OTPA
Office of Tax Policy Analysis
New York State Department of Taxation and Finance

May 2005

Summary of Tax Provisions in SFY 2005-06 Budget

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Overview of State Fiscal Year 2005-06 Budget Tax Actions

Chapters 58, 59, 61 and 63 of the Laws of 2005, enacted as part of the 2005-06 State budget, provide for a number of tax relief and revenue raising provisions. Listed below are synopses of the tax provisions contained in the legislation. The next section provides descriptions of tax actions enacted since 1995. It is followed by a complete description of all of the tax provisions in the 2005-06 legislation. Finally, the report concludes with two appendices. Appendix A provides a guide to the tax provisions in the budget bills, listing each provision and its bill section, page, description, and effective date. Appendix B gives a brief summary of tax actions from State fiscal year 1995-96 through 2004-05.

Personal Income Tax

Personal income tax provisions in the budget will:

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

Business Taxes

Business tax provisions in the budget will:

- Create requirements for the business allocation percentage to be based on a single receipts factor.
- Make significant reforms to the Empire Zone/Qualified Empire Zone Enterprise program with respect to zone boundaries, zone designations, taxpayer eligibility, and benefits.
- Lower the tax rate from 6.85 percent to 6.5 percent for small businesses and expand the availability of the small business rate.
- Create period two of the green buildings tax credit, allocating an additional $25 million; allow for reallocation of unclaimed credits from periods one or two.
- Create a new refundable tax credit for qualified emerging technology companies consisting of components for research and development property, research expenses, and high-technology training expenditures for qualified emerging technology companies.

- Create a fifth Certified Capital Company (CAPCO) program for certain insurance companies that can claim a credit for 100 percent of their investment in a CAPCO.
- Provide insurance taxpayers the ability to sell or transfer unused CAPCO credits to an affiliated taxpayer.
- Increase the cap under capital base from $350,000 to $1 million for certain taxpayers.
- Extend Power for Jobs program through 2006.

Sales and Use Tax

Sales and use tax changes will:

- Increase by one-eighth of one percent the sales and compensating use tax rate in the Metropolitan Commuter Transportation District (MCTD) — effective June 1, 2005.
- Suspend the year-round sales tax exemption for clothing and footwear priced under $110 through March 31, 2006, while providing for two one week-long sales tax exemptions to be held from the Tuesday immediately preceding Labor Day through Labor Day, and from the last Monday of January through the following Sunday.

Other Provisions

Other miscellaneous provisions will:

- Create tax shelter and reportable transaction disclosure requirements and create a voluntary disclosure program from October 1, 2005 through March 1, 2006 whereby taxpayers can get certain penalties waived by filing amended returns disclosing participation in tax shelters.
- Mandate electronic filing for preparers filing more than 200 original returns, using authorized tax preparation software.
- Create reciprocity between the State and City and other states with regard to applying tax overpayments against warranted tax debts owed New York.
- Require the Department to implement a system to collect State motor fuel and diesel motor fuel excise and petroleum business taxes, cigarette excise taxes and sales and use taxes on sales of fuels and cigarettes made to non-native Americans on recognized reservations in the State.
- Extend by one year to May 31, 2006 authorization for the Quick Draw lottery game.

Highlights of Prior-Year Budget Tax Legislation

The tax reductions and initiatives included in this year's budget legislation build upon an array of tax cuts and programs enacted over the previous decade. Listed below are some highlights of tax legislation enacted since 1995. Appendix B provides greater detail on these and other provisions.

Fiscal Year 1995-96

- Enacted a three-year personal income tax reduction program totaling over $4 billion per year when fully effective in 1997. Major provisions included reducing the top rate from 7.875 to 6.85 percent, and increasing standard deduction amounts from $9,500 to $13,000 for married couples, $6,000 to $7,500 for individuals.
- Enacted a new estate tax deduction equal to a maximum of $250,000 equity in decedents' principal residences.
- Reduced the beer tax from 21 to 16 cents per gallon, the diesel motor fuel tax from 10 to 8 cents per gallon, and the container tax from 2 cents to 1 cent per container.
- Reduced certain petroleum business tax and pari-mutuel tax rates.

Fiscal Year 1996-97

- Repealed the real property gains tax.
- Created a new tax credit for farmers' school property taxes, and expanded the child care credit.
- Enacted a temporary exemption from sales tax for clothing and footwear costing less than $500.
- Enacted a variety of rate reductions and exemption/credit enhancements in the petroleum business tax.

- Reduced the rate of tax on the additional franchise tax for transportation and transmission companies, and allowed trucking and railroad companies the option of being taxed under the general corporate franchise tax.

Fiscal Year 1997-98

- Created the school tax relief ("STAR") program, which when fully effective provides State homeowners a minimum $30,000 full value exemption against school property taxes. The minimum exemption for homeowners age 65 and over is $50,000, and New York City residents also receive a personal income tax credit.

- Replaced the estate tax with a "pickup tax" equal to the maximum federal credit for state death taxes, effective February 1, 2000, and repealed the gift tax, effective January 1, 2000.

- Enhanced the farmers school property tax and child care credits under the personal income tax, and created a new deduction under the "New York State College Choice Tuition Savings Program."

- Created new temporary sales tax exemptions for clothing costing less than $100, with the exemption becoming permanent on December 1, 1999.

- Created new corporate tax credits for certain utility costs ("Power for Jobs Program"), and reduced utility tax rates for electricity, gas, and telephone services.

- Reduced insurance taxes and allowed banks to claim net operating loss deductions.

- Eliminated the beverage container tax and the tax on motor vehicle damage insurance awards.

Fiscal Year 1998-99

- Accelerated the STAR program enacted with the 1997-98 budget. This included providing the higher exemption and New York City resident income tax credit amounts to elderly residents, previously scheduled to be phased in by the 2001-02 school year, and 2001 tax year, in the 1998-99 school year and 1998 tax year, respectively.

- Reduced tax rates, including the alternative minimum tax rate and the fixed dollar minimum tax, under the corporate franchise tax.

- Created an investment tax credit for brokers/dealers in the financial services sector.
- Expanded the permanent sales tax exemption for clothing to include footwear, and raised the threshold amount from $100 to $110.
- Enacted a sales tax exemption for textbooks purchased by college students.
- Enriched the child care credit under the personal income tax.
- Conformed to federal tax relief for family owned businesses under the estate tax.
- Reduced the truck mileage tax by 25 percent.

Fiscal Year 1999-00

- Increased the earned income credit under the personal income tax from 20 percent to 25 percent of the federal credit.
- Reduced the bank tax rate from 9 percent to 7.5 percent.
- Reduced the insurance tax rate from 9 percent to 7.5 percent, and the premiums cap rate for non-life companies from 2.6 percent to 2.0 percent.
- Added two additional sales tax-free weeks for clothing costing less than $500.
- Reduced the corporate franchise tax alternative minimum tax rate from 3 percent to 2.5 percent.
- Provided a wide array of new business and sales tax credits and exemptions.

Fiscal Year 2000-01

- Eliminated the corporate utility gross receipts tax on companies providing energy services, instead taxing these businesses under the corporate franchise tax.
- Repealed the sales tax on separately purchased electricity and gas.
- Added a fourth phase of the Power for Jobs Program.

- Reduced the corporate franchise tax rate on small businesses from 7.5 percent to 6.85 percent, and reduced the S corporation differential tax rate by 45 percent.

- Created a new "Empire Zones Program Act."

- Created a new refundable credit or itemized deduction under the personal income tax for college tuition expenses.

- Increased the standard deduction for married couples from $13,000 to $14,600 over three years.

- Enriched and expanded the earned income and child care credits.

- Enhanced the sales tax exemption for property and services used to provide telecommunications, Internet access, and digital cable television services.

- Created a new sales tax exemption for certain equipment and services used by radio and TV broadcasters.

Fiscal Year 2001-02

- Added eight new Empire Zones.

Fiscal Year 2002-03

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

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

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

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

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

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

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

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

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

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

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

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

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

- Raised the excise tax rate on tobacco products.

Fiscal Year 2003-04

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- Included the New York City excise tax on cigarettes in the State sales tax base.

- Required the Commissioner to promulgate regulations necessary to implement collections of taxes on sales made to non-native Americans on recognized reservations in the State.

- Allowed wine and liquor stores the option of opening on Sundays, provided they close another day so that they are open no more than six days per week.

- Created a new waste tire management fee of $2.50 per tire on sales of certain new tires.

Fiscal Year 2004-05

- Increased the credit for long-term care insurance premiums from 10 to 20 percent (also applies for business taxes).

- Established a new credit for film production activity in New York (also applies under the personal income tax and New York City unincorporated business income and general corporation taxes.)

- Increased the Statewide annual aggregate limit for the low-income housing credit from $4 million to $6 million (also applies to the personal income tax).

- Extended credits for alternative fuel vehicles for an additional year (also applies to personal income tax).

- Extended the Qualified Emerging Technology Company (QETC) credit to biotechnology.

- Established a fourth Certified Capital Company (CAPCO) program under the insurance tax.

- Extended the Empire Zones program from September 13, 2004 to March 31, 2005.

- Extended and modified the Power for Jobs Program under Article 9.

- Created two new exemptions for aviation fuel under the petroleum business tax.

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

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

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

Summary of SFY 2005-06 Tax Provisions

Personal Income Tax

Long Term Care Credit Computation for Nonresidents

Part P of Chapter 61, as amended by Chapter 63, of the Laws of 2005 requires nonresident and part-year taxpayers to include their long-term care insurance credit in the base tax they compute before applying the income percentage that allocates their tax to New York. Taxpayers can claim a credit equal to 20 percent of the amount they pay for long term care insurance. Nonresidents and part-year residents previously calculated their credit and then applied it against their allocated tax liability without adjusting it by their New York income percentage. The change is effective beginning in tax year 2005.

Nursing Home Assessment Tax Credit

Part C of Chapter 58, as amended by Part E of Chapter 63, of the Laws of 2005 creates a refundable nursing home assessment tax credit under the personal income tax. Public Health Law §2807-d imposes an assessment on the gross receipts of residential health care facilities. These facilities, in turn, pass the costs of this assessment on to their clients. These costs are covered by Medicaid and private insurance, but individuals without such coverage must pay the assessment themselves. Taxpayers may claim the credit for any assessment amount which is separately stated and accounted for on the billing statement of a resident of a residential health care facility which is paid directly by the individual taxpayer. The credit is first effective in tax year 2005.

Special Additional Mortgage Recording Tax Credit

Part I of Chapter 61 of the Laws of 2005 creates a refundable personal income tax credit for the special additional mortgage recording tax paid by lenders on residential mortgages. This credit is not available to taxpayers in counties within the Metropolitan Commuter Transportation District (MCTD) or Erie County, if the mortgage relates to real property that in the aggregate contains not more than six residential dwelling units. Unused credit may be refunded or carried forward to future tax years. The credit is effective retroactively beginning in tax year 2004.

Limited Liability Company Fees	Part L of Chapter 61 extends the temporary fee increases which were in effect for tax years 2003 and 2004 and expired on January 1, 2005. These provisions are extended for the 2005 and 2006 tax years. The fees which will remain in effect are the $100 per member fee, the $500 minimum fee per entity, and the maximum fee of $25,000 per entity. The application of the fee to single member entities will also be continued. These provisions expire on January 1, 2007 after which the basic fee reverts to $50 per member, the minimum fee to $325 per entity, and the maximum fee to $10,000 per entity. Furthermore, single member LLCs will no longer be required to pay the fee after this date.
Electronic Filing of Returns	Part Q of Chapter 61 mandates electronic filing for certain income tax preparers. It would require those preparers filing more than 200 original PIT returns during calendar year 2005 and preparing at least one authorized return using tax preparation software in 2006 to file all authorized returns electronically . It would also require preparers filing more than 100 returns in any calendar year commencing on or after January 1, 2006, and preparing at least one authorized return using tax preparation software to file electronically. Preparers will be penalized $50 for each failure to electronically file returns. The penalty may be waived if the failure to electronically file was due to reasonable cause and not willful neglect. Taxpayers may elect not to electronically file their return, and that would also absolve the preparer from any penalty.
Reciprocal Offsets	Part O of Chapter 61 creates reciprocity between the State and the City with regard to applying tax overpayments against tax debts. It authorizes the Commissioner of Taxation and Finance to enter into agreements with tax administrators in other states to offset New York tax overpayments against tax liabilities owed other states, provided that those other states agree to offset overpayments due their taxpayers against tax debts owed New York. It would also allow the Commissioner and the New York City Finance Commissioner to agree upon procedures to apply certain City tax overpayments against warranted tax debts owed the State.
EPIC Income Verification	Part A of Chapter 58 of the Laws of 2005 amends the Tax Law such that the Commissioner may enter into a cooperative agreement with the Department of Health for the purpose of verifying income eligibility for the Elderly Pharmaceutical Insurance Coverage (EPIC) program.

Business Taxes

Single Receipts Factor

Part A of Chapter 61, as amended by Part A of Chapter 63, of the Laws of 2005 alters the method by which certain business taxpayers allocate their taxable income to New York. The bill requires corporate franchise taxpayers under Article 9-A to compute the business allocation percentage (BAP) based on a single receipts factor, rather than the previous three-factor formula of receipts, property, and wages. Airlines, railroads, and trucking companies taxable under Article 9-A will continue to compute the BAP using the special methods provided these industries and will not use single factor. The legislation also affects corporations taxable under Article 32 that are owned by a bank or bank holding company and are substantially engaged in providing services to an investment company. Banking corporations that meet this definition are required to use a single receipts factor to allocate income and assets, rather than the previous three-factor formula of receipts, deposits, and wages.

These provisions will be phased in over a three-year period starting in 2006. The weight of the receipts factor under Article 9-A will be increased from fifty percent to sixty percent in 2006, and to eighty percent in 2007. The weight of the receipts factor for those affected under Article 32 will be increased from forty percent to fifty percent in 2006, and to seventy percent in 2007. The single receipts factor will be fully effective for tax years beginning on or after January 1, 2008.

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

Part W of Chapter 61, as amended by Part A of Chapter 63, of the Laws of 2005 contained significant reforms to the Empire Zones (EZ)/ Qualified Empire Zone Enterprise (QEZE) program. Changes to the zone boundaries affect all taxpayers, while changes to eligibility and benefits apply to taxpayers certified on or after April 1, 2005.

<u>Zone Structure</u>

- Zones will now be designated as either Investment Zones (IZ) or Development Zones (DZ). Generally, IZs encompass economically distressed areas and DZs are “county zones.”
- The zone boundaries will be redrawn and will attempt to encompass as much of the old boundaries as possible.
- IZs may only contain three areas; DZs may only contain six areas. However, if the DZ is located in more than one county, it may contain 12 areas.
- Both zones can apply to have one additional area within their borders.

- DZs can apply to have three areas designated as IZs.
- Current beneficiaries that cannot be included in the redrawn boundaries will continue to be eligible for their benefits until they are decertified.
- Certain projects can be located outside of the designated areas within IZs and DZs. These include: manufacturers who create 50 or more jobs; agri-businesses; hi-tech or biotech companies making a $10 million capital investment and creating 20 or more jobs; and financial or insurance services firms or distribution centers creating 300 or more jobs.
- Twelve new zones will be created. Each of the 11 counties that do not currently have a zone will be eligible to apply for one, as will Chinatown.

Taxpayer Eligibility

- For purposes of the QEZE employment test, taxpayers will include their employees within EZs in their statewide employment number.
- The number of employees in the current tax year must exceed the number in the base period.
- If a corporation has zero base period employment or a base period of zero, they must qualify as a new business.
- The base period is shortened from five to four years.
- The QEZE employment number can include employees from a related person only if they were not employed within New York State within the preceding 60 months.
- Corporations identical in ownership and operation can qualify as a new business if they are expanding operations in a different county. The benefit period is the same for both QEZEs however.
- Businesses certified prior to August 1, 2002 with zero base years or zero base period employment will not be deemed new businesses unless they were formed for a valid business purpose and not solely to gain Empire Zone benefits.

Taxpayer Benefits

- The benefit period is shortened from 15 years to 10 years.
- The QEZE real property tax credit calculation is amended to be 25 percent of the product of the wages and health and retirement benefits of net new employees, up to $10,000 per employee. Wages in excess of $40,000 will not be counted.

- If a taxpayer is located in a DZ, they are subject to an additional employment increase factor which will reduce the credit. The factor is scaled to reward greater employment increases. Manufacturers will not be subject to this factor, regardless of location.
- The credit limitation is amended to be the greater of the credit calculation or the capital investment amount.
- For QEZEs in an IZ and QEZE manufacturers, the limitation is the existing credit limitation. For QEZEs in a DZ, the limitation is the product of 10 percent, the cost of construction, expansion, or rehabilitation, as opposed to acquisition, of real property owned by the QEZE and located in the EZ, and the percent of property occupied and used by the QEZE or a related person.
- The credit is further limited to the amount of real property taxes paid.
- Real property taxes will include property taxes paid by a lessee under certain circumstances.
- The language regarding PILOTs is amended to restrict the amount of the PILOT for purposes of the credit to the product of the taxpayer's basis in the property and the county full value tax rate.

Agricultural Co-operatives

- The bill adds a fixed dollar minimum limitation for agricultural co-ops for the QEZE real property tax credit.
- The EZ investment tax credit, employment incentive credit, and wage tax credit are extended to agricultural co-ops.
- These changes are retroactive to 2004.

EZ Wage Tax Credit

- Honorably discharged veterans are added to the list of targeted employees.
- If a taxpayer is located in an IZ, the credit is increased by $500 per each employee paid over $40,000 in wages.

EZ Capital Tax Credit

- The credit for investments in or contributions to EZ capital corporations is eliminated.

Small Business Tax Rates

Part E of Chapter 61 of the Laws of 2005 lowers the rate of tax on small businesses and expands the availability of the small business rate. The rate of tax on the entire net income (ENI) of small businesses is lowered from 6.85 percent to 6.5 percent. In addition, the amount of income qualifying for the small business rate is increased. Previously, taxpayers with an ENI base of $290,000 or less qualified as small businesses, and were subject to the small business rate on the first $200,000 of income. The benefit of the reduced rate was required to be recaptured on income above $250,000. The legislation increases the threshold for being considered a small business from $290,000 to $390,000. Small business taxpayers are now subject to the small business rate on the first $290,000 of income, with the benefit of the reduced rate recaptured on income above $350,000. The provisions of this section are effective immediately and apply to taxable years beginning on or after January 1, 2005.

QETC Facilities, Operations, and Training Credit

Part U of Chapter 61, as amended by Part A of Chapter 63, of the Laws of 2005, creates a new tax credit for certain qualified emerging technology companies (QETCs). To qualify, a QETC must have fewer than 101 employees, 75 percent of which are employed in New York State. They must also have a ratio of research and development funds to net sales which equals or exceeds six percent. Finally, gross revenues may not exceed $20 million for the tax year immediately preceding the year in which the taxpayer is claiming the credit. A taxpayer may claim the credit for four consecutive years. However, if relocating from an academic incubator facility, a taxpayer is entitled to one additional year. The credit is capped at $250,000 per taxpayer per year and is refundable. No credit is allowed for taxable years beginning on or after January 1, 2012.

The credit consists of three components:

<u>Research and Development Property</u>
Research and development property is eligible for an 18 percent credit rate. Qualified property is the same as that eligible for the investment tax credit, although the base is expanded to specifically include property used for testing or inspection, or costs associated with quality control, research, development, fees for use of facilities or processes for such activities, or production or distribution of materials and products resulting from the research.

<u>Research Expenses</u>
Qualified research expenses are eligible for a 9 percent credit rate.

Qualified expenses include expenses associated with in-house research and processes, and costs associated with the dissemination of research and development results and the patent process.

High-technology Training Expenditures
A taxpayer may take a credit equal to qualified training expenses, up to $4,000 per employee per year. Training includes courses related to the activities of the QETC completed at a post-secondary college or university located in New York State. Training expenses include items such as costs of tuition and fees, software, and textbooks.

Green Buildings Tax Credit

Part G of Chapter 61 of the Laws of 2005 creates period two of the green buildings tax credit. An aggregate of $25 million in credit component certificates may be issued by the Department of Environmental Conservation (DEC) in tax years beginning in 2005 through 2009. The amount on any one certificate is limited to $2 million, but a taxpayer may obtain multiple certificates if they are an owner or tenant of more than one qualified building. The aggregate credit components of $25 million are applicable for years beginning in 2006 and ending in 2014.

This section also addresses circumstances where a taxpayer is unable to claim the credit they have been allocated. DEC may reallocate such credit either to an existing qualified recipient or to a new qualified applicant, provided the reallocation does not exceed the $2 million limit for period two.

Fifth Certified Capital Company (CAPCO) Program

Part B of Chapter 61, as amended by Part A of Chapter 63, of the Laws of the 2005, establishes a fifth CAPCO program under which insurance taxpayers can claim a credit for 100 percent of the amount invested in CAPCOs. The provisions of Program Five are substantially the same as those of Program Four. The statewide cap on the total amount of investments for which taxpayers may claim credits is $60 million. Each CAPCO under Program Five must invest one third of its certified capital in qualified businesses in Empire Zones (EZs), and an additional one third of its certified capital in qualified businesses located in underserved areas outside of EZs. Each CAPCO is also required to invest at least fifty percent of its total amount of certified capital in biotechnology companies. A single taxpayer may not claim credits of more than $8 million in any taxable year under program five. The provisions of section are effective immediately and apply to credits earned on or after April 1, 2005. Although taxpayers may earn credits immediately, they may not claim credits until taxable years beginning on or after January 1, 2007.

Transferability of Certified Capital Company (CAPCO) Credits

Part H of Chapter 61 of the Laws of 2005 provides insurance taxpayers under Article 33 the ability to sell or transfer unused CAPCO credits to an affiliated taxpayer. The affiliate must be part of an affiliated group taxable in New York under Article 33. The transferred credit is claimed in the same manner and subject to the same limitations as any other CAPCO credit, and any recapture is the responsibility of the taxpayer actually claiming the credit. A taxpayer that sells or transfers a CAPCO credit must inform the Tax Department and the Insurance Department within forty-five days of the transaction. The provisions are effective immediately and apply to credits transferred on or after August 1, 2003.

Capital Base

Part M of Chapter 61 of the Laws of 2005 increases the cap under capital base from $350,000 to $1 million for all taxpayers excluding manufacturers. The cap remains at $350,000 for taxpayers principally engaged in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture or commercial fishing.

Power for Jobs

Part P of Chapter 59, as amended by Part C Chapter 63, of the Laws of 2005, extends the ability of businesses to contract for low cost power, the period during which utilities may claim credits, and the authority for NYPA to reimburse former participants through 2006.

Sales and Use Tax

Clothing and Footwear Exemption

Part J of Chapter 61, as amended by Part A of Chapter 63, of the Laws of 2005 suspends the year-round sales tax exemption for clothing and footwear priced under $110 per item through March 31, 2006. It also provides for week-long sales tax exemptions to be held from the Tuesday immediately preceding Labor Day through Labor Day, and from the last Monday of January through the following Sunday. Localities are given the option of providing the exemptions from their local sales taxes.

The bill also provides that, if the SFY 2006-07 Executive Budget does not propose a new reduction in any tax, then the suspension of the year-round exemption for clothing and footwear priced under $110 is extended through March 31, 2007.

Manhattan Parking Vendors	Part R of Chapter 61 of the Laws of 2005 amends the Tax Law to restore the sales tax enforcement provisions relating to Manhattan parking vendors and to make those provisions permanent. The provisions are intended to ensure compliance with the sales tax on parking services in Manhattan and to prevent non-compliant businesses from gaining a competitive advantage over complaint vendors. The change is effective immediately.
Metropolitan Commuter District Sales Tax Rate	Part BB of Chapter 61, as amended by Part A of Chapter 63, of the Laws of 2005 increases by one-eighth of one percent the sales and compensating use tax rate in the twelve-county Metropolitan Commuter Transportation District (MCTD). The rate is increased from one-quarter of one percent (0.25 percent) to three-eighths of one percent (0.375 percent). The change is effective June 1, 2005.
Sales Tax Medicaid Intercept	Part C of Chapter 58 of the Laws of 2005 amends the Tax Law in relation to the State takeover of local Medicaid costs. To partially offset the cost of this program, local governments have the option of making payments to the State based on a "capped" amount or remitting to the State certain sales tax revenues based on SFY 2006-07 sales tax receipts (or sales tax and personal income tax revenue, in the case of New York City). The legislation provides for a methodology for the Commissioner to calculate the amount of such tax revenue to be remitted to the State for the localities selecting this option. It also directs the Commissioner to certify such amounts to the State Comptroller who, beginning in January 2008, will intercept the money from the county's sales tax distribution (or New York City's sales tax and personal income tax distributions) and deposit it on account of the State. This provision is effective immediately.

Other Miscellaneous

Voluntary Compliance Initiative	Part N of Chapter 61, as amended by Part A of Chapter 63, of the Laws of 2005 creates a tax-shelter disclosure requirement for taxpayers or advisors engaging in abusive tax shelters to provide copies of their federal reports to the Commissioner. The legislation also provides a period from October 1, 2005 through March 1, 2006 when taxpayers may avoid substantial new penalties by voluntarily disclosing participation in such a shelter and filing amended returns for the liability periods affected. The Voluntary Compliance Initiative is available for tax liabilities under Articles 9, 9-A, 22, 30, 32, & 33.

Taxation of Indian Reservation Sales – Motor Fuels & Cigarettes

Part K of Chapter 61, as amended by Chapter 63, of the Laws of 2005 amends the Tax Law to require the Department to implement a system to collect State motor fuel and diesel motor fuel excise and petroleum business taxes, cigarette excise taxes and sales and use taxes on sales of fuels and cigarettes made to non-native Americans on recognized reservations in the State. The legislation also requires that tax exemption coupons be provided to the recognized governing bodies of the Indian tribes or nations to ensure that sales of fuels and cigarettes sold to tribal members on their respective reservations do not include State taxes. Further, the bill requires that New York State consumers remit applicable sales and use tax to the Department when they purchase tangible personal property and/or services, which are subject to State and local sales tax from recognized Indian reservations in the State. Finally, the legislation provides that tax agreements between individual tribes and the State, if approved by the Legislature, will supersede the above tax collection system implemented by the Department. The legislation is effective March 1, 2006.

Mortgage Recording Tax for Real Property in the MCTD

Part X of Chapter 61 of the Laws of 2005 increases the additional mortgage recording tax within the Metropolitan Commuter Transportation District (MCTD) from 25 cents to 30 cents per $100 of indebtedness. This provision is effective on June 1, 2005.

Quick Draw

Part S of Chapter 61 of the Laws of 2005 extends by one year to May 31, 2006 authorization for the Quick Draw lottery game. The change is effective immediately.

Video Lottery

Part CC of Chapter 61 of the Laws of 2005 increases the current video lottery terminal (VLT) vendor operating cost reimbursement from a flat 29 percent of total sales prize payouts to a tiered rate of reimbursement ranging from 26 percent to 32 percent.; creates an additional marketing allowance to reimburse VLT vendors for their marketing costs; grants VLT operator succession rights for the operation of VLTs at Aqueduct race track; makes provisions for debt repayment for VLT facility capital improvements at Aqueduct. The changes are effective immediately.

Parimutuel Fees

Part B of Chapter 59 of the Laws of the 2005 increases regulatory fee for funding the operation of the Wagering & Racing Board from 0.39 percent to 0.5 percent.

Appendix A: Summary of FY 2005-06 Tax Provisions

Summary of Tax Provisions in SFY 2005-06 Budget

Section(s)	Page(s)	Section(s)	Page(s)	Subject	Description	Effective Date
Chapter 61 of the Laws of 2005		Chapter 63 of the Laws of 2005				
Part A	3-4	Part A	3-5	Single Factor Amendments	Requires the use of a single receipts factor in computing the business allocation percentage for corporate franchise taxpayers, with the exception of airlines, truckers, and railroads. Also requires the use of single factor for certain bank taxpayers engaged in providing services to an investment company. The change is phased in over three years beginning in 2006.	Immediate; fully effective for TYBOA January 1, 2008
Part B	4-6	Part A	75-92	CAPCO Program 5	Establishes a fifth CAPCO program allowing insurance taxpayers to claim a credit for the total amount of investments in CAPCOs. Credit is claimed over ten years at a rate of ten percent per year. Program allocates a maximum of $60 million in credits for all taxpayers.	Immediate; applies to credits earned on or after April 1, 2005 and claimed for TYBOA January 1, 2007
Part E	6-8			Small Business Rate Reduction	Reduces the small business tax rate from 6.85 percent to 6.5 percent. Expands the definition of a small business to apply to taxpayers with an entire net income tax base of $390,000 or lower, and increases the amount of income subject to the small business rate to $290,000.	TYBOA January 1, 2005
Part F	8			Low-income Housing Credit	Increases cap to $8 million.	Immediate
Part G	8-11			Green Building Credit	Creates a second $25 million credit allocation, allows for reallocation of unclaimed credits.	Immediate
Part H	11-12			Transfer of CAPCO Credits to Insurance Affiliates	Allows insurance taxpayers to transfer or sell unused CAPCO credits to insurance affiliates taxed under Article 33. Requires taxpayers to notify the Tax Department and Insurance Department within 45 days of the transaction.	Immediate; applies to credits transferred on or after August 1, 2003
Part I	12			Special Additional Mortgage Recording Tax Credit	Creates a refundable personal income tax credit for the special additional mortgage recording tax paid by lenders on residential mortgages outside the MCTD and Erie County.	Immediate; TYBOA January 1, 2004

Summary of Tax Provisions in SFY 2005-06 Budget

Section(s)	Page(s)	Section(s)	Page(s)	Subject	Description	Effective Date
Chapter 61 of the Laws of 2005		Chapter 63 of the Laws of 2005				
Part J	12-16	Part A	19-25	Sales Tax Exemptions for Clothing and Footwear	Suspends the resumption of the year-round exemption for clothing and footwear priced under $110 through March 31, 2006, and provides for two annual week-long exemptions with local option for such items. The bill also provides that, if the SFY 2006-07 Executive Budget does not propose a new reduction in any tax, then the suspension of the year-round exemption for clothing and footwear priced under $110 is extended through March 31, 2007.	Immediate
Part K	16-23	Part A	25	Indian Reservation Sales	Provides for the taxation of cigarettes, motor fuel and diesel motor fuel when sold on qualified Indian reservations to non-Indians.	March 1, 2006
Part L	23-24			Limited Liability Company Filing Fee	Extends the temporary increase in LLC fees enacted in 2003 through tax years 2005 and 2006.	TYBOA January 1, 2005; sunsets January 1, 2007
Part M	24			Capital Base Cap Amendment	Increases the cap under capital base from $350,000 to $1 million for all taxpayers excluding manufacturers.	TYBOA January 1, 2005
Part N	24-44	Part A	74-75	Tax-Shelter Disclosure Requirements and Voluntary Compliance Initiative	Requires taxpayers and preparers or advisors engaging in abusive tax shelters to provide copies of their federal reports to the Commissioner; and provides a period from October 1, 2005 through March 1, 2006 when a taxpayer may avoid the substantial new penalties by voluntarily disclosing participation in such a shelter and filing amended returns for the liability periods affected.	Immediate; effective for years open to assessment; sunsets July 1, 2007
Part O	44-46			Refund Offset Procedures	Authorizes the Tax Commissioner to enter into agreements with tax administrators in other states to offset New York tax overpayments against tax liabilities owed other states, provided that those states agree to offset overpayments due their taxpayers against tax debts owed New York. Also allows the Commissioner to enter into an agreement with the New York City Department of Finance to apply certain City tax overpayments against warranted tax debts owed New York State.	Immediate

Summary of Tax Provisions in SFY 2005-06 Budget						
Section(s)	Page(s)	Section(s)	Page(s)	Subject	Description	Effective Date
Chapter 61 of the Laws of 2005		Chapter 63 of the Laws of 2005				
Part P	46-47			Long-Term Care Insurance Credit	Requires nonresident and part-year resident taxpayers to include their long term care insurance credit in the base tax they compute before applying the income percentage that allocates their tax to New York.	TYBOA January 1, 2005
Part Q	47-48			Electronic Filing of Personal Income Tax Returns	Mandates electronic filing for certain large income tax preparers. It would require preparers filing more than 200 returns in 2005 and preparing at least one return using tax preparation software in 2006 to file electronically all authorized returns. It would also require preparers filing more than 100 returns in 2006 and preparing at least one return using tax preparation software in 2007 to file electronically. Penalties apply for noncompliance due to willful neglect, although taxpayers themselves may opt out of electronic filing and that would absolve the preparer from penalty.	On and after April 1, 2005
Part R	48-49			Manhattan Parking Vendors	Makes permanent the sales tax enforcement provisions relating to parking vendors in Manhattan to ensure compliance with the sales tax on parking services.	Immediate
Part S	49			Quick Draw	Extends by one year to May 31, 2006 authorization for the Quick Draw lottery game.	Immediate
Part U	50-58	Part A	5-12	QETC Credits	Creates a new credit for certain QETCs for research and development property, research expenses, and high-technology training expenditures.	TYBOA January 1, 2005
Part W	63-106	Part A	26-63	Empire Zones/Qualified Empire Zone Enterprise Program Reforms	Makes changes to zone boundaries and designation, taxpayer eligibility and benefits.	Various
Part X	106-107			MTA mortgage recording tax	Increases the additional mortgage recording tax within the MCTD from 25 cents to 30 cents per $100 of indebtedness.	June 1, 2005

Summary of Tax Provisions in SFY 2005-06 Budget

Section(s)	Page(s)	Section(s)	Page(s)	Subject	Description	Effective Date
Chapter 61 of the Laws of 2005		Chapter 63 of the Laws of 2005				
Part BB	140-142	Part A	72-74	Increase in Metropolitan Commuter Transportation District Sales and Use Tax Rate	Increases the sales and compensating use tax rate in the Metropolitan Commuter Transportation District (MCTD). The rate is increased from one-quarter of one percent (.25) to three-eighths of one percent (.375).	June 1, 2005
Part CC	142-146			Video Lottery	Increases the current VLT vendor operating cost reimbursement from a flat 29% of total sales prize payouts to a tiered rate of reimbursement ranging from 26% to 32%.; creates an additional marketing allowance to reimburse VLT vendors for their marketing costs; grants VLT operator succession rights for the operation of VLTs at Aqueduct race track.	Immediate
Chapter 59 of the Laws of 2005		Chapter 63 of the Laws of 2005				
Part B	3-7			Parimutuel Fees	Increases regulatory fee for funding the operation of the Wagering & Racing Board from 0.39% to 0.5%.	July 12, 2005
Part P	25-28	Part C	116-120	Power for Jobs Extender	Extends the ability of businesses to contract for low cost power, the period which utilities may claim credits and the authority for NYPA to reimburse former participants through 2006.	Immediate
Chapter 58 of the Laws of 2005		Chapter 63 of the Laws of 2005				
Part A	5-10			EPIC Income Verification	Allows the Tax Commissioner to enter into a cooperative agreement with the Department of Health for the purpose of verifying income eligibility for the Elderly Pharmaceutical Insurance Coverage (EPIC) program.	January 1, 2006
Part C	104-114			Sales Tax Medicaid Intercept	Provides for the Commissioner to calculate an optional local “Medicaid amount ,” and for such amount to be intercepted from local sales tax distributions and directed to the State.	Immediate
Part C	129-130	Part E	151-152	Nursing Home Assessment Credit	Creates a refundable personal income tax credit for the amount of the nursing home assessment paid directly by individual taxpayers.	TYBOA January 1, 2005

TYBA Taxable years beginning after *

TYBOA Taxable years beginning on or after

TMBOA Taxable months beginning on or after

TYEOA Taxable years ending on or after

Appendix B: Summary of Tax Actions in Fiscal Years 1995-96 Through 2004-05

Fiscal Year 1995-96 Tax Actions

Personal Income Tax

- Reduced the top tax rate, from 7.875 percent in 1994 to 6.85 percent.
- Raised the standard deduction as currently scheduled from $9,500 to $13,000 for married couples and from $6,000 to $7,500 for individuals.
- Expanded the income threshold where the top rate becomes effective from $26,000 to $40,000 for married filers.
- Retained the household credit and created a new excess deductions credit for 1995 to offset potential tax increases that the enacted tax rate schedule could cause for low and middle income taxpayers.

Further Tax Reductions

- Reduced the alcoholic beverage tax on beer by 5 cents per gallon.
- Cut the container tax in half from 2 cents per container to one penny.
- Enacted a new estate tax deduction equal to a maximum of $250,000 of the equity in the decedent's principal residence.
- Reduced the diesel motor fuel excise tax from 10 cents to 8 cents per gallon.
- Provided an up-front exemption from the petroleum business tax for sales of heating fuel to not-for-profit organizations.
- Reduced the petroleum business tax on aviation fuels to 5.2 cents per gallon (before surcharge). The monthly minimum petroleum business tax was reduced from $25 to $2, and aviation businesses that are not airlines were allowed to file annually rather than monthly.

- Provided an up-front exemption from the motor fuel excise tax for retail sales of aviation gasoline

- Extended the qualifying periods for the real property transfer gains tax builders' exemption.

- Reduced pari-mutuel tax rates for NYRA races and extended provisions for simulcasting.

Extenders

The temporary Metropolitan Commuter Transportation District business tax surcharge was extended for two years. Certain provisions of the bank tax also were extended for two years.

Other Significant Provisions

Aside from tax reductions, the most significant State tax law change enacted with the budget was the restructuring of New York's franchise and excise taxes on telecommunications to conclude the litigation between the State and interstate telecommunications providers. Other significant provisions:

- Froze the S corporation entity tax at the difference between the corporate franchise tax rate and 7.875 percent;

- Decreased the tax liability threshold for sales tax vendors filing by electronic funds transfer from $4 million to $1 million annually; and

- Enacted a sales tax prepayment system for sales of cigarettes to enhance compliance.

Fiscal Year 1996-97 Tax Actions

Real Property Gains Tax

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

Personal Income Tax

- Enacted a school property tax credit for farmers beginning in 1997 for taxpayers that derive at least two-thirds of their total income from farming (also available under the corporate franchise tax).

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

- Enhanced the child and dependent care credit for taxpayers with adjusted gross income below $14,000 and established the credit as refundable for residents beginning in 1996.

Sales and Use Tax Reductions

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

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

- Exempted municipal parking services from the State sales tax, local sales tax outside New York City, and the 6 percent parking tax imposed in New York City.

- Simplified the sales tax exemption for shopping papers.

- Expanded the exemption for commercial vessels and aircraft.

Petroleum Business Tax Relief

- Reduced the PBT rate on diesel motor fuel used by railroads by 7 cents per gallon on January 1, 1997.

- Exempted from the PBT residual petroleum product and non-automotive diesel gallonage used for manufacturing purposes beginning January 1, 1998.

- Exempted residual petroleum and non-automotive diesel gallonage used for commercial purposes from the PBT supplemental tax effective March 1, 1997.

- Reduced the supplemental PBT rate on automotive diesel product by 0.75 cents per gallon effective January 1, 1998, and by an additional 1 cent per gallon on April 1, 1999.

- Increased the credit allowed against the PBT on residual petroleum product and non-automotive diesel product used to generate electricity by 0.5 cents per gallon effective April 1, 1999.

Further Tax Reductions

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

Other Significant Provisions

- Established a tax amnesty program for the personal income tax, the Article 9-A corporate franchise tax, certain taxes imposed under Article 9, and the sales and use tax during the period November 1, 1996 to January 31, 1997.
- Extended the time period to claim a fuel use tax or carrier tax refund for fuel purchased within the State but consumed outside the State, and to claim a refund for erroneous payments under the highway use tax from two to four years.
- Made permanent existing provisions contained in both the State and New York City real estate transfer taxes concerning newly formed real estate investment trusts (REITs), and provided temporary additional tax relief for property transferred into existing REITs.
- Changed the rate used in the S corporation differential tax from 7.59375 to 7.875 in 1995 for small S corporations to correct for an unintended tax increase.
- Expanded the electronic funds transfer (EFT) hardship provisions for certain building suppliers.
- Delayed the implementation of the tax on motor vehicle damage insurance awards from September 1, 1996 to July 1, 1997.
- Provided for reimbursements of petroleum business taxes on aviation fuels.
- Corrected unintended tax increases for certain taxpayers under estate and gift taxes which resulted from a 1994 law change.
- Expanded the electronic funds transfer program to the alcoholic beverage tax for filers with a tax liability threshold of $5 million.

Fiscal Year 1997-98 Tax Actions

STAR

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

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

Estate & Gift Tax

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

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

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

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

Personal Income Tax

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

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

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

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

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

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

Sales Tax

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

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

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

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

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

Corporate Tax Provisions

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

Other Significant Provisions

Created the “Taxpayer Bill of Rights Act of 1997.”

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

Fiscal Year 1998-99 Tax Actions

STAR

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

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

Corporation Franchise Tax

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

- Reduced the alternative minimum tax for corporation franchise taxpayers.

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

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

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

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

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

Sales Tax Changes

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

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

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

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

- Expanded the exemption for telephone central office equipment.

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

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

Personal Income Tax

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

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

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

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

Other Provisions

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

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

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

Fiscal Year 1999-00 Tax Actions

Earned Income Tax Credit

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

Bank Tax Rate Reduction	The legislation decreased the bank tax rate from 9 percent to 7.5 percent over a three-year period.
Insurance Tax Rate Reduction	The legislation also reduced the insurance tax rate on entire net income from 9 percent to 7.5 percent over a three-year period. In addition, it reduced the cap rate on premiums for non-life insurance companies from 2.6 percent to 2.0 percent over the three-year period.
Sales Tax Clothing Exemption	The budget legislation delayed implementation of the permanent exemption for clothing and footwear priced under $110 from December 1, 1999 to March 1, 2000. However, it added two additional tax-free weeks for clothing costing less than $500. These weeks occurred September 1-7, 1999 and January 15-21, 2000. The legislation also provided localities with the flexibility to opt in or out of the permanent exemption effective in March of each year.
Other Personal Income Tax Reductions	• Enriched the farmers school tax credit by expanding the definition of qualified property to include certain set-aside land, and increased base acreage by certain conservation acreage. • Extended the "qualified emerging technology company" employment and capital credits from the corporation franchise tax to the personal income tax. • Streamlined innocent spouse relief by conforming to federal provisions.
Other Business Tax Reductions	• Extended the credits for "qualifying emerging technology companies" to remanufacturers of certain commodities that would otherwise enter the solid waste stream (applied also to personal income tax). • Created a new credit of $500 per automated external defibrillator purchased by all business taxpayers (including the personal income tax). • Reduced the corporation franchise tax alternative minimum tax rate from 3 percent to 2.5 percent.

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

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

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

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

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

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

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

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

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

Other Sales Tax Provisions

- Expanded exemptions for farming activities.

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

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

- Exempted certain theatrical property and services from tax.

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

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

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

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

Other Tax Reductions

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

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

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

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

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

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

- Reduced the boxing and wrestling tax.

Fiscal Year 2000-01 Tax Actions

Energy Tax Reduction

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

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

Power for Jobs

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

Personal Income Tax Reductions

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

The legislation also:

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

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

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

Finally, the legislation created new credits for:

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

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

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

Business Tax Reductions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sales and Use Tax Deductions

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

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

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

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

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

- Exempted manufacturing and industrial pollution control equipment and machinery.

Other Tax Reductions

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

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

- Repealed two PBT minimum taxes.

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

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

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

Fiscal Year 2001-02 Tax Actions

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

Fiscal Year 2002-03 Tax Actions

Victims' Relief and Lower Manhattan Business Development

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

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

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

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

Tax Amnesty

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

Personal Income Tax

Personal income tax provisions in the budget :

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

Business Taxes

Other provisions in the State budget relating to business taxes:

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

- Made clarifications to the Empire Zones program.

- Authorized ten new Empire Zones and establish criteria regarding zone boundaries.

Sales and Use Tax

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

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

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

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

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

STAR

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

Other Taxes

Provisions addressing other taxes will:

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

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

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

Fiscal Year 2003-04 Tax Actions

Personal Income Tax

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

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

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

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

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

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

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

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

Business Taxes

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

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

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

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

Sales & Other Taxes

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

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

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

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

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

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

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

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

- Created a new waste tire management fee on sales of new tires in the state. The new fee of $2.50 per new tire sold is imposed under the

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

Fiscal Year 2004-05 Tax Actions

Personal Income Tax

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

Business Taxes

- Extended the Metropolitan Commuter Transportation District business tax surcharge for four years.
- Temporarily created two new minimum tax amounts under the corporate franchise tax.
- Established a new credit for film production activity in New York (also applies under the personal income tax and New York City unincorporated business income and general corporation taxes.)
- Increased the Statewide annual aggregate limit for the low-income housing credit from $4 million to $6 million (also applies to the personal income tax).
- Extended credits for alternative fuel vehicles for an additional year (also applies to personal income tax).
- Extended the Qualified Emerging Technology Company (QETC) credit to biotechnology.

- Extended basic bank tax and federal Gramm-Leach-Bliley Act transition provisions.
- Established a fourth certified capital company program under the insurance tax.
- Extended the Empire Zones program from September 13, 2004 to March 31, 2005.
- Extended and modifed the Power for Jobs Program under Article 9.
- Created two new exemptions for aviation fuel under the

Sales and Use Tax

- Postponed reinstatement of the clothing and footwear exemption through May 31, 2005, while providing new one-week exemptions from August 31 through September 6, 2004, and January 31 through February 6, 2005.
- Provided a new exemption for maintenance and certain other services performed on private aircraft.
- Created a credit or refund for certain vessels used in local transportation of passengers on water.
- Extended the exemption for alternative fuel vehicles for an additional year.
- Required companies, including affiliates, entering into contracts with the State to comply with various sales and use tax obligations.
- Extended for four years the sales tax dedication mechanism for the Carousel Center in Syracuse.

Other Miscellaneous Provisions

Other miscellaneous provisions:

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

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

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

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

New York City

- Authorization for three years of residential property tax rebates of up to $400.

- Created of an earned income credit equal to 5 percent of the federal credit.

- Limited mortgage recording tax avoidance where mortgages are spread between different properties.

- Required an add-back for expensing of certain sport utility vehicles under the unincorporated business, corporation, and bank taxes.

- Requirement for electronic funds transfer payments where annual property tax liability is $300,000 or more.

- Allowed the minimum interest rate for overpayments to fall below 6%.

- Allowed the Tax Department to offset income tax refunds to collect warranted tax judgments against all New York City taxes.

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