unidentifiable	89	\$758,207	0.40	\$1,715	\$8,519
Agriculture	185	1,264,301	0.67	2,082	6,834
Mining	40	1,355,369	0.72	13,442	33,884
Construction	43	361,729	0.19	2,951	8,412
Manufacturing	1,995	159,998,294	85.23	6,672	80,200
Trans., Comm., Pub. Utilities Services	19	6,485,134	3.45	14,115	341,323
Wholesale Trade	153	3,500,092	1.86	3,471	22,876
Retail Trade	43	2,062,510	1.10	2,209	47,965
Finance, Insurance and Real Estate	40	6,982,865	3.72	18,398	174,572
Services	169	4,949,058	2.64	4,483	29,284
Total	2,776	\$187,717,559	100.00	\$5,500	\$67,622

Credit Claimed

Major Industry Group	Number of Taxpayers	Amount of Credit Claimed	% of Credit Claimed	Median Credit Claimed	Mean Credit Claimed
Unidentifiable	133	\$6,451,443	0.44	\$7,037	\$48,507
Agriculture	234	9,094,062	0.62	14,748	38,864
Mining	59	13,135,309	0.90	48,238	222,632
Construction	64	1,152,976	0.08	6,635	18,015
Manufacturing	2,499	1,326,712,676	90.49	23,958	530,897
Trans., Comm., Pub. Utilities Services	28	22,982,481	1.57	16,304	820,803
Wholesale Trade	215	12,698,253	0.87	9,550	59,062
Retail Trade	75	2,758,698	0.19	4,496	36,783
Finance, Insurance and Real Estate	65	45,760,582	3.12	50,367	704,009
Services	252	25,362,918	1.73	8,466	100,647
Total	3,624	\$1,466,109,398	100.00	\$18,656	\$404,556

Table 5: Profile of New York State Investment Tax Credit by Major Industry Group - 1995 Liability Year (Con't)

Credit Used

Major Industry Group	Number of Taxpayers	Amount of Credit Used	% of Credit Used	Median Credit Used	Mean Credit Used
Unidentifiable	78	\$76,811	0.08	\$710	\$985
Agriculture	149	389,610	0.38	844	2,615
Mining	46	1,239,604	1.22	3,574	26,948
Construction	50	121,721	0.12	1,525	2,434
Manufacturing	2,018	84,485,719	82.90	3,134	41,866
Trans., Comm., Pub. Utilities Services	21	6,662,253	6.54	8,076	317,250
Wholesale Trade	177	3,338,920	3.28	2,278	18,864
Retail Trade	50	1,095,582	1.08	1,302	21,912
Finance, Insurance and Real Estate	55	2,669,211	2.62	3,115	48,531
Services	169	1,835,462	1.80	2,462	10,861
Total	2,813	\$101,914,893	100.00	\$2,531	\$36,230

Credit Carried Forward

Major Industry Group	Number of Taxpayers	Amount of Credit Carried Forward	% of Credit Carried Forward	Median Credit Carried Forward	Mean Credit Carried Forward
Unidentifiable	120	\$6,313,520	0.47	\$7,144	\$52,613
Agriculture	222	8,616,714	0.64	14,738	38,814
Mining	53	11,895,705	0.89	48,238	224,447
Construction	47	1,031,255	0.08	9,422	21,942
Manufacturing	1,985	1,222,407,498	90.97	27,839	615,822
Trans., Comm., Pub. Utilities Services	16	16,166,685	1.20	10,266	1,010,418
Wholesale Trade	154	9,213,010	0.69	12,264	59,825
Retail Trade	55	1,663,116	0.12	4,628	30,238
Finance, Insurance and Real Estate	47	42,998,939	3.20	129,251	914,871
Services	201	23,432,796	1.74	7,975	116,581
Total	2,900	\$1,343,739,238	100.00	\$21,582	\$463,358

Table 6: Profile of New York State Investment Tax Credit by Size of Entire Net Income - 1995 Liability Year

Credit Earned

Size of Entire Net Income	Number of Taxpayers	Amount of Credit Earned	% of Credit Earned	Median Credit Earned	Mean Credit Earned
Zero or Net Loss	805	\$49,267,216	26.25	\$4,144	\$61,202
\$ 1 - 99,999	883	5,286,452	2.82	1,948	5,987
100,000 - 499,999	442	6,410,199	3.41	7,004	14,503
500,000 - 999,999	171	5,615,086	2.99	13,777	32,837
1,000,000 - 24,999,999	366	35,889,052	19.12	35,232	98,058
25,000,000 - 49,999,999	32	11,508,632	6.13	114,716	359,645
50,000,000 - 99,999,999	26	5,214,399	2.78	72,365	200,554
100,000,000 - 499,999,999	36	44,039,175	23.46	224,260	1,223,310
\$500,000,000 and over	15	24,487,348	13.04	254,934	1,632,490
Total	2,776	\$187,717,559	100.00	\$5,500	\$67,622

Credit Claimed

Size of Entire Net Income	Number of Taxpayers	Amount of Credit Claimed	% of Credit Claimed	Median Credit Claimed	Mean Credit Claimed
Zero or Net Loss	1,153	\$382,705,594	26.10	\$20,280	\$331,922
\$ 1 - 99,999	1,271	43,046,772	2.94	8,559	33,868
100,000 - 499,999	511	40,193,614	2.74	23,702	78,657
500,000 - 999,999	180	20,416,276	1.39	40,625	113,424
1,000,000 - 24,999,999	389	163,537,296	11.15	87,404	420,404
25,000,000 - 49,999,999	39	59,666,523	4.07	147,171	1,529,911
50,000,000 - 99,999,999	27	15,367,410	1.05	72,935	569,163
100,000,000 - 499,999,999	39	259,451,906	17.70	342,155	6,652,613
\$500,000,000 and over	15	481,724,007	32.86	482,530	32,114,934
Total	3,624	\$1,466,109,398	100.00	\$18,656	\$404,556

Table 6: Profile of New York State Investment Tax Credit by Size of Entire Net Income - 1995 Liability Year (Con't)

Credit Used

Size of Entire Net Income	Number of Taxpayers	Amount of Credit Used	% of Credit Used	Median Credit Used	Mean Credit Used
Zero or Net Loss	645	\$6,559,924	6.44	\$1,255	\$10,170
\$ 1 - 99,999	992	1,458,608	1.43	1,120	1,470
100,000 - 499,999	501	3,514,897	3.45	5,460	7,016
500,000 - 999,999	177	3,205,771	3.15	17,629	18,112
1,000,000 - 24,999,999	379	25,244,932	24.77	40,312	66,609
25,000,000 - 49,999,999	39	9,837,362	9.65	72,901	252,240
50,000,000 - 99,999,999	26	5,244,447	5.15	78,211	201,710
100,000,000 - 499,999,999	39	25,517,472	25.04	217,114	654,294
\$500,000,000 and over	15	21,331,480	20.93	272,462	1,422,099
Total	2,813	\$101,914,893	100.00	\$2,531	\$36,230

Credit Carried Forward

Size of Entire Net Income	Number of Taxpayers	Amount of Credit Carried Forward	% of Credit Carried Forward	Median Credit Carried Forward	Mean Credit Carried Forward
Zero or Net Loss	1,056	\$364,276,221	27.11	\$21,290	\$344,959
\$ 1 - 99,999	1,116	41,458,784	3.09	10,194	37,149
100,000 - 499,999	359	36,517,889	2.72	39,816	101,721
500,000 - 999,999	107	17,119,440	1.27	83,046	159,995
1,000,000 - 24,999,999	213	138,152,575	10.28	240,535	648,604
25,000,000 - 49,999,999	20	49,763,535	3.70	1,371,100	2,488,177
50,000,000 - 99,999,999	9	10,122,963	0.75	549,591	1,124,774
100,000,000 - 499,999,999	15	225,935,304	16.81	2,253,989	15,062,354
\$500,000,000 and over	5	460,392,527	34.26	13,098,132	92,078,505
Total	2,900	\$1,343,739,238	100.00	\$21,582	\$463,358

Table 7: Profile of New York State Investment Tax Credit by Size of Credit Used - 1995 Liability Year

Credit Earned

Size of Credit Used	Number of Taxpayers	Amount of Credit Earned	% of Credit Earned	Median Credit Earned	Mean Credit Earned
Negative*	3	\$507,517	0.27	\$35,955	\$169,172
Zero	510	12,465,146	6.64	2,455	24,441
\$ 1 - 499	330	2,170,241	1.16	828	6,576
500 - 999	226	1,572,987	0.84	1,576	6,960
1,000 - 4,999	742	7,581,093	4.04	3,322	10,217
5,000 - 9,999	274	9,109,909	4.85	7,820	33,248
10,000 - 24,999	275	15,126,492	8.06	17,932	55,005
25,000 - 49,999	165	15,236,708	8.12	36,494	92,344
50,000 - 99,999	108	18,252,643	9.72	73,524	169,006
100,000 - 499,999	116	40,497,218	21.57	135,203	349,114
\$500,000 and over	27	65,197,605	34.73	1,100,930	2,414,726
Total	2,776	\$187,717,559	100.00	\$5,500	\$67,622

Credit Claimed

Size of Credit Used	Number of Taxpayers	Amount of Credit Claimed	% of Credit Claimed	Median Credit Claimed	Mean Credit Claimed
Negative*	10	(\$1,638,040)	(0.11)	(\$27,465)	(\$163,804)
Zero	811	87,922,357	6.00	9,719	108,412
\$ 1 - 499	497	19,684,289	1.34	5,299	39,606
500 - 999	301	12,608,518	0.86	5,719	41,889
1,000 - 4,999	957	60,816,041	4.15	14,417	63,549
5,000 - 9,999	303	72,655,771	4.96	24,007	239,788
10,000 - 24,999	302	65,521,645	4.47	54,392	216,959
25,000 - 49,999	180	88,508,589	6.04	84,165	491,714
50,000 - 99,999	112	73,724,466	5.03	156,402	658,254
100,000 - 499,999	123	245,514,527	16.75	384,063	1,996,053
\$500,000 and over	28	740,791,235	50.53	3,368,865	26,456,830
Total	3,624	\$1,466,109,398	100.00	\$18,656	\$404,556

\* "Negative" means recapture exceeds amount of available credit.



Table 7: Profile of New York State Investment Tax Credit by Size of Credit Used - 1995 Liability Year (Con't)

Credit Used

Size of Credit Used	Number of Taxpayers	Amount of Credit Used	% of Credit Used	Median Credit Used	Mean Credit Used
Negative*	10	(\$1,638,040)	(1.61)	(\$27,465)	(\$163,804)
Zero	0	0	0.00	0	0
\$ 1 - 499	497	113,478	0.11	219	228
500 - 999	301	221,834	0.22	722	737
1,000 - 4,999	957	2,261,503	2.22	2,141	2,363
5,000 - 9,999	303	2,122,186	2.08	6,773	7,004
10,000 - 24,999	302	4,941,817	4.85	15,850	16,364
25,000 - 49,999	180	6,438,968	6.32	35,197	35,772
50,000 - 99,999	112	8,046,548	7.90	71,443	71,844
100,000 - 499,999	123	26,249,933	25.76	193,117	213,414
\$500,000 and over	28	53,156,666	52.16	1,050,184	1,898,452
<b>Total</b>	<b>2,813</b>	<b>\$101,914,893</b>	<b>100.00</b>	<b>\$2,531</b>	<b>\$36,230</b>

Credit Carried Forward

Size of Credit Used	Number of Taxpayers	Amount of Credit Carried Forward	% of Credit Carried Forward	Median Credit Carried Forward	Mean Credit Carried Forward
Zero	793	\$78,204,351	5.82	\$9,892	\$98,618
\$ 1 - 499	398	19,469,364	1.45	9,085	48,918
500 - 999	225	12,248,435	0.91	12,501	54,437
1,000 - 4,999	752	58,301,961	4.34	21,463	77,529
5,000 - 9,999	222	70,087,816	5.22	40,170	315,711
10,000 - 24,999	209	58,930,721	4.39	93,595	281,965
25,000 - 49,999	126	82,031,225	6.10	174,208	651,041
50,000 - 99,999	69	65,630,959	4.88	315,744	951,173
100,000 - 499,999	85	211,199,838	15.72	501,592	2,484,704
\$500,000 and over	21	687,634,568	51.17	5,553,597	32,744,503
<b>Total</b>	<b>2,900</b>	<b>\$1,343,739,238</b>	<b>100.00</b>	<b>\$21,582</b>	<b>\$463,358</b>

\* "Negative" means recapture exceeds amount of available credit.

Table 8: Profile of New York State Special Additional Mortgage Recording Credit by Basis of Taxation - 1995 Liability Year

Credit Earned

Basis of Taxation	Number of Taxpayers	Amount of Credit Earned	% of Credit Earned	Median Credit Earned	Mean Credit Earned
Entire Net Income	3	\$53,350	3.94	\$16,077	\$17,783
Fixed Dollar Minimum Tax	13	319,799	23.61	4,625	24,600
Capital Base	16	197,345	14.57	1,175	12,334
Alternative Minimum Tax	3	783,959	57.88	4,000	261,320
Total	35	\$1,354,453	100.00	\$1,750	\$38,699

Credit Claimed

Basis of Taxation	Number of Taxpayers	Amount of Credit Claimed	% of Credit Claimed	Median Credit Claimed	Mean Credit Claimed
Entire Net Income	5	\$79,769	4.28	\$16,077	\$15,954
Fixed Dollar Minimum Tax	48	663,518	35.61	2,815	13,823
Capital Base	22	204,575	10.98	1,064	9,299
Alternative Minimum Tax	7	915,492	49.13	11,645	130,785
Total	82	\$1,863,354	100.00	\$2,094	\$22,724

Credit Used

Basis of Taxation	Number of Taxpayers	Amount of Credit Used	% of Credit Used	Median Credit Used	Mean Credit Used
Entire Net Income	5	\$79,769	42.36	\$16,077	\$15,954
Fixed Dollar Minimum Tax	37	37,050	19.67	541	1,001
Capital Base	20	51,339	27.26	1,064	2,567
Alternative Minimum Tax	5	20,176	10.71	1,482	4,035
Total	67	\$188,334	100.00	\$907	\$2,811

Credit Carried Forward

Basis of Taxation	Number of Taxpayers	Amount of Credit Carried Forward	% of Credit Carried Forward	Median Credit Carried Forward	Mean Credit Carried Forward
Entire Net Income	0	\$0	0.00	\$0	\$0
Fixed Dollar Minimum Tax	47	626,466	37.40	1,335	13,329
Capital Base	3	153,236	9.15	1,750	51,079
Alternative Minimum Tax	7	895,316	53.45	11,645	127,902
Total	57	\$1,675,018	100.00	\$2,396	\$29,386

Table 9: Profile of New York State Alternative Minimum Tax Credit by Basis of Taxation - 1995 Liability Year

Credit Used

Basis of Taxation	Number of Taxpayers	Amount of Credit Used	% of Credit Used	Median Credit Used	Mean Credit Used
Entire Net Income	507	\$9,421,578	78.31	\$879	\$18,583
Fixed Dollar Minimum Tax	125	129,848	1.08	292	1,039
Capital Base	8	29,591	0.25	369	3,699
Alternative Minimum Tax	237	2,450,046	20.36	1,499	10,338
<b>Total</b>	<b>877</b>	<b>\$12,031,063</b>	<b>100.00</b>	<b>\$888</b>	<b>\$13,718</b>

Table 10: Profile of New York State Alternative Minimum Tax Credit by Major Industry Group - 1995 Liability Year

Credit Used

Major Industry Group	Number of Taxpayers	Amount of Credit Used	% of Credit Used	Median Credit Used	Mean Credit Used
Unidentifiable	30	\$15,236	0.13	\$303	\$508
Agriculture	5	6,351	0.05	1,763	1,270
Mining	5	77,138	0.64	1,350	15,428
Construction	126	520,731	4.33	1,270	4,133
Manufacturing	122	2,801,131	23.28	1,447	22,960
Trans., Comm., Pub. Utilities					
Services	21	717,637	5.96	4,704	34,173
Wholesale Trade	107	455,489	3.79	902	4,257
Retail Trade	92	360,904	3.00	1,034	3,923
Finance, Insurance and Real Estate					
Services	113	5,904,366	49.08	888	52,251
Services	256	1,172,080	9.74	628	4,578
<b>Total</b>	<b>877</b>	<b>\$12,031,063</b>	<b>100.00</b>	<b>\$888</b>	<b>\$13,718</b>

Table 11: Profile of New York State Alternative Minimum Tax Credit by Size of Entire Net Income - 1995 Liability Year

Credit Used

Size of Entire Net Income	Number of Taxpayers	Amount of Credit Used	% of Credit Used	Median Credit Used	Mean Credit Used
Zero or Net Loss	25	\$356,186	2.96	\$1,256	\$14,247
\$ 1 - 99,999	525	396,095	3.29	430	754
100,000 - 499,999	159	757,336	6.29	3,073	4,763
500,000 - 999,999	45	480,817	4.00	5,126	10,685
1,000,000 - 24,999,999	102	3,451,850	28.69	12,582	33,842
25,000,000 - 49,999,999	9	473,370	3.93	30,301	52,597
50,000,000 - 99,999,999	5	763,585	6.35	17,753	152,717
100,000,000 - 499,999,999	7	5,351,824	44.48	123,101	764,546
\$500,000,000 and over	0	0	0.00	0	0
<b>Total</b>	<b>877</b>	<b>\$12,031,063</b>	<b>100.00</b>	<b>\$888</b>	<b>\$13,718</b>

Table 12: Profile of New York State Alternative Minimum Tax Credit by Size of Credit Used - 1995 Liability Year

Credit Used

Size of Credit Used	Number of Taxpayers	Amount of Credit Used	% of Credit Used	Median Credit Used	Mean Credit Used
Negative*	0	\$0	0.00	\$0	\$0
Zero	0	0	0.00	0	0
\$ 1 - 499	345	69,917	0.58	159	203
500 - 999	116	85,566	0.71	726	738
1,000 - 4,999	252	573,986	4.77	1,923	2,278
5,000 - 9,999	56	397,626	3.31	7,052	7,100
10,000 - 24,999	50	811,764	6.75	15,396	16,235
25,000 - 49,999	27	971,703	8.08	35,682	35,989
50,000 - 99,999	11	804,709	6.69	71,435	73,155
100,000 - 499,999	17	2,870,913	23.86	146,187	168,877
\$500,000 and over	3	5,444,879	45.26	622,728	1,814,960
<b>Total</b>	<b>877</b>	<b>\$12,031,063</b>	<b>100.00</b>	<b>\$888</b>	<b>\$13,718</b>

\* "Negative" means recapture exceeds amount of available credit.

Table 13: Profile of New York State EDZ Wage Credit by Basis of Taxation - 1995 Liability Year

Credit Earned

Basis of Taxation	Number of Taxpayers	Amount of Credit Earned	% of Credit Earned	Median Credit Earned	Mean Credit Earned
Entire Net Income	20	\$569,230	18.19	\$4,625	\$28,462
Fixed Dollar Minimum Tax	21	1,803,515	57.64	7,500	85,882
Capital Base	0	0	0.00	0	0
Alternative Minimum Tax	30	755,930	24.16	11,250	25,198
Total	71	\$3,128,675	100.00	\$7,500	\$44,066

Credit Claimed

Basis of Taxation	Number of Taxpayers	Amount of Credit Claimed	% of Credit Claimed	Median Credit Claimed	Mean Credit Claimed
Entire Net Income	d/	d/	d/	d/	d/
Fixed Dollar Minimum Tax	23	\$2,172,848	45.06	\$12,563	\$94,472
Capital Base	d/	d/	d/	d/	d/
Alternative Minimum Tax	37	1,479,695	30.68	15,000	39,992
Total	84	\$4,822,299	100.00	\$7,875	\$57,408

Credit Used

Basis of Taxation	Number of Taxpayers	Amount of Credit Used	% of Credit Used	Median Credit Used	Mean Credit Used
Entire Net Income	23	\$280,775	22.15	\$2,621	\$12,208
Fixed Dollar Minimum Tax	d/	d/	d/	d/	d/
Capital Base	d/	d/	d/	d/	d/
Alternative Minimum Tax	33	896,310	70.70	4,688	27,161
Total	68	\$1,267,810	100.00	\$3,179	\$18,644

Credit Carried Forward

Basis of Taxation	Number of Taxpayers	Amount of Credit Carried Forward	% of Credit Carried Forward	Median Credit Carried Forward	Mean Credit Carried Forward
Entire Net Income	d/	d/	d/	d/	d/
Fixed Dollar Minimum Tax	21	\$1,936,612	56.89	\$6,785	\$92,220
Capital Base	d/	d/	d/	d/	d/
Alternative Minimum Tax	22	583,385	17	24,736	26,518
Total	56	\$3,403,988	100.00	\$10,874	\$60,786

Table 14: Profile of New York State EDZ Investment Credit by Basis of Taxation - 1995 Liability Year

Credit Earned

Basis of Taxation	Number of Taxpayers	Amount of Credit Earned	% of Credit Earned	Median Credit Earned	Mean Credit Earned
Entire Net Income	d/	d/	d/	d/	d/
Fixed Dollar Minimum Tax	23	\$4,082,980	30.96	\$15,693	\$177,521
Capital Base	d/	d/	d/	d/	d/
Alternative Minimum Tax	54	7,226,252	54.80	17,858	133,819
Total	90	\$13,187,685	100.00	\$19,338	\$146,530

Credit Claimed

Basis of Taxation	Number of Taxpayers	Amount of Credit Claimed	% of Credit Claimed	Median Credit Claimed	Mean Credit Claimed
Entire Net Income	d/	d/	d/	d/	d/
Fixed Dollar Minimum Tax	27	\$6,774,089	30.43	\$46,427	\$250,892
Capital Base	d/	d/	d/	d/	d/
Alternative Minimum Tax	56	13,352,049	59.99	40,394	238,429
Total	96	\$22,257,695	100.00	\$49,429	\$231,851

Credit Used

Basis of Taxation	Number of Taxpayers	Amount of Credit Used	% of Credit Used	Median Credit Used	Mean Credit Used
Entire Net Income	8	\$1,169,432	38.94	\$79,753	\$146,179
Fixed Dollar Minimum Tax	d/	d/	d/	d/	d/
Capital Base	d/	d/	d/	d/	d/
Alternative Minimum Tax	36	1,683,464	56.05	6,601	46,763
Total	55	\$3,003,469	100.00	\$7,351	\$54,609

Credit Carried Forward

Basis of Taxation	Number of Taxpayers	Amount of Credit Carried Forward	% of Credit Carried Forward	Median Credit Carried Forward	Mean Credit Carried Forward
Entire Net Income	d/	d/	d/	d/	d/
Fixed Dollar Minimum Tax	27	\$5,168,987	29.23	\$29,858	\$191,444
Capital Base	d/	d/	d/	d/	d/
Alternative Minimum Tax	56	11,569,610	65.43	31,096	206,600
Total	90	\$17,682,978	100.00	\$31,527	\$196,478

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# Appendix A: Credit Provisions Effective for Tax Years Beginning Prior to January 1, 1996

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## Investment Tax Credit

For tax years beginning on or after December 31, 1968, the investment tax credit (ITC) equaled 1 percent of the cost of new or expanded manufacturing production facilities located in New York State. By 1982, the rate had grown to 6 percent.

For tax years beginning in 1987, 1988 and 1989, the rate dropped to 5 percent of the first \$500 million of investments, and 4 percent for investments over that amount. For tax years beginning in 1990, the \$500 million threshold dropped to \$425 million and then to \$350 million for subsequent tax years.

In addition, taxpayers who met certain employment tests could qualify for the employment incentive credit (EIC). Prior to 1987, this credit equaled one-half of the investment credit, and was available for up to three years. However, employment in such years must have equaled at least 101 percent of the employment in the year immediately before the ITC was first claimed.<sup>1</sup>

For investments made on or after January 1, 1987, the EIC is a two-year credit described in the following table:

History of Tax Rates of the Employment Incentive Credit	Year Property is Placed in Service	Average Number of Employees During the Tax Year Expressed as a Percentage of those in the Employment Base Year	Additional Credit as a Percentage of the Investment Credit Base
	Tax Years Beginning in 1987, 1988 or 1989	At least 101%	2% of the first \$500 million 2.5% in excess of \$500 million
	Tax Years Beginning in 1990	At least 101%, but less than 101.5%	2% of the applicable ITC base
		In excess of 101.5%	2.5% of the applicable ITC base
	Tax Years Beginning After 1990	At least 101%, but less than 102%	1.5% of the applicable ITC base
		At least 102%, but less than 103%	2% of the applicable ITC base
		At least 103%	2.5% of the applicable ITC base

Research and Development Tax Credit

For tax years beginning on or after January 1, 1987, the research and development tax credit previously allowed under section 210.18 of the Tax Law was consolidated into the ITC provisions. The separate credit has been repealed. Unused credit may be carried forward only to tax years beginning before January 1, 1994.<sup>2</sup>

Credit for Research and Development Property Under the ITC

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

Special Additional Mortgage Recording Tax Credit

A credit is allowed equal to the State special additional mortgage recording tax paid on mortgages recorded after December 31, 1978. The special additional mortgage recording tax is imposed at the rate of 25 cents per \$100 on the indebtedness secured by a mortgage recorded on or after July 1, 1969. The credit is not allowed for such taxes paid on residential mortgages recorded after May 1, 1987, where the real property is located in Erie County or one or more of the counties comprising the Metropolitan Commuter Transportation District.<sup>3</sup>

Job Incentive (Eligible Business Facility) Credit

Enacted in 1968, the job incentive credit applied to manufacturing and wholesaling firms. To claim the credit, the firm must have located, expanded or improved their facilities in core areas of the State's six largest cities. They must also have provided employment and training to



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residents of these areas. Subsequent legislation expanded the program to cover all of New York State. Legislation enacted in 1983 terminated the program. However, applications approved before July 1, 1983 continued in effect. This credit sunsets for tax years beginning on or after January 1, 2000.

The amount of credit equaled a percentage, based on eligible wages and property in the core area, applied to pre-credit liability. A taxpayer could not have claimed both the job incentive credit and another credit for the same investment.

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## Economic Development Zone (EDZ) Credits

In 1986, New York State enacted legislation to stimulate growth in economically distressed communities. The program provides a package of tax incentives for businesses that invest or provide jobs in designated economic development zones (EDZs). Credits available to Article 9-A taxpayers include the wage credit, the capital corporations credit, and an investment tax credit.

### EDZ Wage Credit

Eligible taxpayers may claim a wage tax credit for up to five years for doing business and creating jobs in an EDZ. The credit differs for targeted and nontargeted employees. A higher credit rate applies to wages paid to targeted employees (i.e., those with low incomes or on public assistance).

The credit equals 25 percent of targeted eligible wages for the first tax year, declining by 5 percent per year for each of the following five years. The corresponding credit for non-targeted employees equals one-half of these amounts. The total credit cannot exceed 50 percent of pre-credit tax liability.

To qualify for the credit, taxpayers must fill 20 percent of new zone jobs with zone residents, or with residents of census tracts bordering the EDZ. In addition, the employer must show a statewide and zonewide net employment gain. Ceilings limit the credits.

### EDZ Investment Tax Credit

Production property acquired or built in an EDZ may qualify for an ITC of 10 percent. Like the regular ITC and other credits, this credit cannot reduce the tax due for any year to less than the higher of the tax on the minimum income base or the fixed dollar minimum. However, unlike

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other credits, corporations may carry forward any unused EDZ-ITC indefinitely.

An additional 3 percent credit rate (30 percent of the ITC) applies in the three years following the year in which the corporation claimed the ITC. To qualify for this second credit, the taxpayer's employment in the EDZ (excluding general executive officers) must equal at least 101 percent of its average employment in the year prior to earning the ITC.

#### EDZ Capital Corporation Tax Credit

Under the corporation franchise tax, a credit may apply to the consideration paid for original issue stock purchased from an economic development zone capital corporation. These are corporations designed to raise money for investment in zone businesses. The credit equals 25 percent of the amount paid for the stock, up to a lifetime maximum of \$100,000. In any tax year, the credit cannot exceed 50 percent of the taxpayer's pre-credit liability. Taxpayers may carry forward unused amounts indefinitely. A recapture provision applies if the taxpayer disposes of the investment within 36 months of acquisition.

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#### Alternative Minimum Tax Credit

Taxpayers began to accumulate the alternative minimum tax (AMT) credit in 1990. Beginning in 1991, taxpayers can claim the AMT credit against their regular tax (entire net income base) for a portion of AMT paid in 1990 and subsequent years. A taxpayer could use the AMT credit to reduce their regular tax liability to the fixed dollar minimum or the minimum taxable income base, whichever was higher.

The calculation of the minimum tax credit involves a two-step process. The taxpayer calculates a "tentative" minimum tax by subtracting from the minimum tax the highest of the tax on entire net income, the tax on business and investment capital or the fixed dollar minimum tax. In the second step, corporations recalculate the minimum tax they would have paid, accounting for only two specific tax preferences. The first is the preference related to depletion under IRC Section 57(a)(1). The second is the preference related to the appreciated property charitable deduction under IRC Section 57(a)(6)(b). In addition, prior to 1994, both minimum tax calculations disallowed the NOL deduction, and required single weighting of the receipts factor. Corporations reduce this recalculated minimum tax by the highest of the tax on entire net income, the tax on business and investment capital or the fixed dollar minimum tax. The result of subtracting the recalculated minimum tax credit from the

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“tentative” minimum tax credit equals the minimum tax credit available for subsequent years.

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## Fixed Dollar Minimum Tax

New York’s corporate franchise tax law also imposes a fixed dollar minimum tax, which varies according to a taxpayer’s gross payroll.

Gross Payroll Amount	Fixed Dollar Amount
\$6,250,000 or more	\$1,500
\$1,000,001 to \$6,250,000	\$ 425
\$1,000,000 or less	\$ 325

A fixed dollar minimum of \$800 applies to essentially inactive (i.e., shell) corporations that meet certain conditions, including:

- gross payroll of \$1,000 or less;
- total gross (i.e., everywhere) receipts of \$1,000 or less; and
- gross assets with an average value of \$1,000 or less.

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## Changes in 1994-95 State Budgets

The 1994-1995 State Budget made significant changes to certain corporate tax credit provisions. The highlights include:<sup>4</sup>

- Investment Tax Credit and Employment Incentive Credit. For credits generated on or after January 1, 1987, the allowable credits carry forward period increased from 7 to 10 years. (This extension did not, however, apply to pre-1987 research and development credit.)
- Alternative Minimum Tax Credit. See above description.
- Zone Equivalent Area Wage Credit. See above description.

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## Changes in EDZ Program

In 1993 and 1994, New York State expanded and modified the economic development zone (EDZ) program, with the changes being effective for tax years beginning on or after January 1, 1994. In 1993, the changes included simplifying the wage tax credit and the capital corporation credit. The computation of the wage tax credit was changed from a complex percentage of wages method to a flat dollar amount per newly hired employee. This change and the expansion of the capital corporation credit were intended to increase participation in the program.

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In 1994, the program was expanded to also provide a wage tax credit for businesses that increased employment in areas eligible for EDZ designation. These areas are called zone equivalent areas (ZEAs).

EDZ and ZEA Wage Credits

Beginning on or after January 1, 1994, the wage credit was simplified. The EDZ wage credit is now based on the average number of newly hired employees. The first component of the credit equals the product of the average number of newly hired targeted EDZ employees multiplied by \$1,500. The corresponding credit amount for other employees equals the product of the average number of newly hired nontargeted EDZ employees receiving EDZ wages multiplied by \$750.

For tax years beginning on or after January 1, 1994, a similar credit is provided for eligible businesses located in ZEAs. Taxpayers employing individuals in ZEAs may claim a two-year wage tax credit for EDZ wages paid to full-time employees in a ZEA. In year one, the credit equals \$1,000 multiplied by the average number of newly hired targeted employees and \$500 multiplied by the average number of newly hired nontargeted employees. In year two, the credit decreases to \$500 per targeted employee and \$250 per nontargeted employee.

The total EDZ or ZEA wage tax credit cannot exceed 50 percent of tax due (before credits). Taxpayers may carry forward unused credits indefinitely. In lieu of a carryforward, "new business" taxpayers may elect to have unused credit refunded.

EDZ Investment Tax Credit (EDZ-ITC)

Effective January 1, 1994, the EDZ-ITC was amended to allow new businesses to elect a refund of the unused credit in lieu of a carryforward. Remaining provisions of the EDZ-ITC did not change.

EDZ Capital Corporation Credit

For tax years beginning on or after January 1, 1994, the law was amended to allow the EDZ capital credit for investments in capital corporations, direct equity investments in certified zone businesses, and contributions to community development projects. The new credit equals 25 percent of the sum of each type of investment. The lifetime maximum credit per taxpayer equals \$300,000.

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Changes in Special  
Additional Mortgage  
Recording Tax Credit

For periods beginning on or after January 1, 1994, taxpayers may elect to treat the unused portion of the special additional mortgage recording tax credit as an overpayment to be credited or refunded.

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Changes in  
Alternative Minimum  
Tax Credit

Effective for taxable years beginning in 1994, taxpayers may claim an alternative minimum tax (AMT) credit against regular (ENI-based) tax liability for part of the net operating loss deduction not used in computing the AMT. Taxpayers may calculate the AMT credit retroactively for taxable years after 1989 and carry forward the credit indefinitely. The pre-1994 net operating loss component is subject to a five-year transition rule, beginning in taxable years after 1993 and ending before 1999. Under the transition rule, a taxpayer may use up to 20 percent of the credit in each of the five years beginning with the 1994 tax year. The taxpayer will have available the remainder of any unused credit for tax years after 1999.

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Changes in 1995-96  
State Budget

The 1995-1996 Budget contained no changes to existing corporate tax credit provisions.

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## Endnotes

1. Effective for credits generated on or after January 1, 1987, the allowable carry forward of the investment tax credit and employment incentive credit increased from 7 to 10 years. The cutoff of pre-1987 investment tax credit carry forwards was extended from 1994 to 1997.
2. The research and development credit carry forward under section 210.18, which applied to any tax year beginning before January 1, 1994, was not, in contrast to the investment tax credit research and development property credit carry forward, extended to 1997 under legislation enacted in 1994.
3. Taxpayers may request a refund of special additional mortgage recording tax credit earned after January 1, 1994.
4. See New York State Department of Taxation and Finance, Office of Tax Policy Analysis, New York State Fiscal Year 1994-95 Budget: Summary of Tax Provisions (June 1994) for more details on changes to credit provisions.

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# Appendix B: Highlights of Tax Credit Changes Effective for Tax Years Beginning On or After January 1, 1996

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## Changes in 1996-97 State Budget

The 1996-97 State Budget contained two significant tax law changes affecting corporate tax credit provisions. These included the following:<sup>1</sup>

- *Credit for Rehabilitation of Historic Barns*

Effective for taxable years beginning on or after January 1, 1997, the investment tax credit (ITC) was expanded to allow a corporate franchise tax credit for the rehabilitation of historic barns in New York State.

The credit equals 25 percent of qualified rehabilitation expenditures paid or incurred for any barn located in New York State that is a qualified rehabilitated building. The definition of a qualified rehabilitated building has the same meaning as that used for the federal rehabilitation credit under section 47 of the Internal Revenue Code. For purposes of the historic barn credit, a barn is defined as a building originally designed and used for storing farm equipment or agricultural products or for housing livestock, but does not include barns converted to residential purposes. In accordance with federal law for rehabilitation of historic buildings, the barn being rehabilitated must have been placed in service before the commencement of the rehabilitation work, and it either must be a certified historic structure or must have been first placed in service before 1936. It only qualifies for the credit based on substantial rehabilitation. Generally, a building will have been considered substantially rehabilitated only if the expenditures exceed the greater of the adjusted basis of the barn or \$5,000. A taxpayer may not claim both the regular investment tax credit on manufacturing property and the investment tax credit for rehabilitation of historic barns on the same property.

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- *Agricultural Property Tax Credit*

Effective for taxable years beginning in 1997, eligible farmers may claim a real property tax credit against the corporate franchise tax. A farmer is defined as a taxpayer whose gross income from farming is at least 2/3 of total gross income. The credit equals the total school district property taxes paid on qualified agricultural property in the State up to the acreage limitation, and 50 percent of the school taxes paid on acres in excess of the limitation. The acreage limitation equals 100 acres in 1997, 175 acres in 1998, and 250 acres after 1998. The credit is phased out for taxpayers with New York adjusted gross income (entire net income) in excess of \$100,000. Recapture provisions apply if the taxpayer converts the property to a nonqualified use within 2 years.

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## Changes in 1997-98 State Budget

The 1997-98 State Budget expanded existing credit provisions and also contained a new tax credit for alternative fuel vehicles and alternative fuel refueling property.<sup>2</sup>

- *Investment Tax Credit Carryforward*

The 1997-98 Budget extended the investment tax credit carryforward period from ten to 15 years. Any unused pre-1987 credits will now be available until 2002 to provide relief for businesses. Post-1986 credits will have a 15-year carryforward.

- *Alternative Fuels Vehicle Credit*

Corporate franchise taxpayers may claim credits for electric vehicles; clean fuel vehicles using natural gas, methanol and other alternative fuels; and clean fuel refueling facility property. The tax credits are available for property placed in service in taxable years beginning on or after January 1, 1998 and before 2003. The credits may be transferred to Article 9-A affiliates.

The tax credits equal 50 percent of the incremental cost of new electric vehicles registered in New York (capped at \$5,000 per vehicle); 60 percent of the cost of new clean-fuel components for alternative fuel vehicles registered in New York (capped at \$5,000 per vehicle with a gross vehicle weight rating of 14,000 pounds or less,



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and \$10,000 for those over 14,000 pounds); and 50 percent of the cost of new clean-fuel refueling property used in a trade or business.

Agricultural Property Tax  
Credit

The 1997-98 Budget amended the farm school property tax credit for tax years beginning on or after January 1, 1998. For corporations, excess federal gross income for determination of the 2/3 farming income test equals federal gross income from all sources in excess of \$30,000.

The income limitation which phases out the credit was modified such that payments on principal on farm indebtedness may be subtracted from New York State entire net income in order to calculate the income limitation.

The changes clarified that gross income from production of maple syrup, or cider, or sale of wine from a licensed farm winery, shall be included in "federal gross income from farming" for purposes of determining the 2/3 farming income test.

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Chapter 142 of the  
Laws of 1997

*Credit for Employers Who Hire Persons With Disabilities*

Chapter 142 of the Laws of 1997 created a new tax credit for employers who hire individuals with disabilities.

The credit equals 35 percent of the first \$6,000 of first year wages paid to the disabled employee (a maximum of \$2,100 per employee). However, if the first year wages qualify for the federal work opportunity tax credit, the New York credit will apply to second year wages. The federal tax credit was extended to July 1, 1998.

To become eligible for the State credit, an employee must work for the employer on a full time basis for at least 180 days or 400 hours, and must be certified as disabled by the State Education Department. Visually handicapped employees may receive certification from the appropriate agency responsible for vocational rehabilitation of the blind and visually impaired.

The credit becomes effective for tax years beginning on or after January 1, 1998, with respect to employees who begin work on or after January 1, 1997. Unused credits are not refundable, but they may be carried forward indefinitely.

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Changes in 1998-99  
State Budget

The 1998-99 State Budget contained a number of new credit provisions designed to enhance New York's business competitiveness and to encourage the growth of high technology companies.<sup>3</sup>

- *Investment Tax Credit for Broker/Dealers in the Financial Securities Sector*

The investment tax credit (ITC), currently available to corporations for manufacturing operations, is extended to corporations that are brokers or dealers in securities. The credit is available for equipment or buildings used in the broker/dealer activity and in activities connected with their operations, such as the provision of investment advice, and lending activities associated with the purchase and sale of securities. The credit is also extended to national securities exchanges.

The ITC provides a credit of 5 percent of the cost of qualified expenditures of up to \$350 million. Qualified investment expenditures in excess of \$350 million are eligible for a 4 percent credit.

Eligibility for the credit requires the location of the employees performing the administrative and support functions associated with the qualifying use of the equipment to be substantially within New York. Taxpayers that lease property to an affiliated broker/dealer or exchange are eligible for the credit.

The credit is available for property placed in service for the five year period between October 1, 1998 and September 30, 2003.

- *New York State Emerging Industry Jobs Act*

The "New York State Emerging Industry Jobs Act" provides Article 9-A tax credits for qualified emerging technology companies that invest in research and development in New York State. A qualified emerging technology company is defined as a company located in New York whose primary products or services are classified as emerging technologies. The company must also meet other qualifications.

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The credits include an employment tax credit and a capital credit. The employment tax credit equals \$1,000 for each individual employed full time over a base level. The credit is allowed only in the first taxable year in which it is claimed and in each of the next two taxable years. It may be carried forward indefinitely. The capital credits vary, depending on how long the investment is held. Qualified investment means the contribution of property to a corporation in exchange for original issue capital stock or other ownership interest, and similar contributions. The credit equals 10 percent of qualified investments held during the four years following the year the credit is first claimed. The total amount of the credit allowed for all years is capped at \$150,000. For investments held during the nine years following the year the credit is first claimed, the credit equals 20 percent. The total amount of the credit allowed for all years is \$300,000. There is a recapture if the investment is sold. The credit may be carried forward indefinitely.

The credits apply to tax years beginning on or after January 1, 1999.

- *Acceleration of Farmer's School Tax Credit*

The acreage limitation under the credit for school property taxes paid on agricultural property was increased from 175 acres to 250 acres for the 1998 tax year.

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## Endnotes

1. See New York State Department of Taxation and Finance, Office of Tax Policy Analysis, Summary of 1996-97 Tax Provisions (August 1996) for more details on changes to credit provisions.
2. See New York State Department of Taxation and Finance, Office of Tax Policy Analysis, Summary of 1997-98 Tax Provisions (September 1997) for further descriptions of the credit provisions.
3. See New York State Department of Taxation and Finance, Office of Tax Policy Analysis, Summary of 1998-99 Tax Provisions (August 1998) for additional detail on these credit provisions.

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# Appendix C: Summary of 1998-99 Article 9-A Tax Law Provisions

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## Corporation Franchise Tax

### Tax Rate Reduction for Large and Small Businesses

The budget reduces the rate imposed under the entire net income (ENI) base of the Article 9-A corporate franchise tax. The rate reduction is phased in over three years. In the first phase, for taxable years beginning after June 30, 1999 and before July 1, 2000, the rate is reduced from 9 percent to 8.5 percent. In the second phase, for taxable years beginning after June 30, 2000 and before July 1, 2001, the rate is reduced to 8 percent. In the third phase, for taxable years beginning after June 30, 2001, the rate is reduced to 7.5 percent.

Small businesses with ENI of not more than \$200,000 will realize a rate reduction from 8 percent to 7.5 percent. The 7.5 percent rate takes effect for taxable years beginning after June 30, 1999 for these taxpayers.

A separate formula applies to small businesses with ENI of more than \$200,000, but not over \$290,000. The rate calculation equals \$15,000 plus 8.5 percent of the excess ENI over \$200,000 plus 5 percent of the excess ENI over \$250,000. This rate reduction takes effect for taxable years beginning after June 30, 1999 and before July 1, 2000.

The rate is further reduced for these small business taxpayers for taxable years beginning after June 30, 2000 and before July 1, 2001. The rate calculation equals \$15,000 plus 8 percent of the excess ENI over \$200,000 plus 2.5 percent of the excess ENI over \$250,000. For taxable years beginning after June 30, 2001, the formula for these taxpayers no longer applies. The tax rate equals 7.5 percent of ENI.

The following tables illustrate the reduction in the corporate franchise tax rates.

Large Business Taxpayers	
Taxable Year Beginning	Tax Rate
Present Law	9% of Entire Net Income Base
After June 30, 1999 and before July 1, 2000	8.5%
After June 30, 2000 and before July 1, 2001	8%
After June 30, 2001	7.5%

Small Business Taxpayers with ENI of Not More Than \$200,000	
Taxable Year Beginning	Tax Rate
Present Law	8% of Entire Net Income Base
After June 30, 1999	7.5%

Small Business Taxpayers with ENI of More Than \$200,000, but Not More Than \$290,000	
Taxable Year Beginning	Tax Rate
Present Law	Sum of: \$16,000, 9% of excess of ENI base over \$200,000, and 5% of excess ENI over \$250,000
After June 30, 1999 and before July 1, 2000	Sum of: \$15,000, 8.5% of excess ENI base over \$200,000, and 5% of excess ENI base over \$250,000
After June 30, 2000 and before July 1, 2001	Sum of: \$15,000, 8% of excess of ENI base over \$200,000 and 2.5% of excess of ENI base over \$250,000
After June 30, 2001	7.5%

Alternative Minimum Tax Rate Reduction

The alternative minimum tax rate for Article 9-A corporation franchise taxpayers will be reduced from 3.5 percent to 3.25 percent for taxable years beginning after June 30, 1998 and before July 1, 1999. The rate is further reduced to 3 percent for taxable years beginning after June 30, 1999.

Fixed Dollar Minimum Rate Reduction

The legislation reduces the fixed dollar minimum tax for small business taxpayers with gross payrolls of \$500,000 or less. The fixed dollar minimum for businesses with gross payrolls over \$500,000 will not change. No changes have been made to the \$800 fixed dollar minimum tax applicable to "shell" corporations with payroll, receipts and assets each of not more than \$1,000.

The reductions are phased in over two years. Taxpayers with gross payrolls of \$250,000 or less will realize a decrease from the current \$325 fixed dollar minimum tax to \$100. This is effective for taxable years beginning after June 30, 1998. The fixed dollar minimum tax will drop

from \$325 to \$225 for taxpayers with gross payrolls of more than \$250,000, but not more than \$500,000. This tax reduction takes effect for taxable years beginning after June 30, 1999.

The following table illustrates the reduction in the fixed dollar minimum taxes:

Reduction in Fixed Dollar Minimum Tax for Small Business Taxpayers			
		Fixed Dollar Minimum	
Gross Payroll (set ranges in accordance with the second year of the new law)	Present Law	Taxable Years Beginning After June 30, 1998 and Before July 1, 1999	Taxable Years Beginning After June 30, 1999
\$250,000 or less	\$325	\$100	\$100
More than \$250,000, but not more than \$500,000	\$325	\$325	\$225

S Corporation Rate  
Differential Reduction

The personal income tax (Article 22) equivalent used to compute the rate differential is reduced over a three year period. For taxable years beginning after June 30, 1999 and before July 1, 2000, the rate is reduced from 7.875 percent to 7.525 percent. The rate is further reduced to 7.125 percent for taxable years beginning after June 30, 2000 and before July 1, 2001. A 6.85 percent rate applies for taxable years beginning after June 30, 2001.

For small business taxpayers with entire net income (ENI) of not more than \$200,000, the Article 22 tax equivalent drops from 7.875 percent to 7.45 percent. If the ENI base is more than \$200,000, but not over \$290,000, the Article 22 tax equivalent equals \$14,900 plus 0.0685 (6.85 percent) of the first \$50,000 of the excess over \$200,000, plus 0.0385 (3.85 percent) of the excess over \$250,000. The reduced rate and formula calculations take effect for taxable years beginning after June 30, 1999.

The following tables illustrate the phase in of the S corporation rate reduction:

S Corporation Differential Rate For S Corporations with Entire Net Income over \$290,000			
Effective Date	Article 9-A Rate (Percent)	Article 22 Equivalent Tax Rate (Percent)	S Corporation Differential Rate (Percent)
Present Law	9	7.875	1.125
Taxable years beginning after June 30, 1999 and before July 1, 2000	8.5	7.525	0.975

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S Corporation Differential Rate For S Corporations with Entire Net Income over \$290,000			
Taxable years beginning after June 30, 2000 and before July 1, 2001	8	7.175	0.825
Taxable years beginning after June 30, 2001	7.5	6.85	0.65



S Corporation Differential Rate for S Corporations with Entire Net Income more than \$200,000, but Less than \$290,000	
Effective Date	Formula
Present Law	\$16,000 plus 9% of the amount over \$200,000, but not over \$290,000 plus an additional 5% of the amount over \$250,000, but not over \$290,000
Taxable years beginning after June 30, 1999	\$14,900 plus 6.85% of the first \$50,000 in excess of \$200,000, plus 3.85 % of the excess over \$250,000

S Corporation Differential Rate Under the New Law for S Corporations with Entire Net Income of \$200,000 or Less			
Effective Date	Article 9-A Rate (Percent)	Article 22 Equivalent Tax Rate (Percent)	S Corporation Differential Rate (Percent)
Present Law	8	7.875	0.125
June 30, 1999	7.5	7.45	0.05

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# Appendix D: Legislative Mandate

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Section 109(a) of the Business Tax Reform and Rate Reduction Act of 1987 (Chapter 817 of the Laws of 1987) requires the Commissioner of Taxation and Finance to conduct a study regarding corporate tax credits. The legislative mandate follows.

On or before December first, nineteen hundred eighty-eight and on or before December first of each year thereafter, the commissioner of taxation and finance shall submit a written report and such data and supporting documentation as are available and meaningful regarding the number of taxpayers claiming, using, and carrying forward tax credits and the total amount of such credits claimed, used, and carried forward and the median, mean and distribution of such credits for taxable years beginning during nineteen hundred eighty-four, and each subsequent year, to the extent that such information is available. Such reports shall present the latest information available reflecting amended returns filed by taxpayers and adjustments upon audit by taxpayer liability period as well as the impact of such credits upon state fiscal year revenues.

Copies of these reports shall be submitted by the commissioner of taxation and finance to the governor, the temporary president of the senate, the speaker of the assembly, the chairman of the senate finance committee and the chairman of the assembly ways and means committee. Such reports shall contain, but need not be limited to, information by industrial classification, by basis of taxation, by size of credit and taxpayer income ranges. In preparing such reports, the commissioner of taxation and finance shall ensure that the statistics are classified in a manner consistent with the secrecy requirements of tax law.

