



Handbook of New York State and Local Taxes

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Introduction

This annual publication provides a general descriptive overview of the taxes that New York State and its local governments impose. For calendar-year taxes, except as otherwise noted, the descriptions apply to tax year 2010. For other taxes, the descriptions generally apply to the tax as in effect on September 1, 2010. Where applicable, scheduled law changes in subsequent periods are noted.

The *Handbook* does not include non-tax revenue sources such as motor vehicle fees and the Lottery. Instead, it limits its focus to taxes, primarily those administered by the Department of Taxation and Finance.

The Tax Department issues considerable additional information on the State imposed taxes described in the Handbook. This includes taxpayer guidance, statistical reports, liability studies, collections data, policy studies, and comparative analyses. The Office of Tax Policy Analysis produces a variety of statistical and policy reports, including:

- annual detailed statistical studies of the personal income, sales, business, and estate taxes,
- the *New York State Tax Sourcebook*, which contains a wealth of tax information, and
- the annual *Tax Expenditure Report*, which provides information on various tax incentives and other tax relief provisions.

These and other publications can be obtained on line at the “Policy and Statistical Reports” page of the Department’s Web site (www.nystax.gov). The website also includes information on enrolling in the “Subscription Service” to receive automatic notification of newly released reports.

Also, where applicable, the Handbook references other Department publications that provide additional information. Readers can also search the Department's Website (www.nystax.gov) for further information on the taxes included in the Handbook.

State Taxes

Personal Income Tax (Article 22 of the Tax Law)

New York's income tax is imposed on the entire income of New York residents, and on the New York-source income of nonresidents. The computation of tax starts from federal adjusted gross income (FAGI). Certain items of income not subject to federal tax are taxed by New York, while other items of income subject to federal tax are not taxed by New York. These are addition and subtraction modifications to FAGI.

Tax Base

Taxpayers must add back interest on bonds issued by other states and their localities and other special items exempt from federal tax, but taxable for New York purposes.

Taxpayers may subtract from FAGI such income as U.S. government bond interest, taxable social security benefits, all federal, New York State and local pension income, up to \$20,000 of qualifying private pension and annuity income, and certain other income taxable for federal purposes. Also, individuals may subtract from FAGI up to \$5,000 per year of contributions made under the New York State College Choice Tuition Savings Program. After the net of additions and subtractions, the result is New York Adjusted Gross Income (NYAGI).

Taxpayers may choose either the standard deduction or New York itemized deductions. However, taxpayers using the federal standard deduction must use the New York standard deduction. For 2010, the New York standard deduction equals:

2010 Standard Deductions

Married Filing Jointly	\$15,000
Heads of Households	\$10,500
Single Individuals	\$7,500
Married Filing Separately	\$7,500
Dependent Filers*	\$3,000

* Those claimed as a dependent on someone else's return.

Taxpayers who itemize federal deductions may itemize deductions for New York. Taxpayers use their federal itemized deductions as the starting point for calculating their New York itemized deductions. They must then make certain adjustments. The most common is the disallowance of state and local income taxes paid and the allowance of deductions for expenses incurred to carry other states' bonds.

Taxpayers can claim an itemized deduction for college tuition expenses they paid on behalf of the taxpayer, the taxpayer's spouse, or their dependents to enroll or attend qualifying in- or out-of-state institutions of higher education. The deduction is available only for undergraduate study. Taxpayers may choose between the itemized deduction and a 4 percent refundable credit (described more below).

Barring Congressional action, there is no federal limitation on itemized deductions for certain high-income taxpayers in tax year 2010. However, New York's Tax Law limits itemized deductions of upper income taxpayers through a percentage reduction. The limitation begins at 25 percent of deductions for single taxpayers with NYAGI over \$100,000 and married taxpayers with NYAGI over \$200,000, and it reaches 50 percent of itemized deductions for all taxpayers with New York adjusted gross income above \$525,000 and below \$1 million. In addition, itemized deductions are completely eliminated, except for 50 percent of charitable contributions, for taxpayers with more than \$1 million of NYAGI. Beginning in tax year 2010, only 25 percent of charitable contributions are allowed for taxpayers with more than \$10 million of NYAGI.

The Tax Law permits an exemption of \$1,000 for each dependent who qualifies for a federal personal exemption. The exemption does not apply to taxpayers and their spouses, including dependents filing their own tax returns.

Tax Rates & Brackets

For tax years 2009 through 2011, New York has temporarily added two new income tax rates and brackets. New York now imposes a graduated income tax with rates ranging between 4 and 8.97 percent of taxable income, which equals NYAGI less the deductions and exemptions described above. The new rate schedules for tax year 2010 are shown below:

Married Filing Jointly

Taxable Income	Tax
Not over \$16,000	4.00% of taxable income
Over \$16,000 but not over \$22,000	\$640 plus 4.50% of excess over \$16,000
Over \$22,000 but not over \$26,000	\$910 plus 5.25% of excess over \$22,000
Over \$26,000 but not over \$40,000	\$1,120 plus 5.90% of excess over \$26,000
Over \$40,000 but not over \$300,000	\$1,946 plus 6.85% of excess over \$40,000
Over \$300,000 but not over \$500,000	\$19,756 plus 7.85% of excess over \$300,000
Over \$500,000	\$35,456 plus 8.97% of excess over \$500,000

Single, Married Filing Separately, Estates and Trusts

Taxable Income	Tax
Not over \$8,000	4.00% of taxable income
Over \$ 8,000 but not over \$11,000	\$320 plus 4.50% of excess over \$ 8,000
Over \$11,000 but not over \$13,000	\$455 plus 5.25% of excess over \$11,000
Over \$13,000 but not over \$20,000	\$560 plus 5.90% of excess over \$13,000
Over \$20,000 but not over \$200,000	\$973 plus 6.85% of excess over \$20,000
Over \$200,000 but not over \$500,000	\$13,303 plus 7.85% of excess over \$200,000
Over \$500,000	\$36,853 plus 8.97% of excess over \$500,000

Head of Household

Taxable Income	Tax
Not over \$11,000	4.00% of taxable income
Over \$11,000 but not over \$15,000	\$440 plus 4.50% of excess over \$11,000
Over \$15,000 but not over \$17,000	\$620 plus 5.25% of excess over \$15,000
Over \$17,000 but not over \$30,000	\$725 plus 5.90% of excess over \$17,000
Over \$30,000 but not over \$250,000	\$1,492 plus 6.85% of excess over \$30,000
Over \$250,000 but not over \$500,000	\$16,562 plus 7.85% of excess over \$250,000
Over \$500,000	\$36,187 plus 8.97% of excess over \$500,000

A supplemental income tax for the purpose of recapturing the benefits conferred to taxpayers through tax brackets with rates lower than the maximum rate is also amended for tax years 2009 through 2011. The supplemental tax applies to all taxpayers with NYAGI over \$100,000. Once taxpayers' NYAGI exceeds \$150,000, all of their taxable income within the 6.85 percent tax bracket becomes effectively subject to a flat 6.85 percent tax rate. For taxpayers with taxable income in the 7.85 percent bracket, the recapture of rates below the 7.85 percent bracket begins when NYAGI is \$300,000 and is completed when NYAGI equals \$350,000. The recapture of rates below the 8.97 percent rate begins when NYAGI is \$500,000 and is completed when NYAGI equals \$500,000, with an overall limitation on tax liability equal to the highest tax rate multiplied by taxable income. Thus, for tax years 2009-2011, a flat rate of 8.97 percent of taxable income will apply for taxpayers with NYAGI in excess of \$550,000.

Credits

Household Credit. The household credit (HHC) provides nonrefundable tax relief to taxpayers whose deductions and exemptions do not bring their taxable income to zero. The credit varies by income and filing status and increases for each additional exemption allowed for federal tax purposes. Also, the value of the credit decreases as income rises, phasing down to zero at \$28,000 of federal adjusted gross income (FAGI) for single taxpayers and \$32,000 for all others.

Real Property Tax Circuit Breaker Credit. Qualified resident taxpayers may claim the refundable real property tax circuit breaker credit in the amount of 50 percent of excess real property taxes, determined according to the level of household gross income, subject to certain specified conditions and limits. Total household gross income cannot exceed \$18,000. The maximum credit is \$375 when at least one member of the household is age 65 and over, and \$75 when all members of the household are under age 65. The amount of the credit decreases as household income increases. Only one credit is allowed per household.

Child and Dependent Care Credit. New York provides a credit for child and dependent care expenses equal to various percentages of the corresponding federal credit. The credit equals 110 percent of the federal child and dependent care credit for taxpayers with incomes under \$25,000. Percentages ranging from 110 percent to 20 percent apply for those with incomes from \$25,000 to \$65,000. Taxpayers with incomes over \$65,000 receive 20 percent of the federal credit.

The credit is refundable to resident taxpayers.

Earned Income Credit. New York allows an earned income tax credit (EITC) equal to 30 percent of the corresponding federal credit. The credit is refundable to residents and part-year residents. The EITC varies with family size, is based on earnings, and phases out as income increases, as follows for tax year 2010:

	Maximum New York Credit	Income for Start of Phase-out (MFJ)	Others	Income Cut-off (MFJ)	Others
Taxpayers With 1 Child	\$915	\$21,460	\$16,450	\$40,545	\$35,535
Taxpayers With 2 Children	\$1,511	\$21,460	\$16,450	\$45,372	\$40,363
Taxpayers With 3 or More Children	\$1,700	\$21,460	\$16,450	\$48,362	\$43,352
Taxpayers Age 25-64 Without Children	\$137	\$12,490	\$7,480	\$18,470	\$13,460

Credit amounts and maximum incomes are indexed annually for inflation. Taxpayers must subtract any HHC used from their EITC. Taxpayers who do not use the EITC receive the full HHC.

Enhanced Income Credit for Certain Non-custodial Parents.

Certain non-custodial parents may claim an enhanced EITC in lieu of the regular State EITC. To qualify, claimants must be age 18 or over, have a minor child with whom they do not reside, have a child support order in effect for at least half the tax year, and must have made the required support payments. The enhanced EITC is equal to the greater of: a) 20 percent of the Federal EITC that the taxpayer would otherwise be able to claim for one qualifying child as a custodial parent or, b) 2.5 times the Federal EITC for taxpayers without qualifying children. The credit is available only to residents and is fully refundable. Unlike the regular EITC, there is no HHC offset.

Empire State Child Credit. Resident taxpayers may claim a refundable credit equal to the greater of: a) \$100 times the number of children ages 4-16 who qualify for the Federal child credit or, b) 33 percent of the allowed Federal child credit for children ages 4-16.

College Tuition Credit. Resident taxpayers can claim a refundable credit for college tuition expenses paid 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. Like the deduction, the refundable credit is available only for undergraduate study. The maximum amount of qualified tuition expenses is \$10,000 per student. For taxpayers with allowable expenses of \$5,000 or more, the credit equals 4 percent of allowed tuition expenses. Taxpayers with expenses of less than \$5,000 may claim a credit equal to the lesser of allowed tuition expenses or \$200. Resident taxpayers choose between either the credit or the itemized deduction described above.

Investment Credit. New York also allows a 4 percent investment credit (7 percent for research and development property) for certain business investments in qualifying facilities. As part of this credit, there is a credit for the rehabilitation of historic barns, which equals 25 percent of qualified expenditures for the rehabilitation of historic barns in New York State. A credit exists for certain property used in commercial production. There is also an employment incentive credit (EIC) available to small businesses such as partnerships, S corporations, LLCs, LLPs and sole proprietorships whose owners pay tax under the personal income tax.

Resident Credit. Full-year and part-year residents may claim credit for income taxes paid to other states and their political subdivisions or provinces of Canada.

Farmers' School Tax Credit. The agricultural school property tax credit provides a refundable credit for farmers with a phase-out of the credit for taxpayers with NYAGI in excess of \$200,000. Taxpayers may subtract principal payments on farm indebtedness from NYAGI in order to calculate the income limitation.

Emerging Technology Company Credits. Tax credits are allowed for qualified emerging technology companies that invest in research and development in New York State. They include an employment credit, a capital credit, and new credits for research and development property, research expenses, and high-technology training expenditures.

Excelsior Jobs Program. The Excelsior Jobs Program replaces the Empire Zones Program as the primary economic development program in New York. Four new credits are offered in certain strategic industries. The credits include: capital investment, research and development costs, job creation, and real property taxes.

Long-Term Care Insurance Credit. A credit for 20 percent of long-term care insurance premiums is allowed. Unused amounts may be carried forward to future tax years.

Empire State Film Production Credit. A refundable credit applies for qualified film production companies. The credit equals 30 percent of qualified production costs allowable beginning in the year that the film is completed. If the amount of the credit is under \$1 million, it is claimed in the taxable year in which the film is completed. If the amount of the credit is at least \$1 million but less than \$5 million, then it must be claimed over a two-year period, with half the credit claimed each year. Lastly, if the amount of the credit is \$5 million or more, it must be claimed over a three-year period, with one-third of the credit claimed each year. The entire amount of excess credit that is not applied to reduce tax liability in the year in which the credit is claimed is refundable. Productions such as documentaries, news programs, game shows, sports, soap operas, and adult entertainment do not qualify for the credit.

Volunteer Firefighters and Ambulance Workers Credit. Resident taxpayers serving as active volunteer firefighters or volunteer ambulance workers may claim a \$200 refundable credit. To receive the credit, the taxpayer must be an active volunteer for the entire taxable year and must not be receiving a real property tax exemption relating to such service. In the case of a husband and wife filing jointly who both qualify for the credit, the amount of the credit is \$400.

Other credits apply for:

- taxes on accumulation distributions;
- residential investments in solar electric generating equipment;
- investments in “green buildings;”
- purchases of defibrillators;
- employment of persons with disabilities;
- nursing home assessments paid directly by taxpayers;
- special additional mortgage recording tax paid on certain mortgages;
- brownfield cleanup and redevelopment;
- security officer training;
- land conservation easements;

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- low-income housing;
 - purchases of clean heating fuels;
 - companies that provide accessible taxicabs for individuals with disabilities;
 - rehabilitation of historic properties;
 - historic homeownership rehabilitation;
 - Empire State commercial production;
 - alternative fuel vehicle refueling property; and
 - biofuel production.

Credit Deferral

In tax years 2010 through 2012, the aggregate amount of certain tax credits that taxpayers may use and refund is limited to \$2 million. Nonrefundable credits that exceed the \$2 million cap will be accumulated in the temporary deferral nonrefundable payout credit. This new credit may first be claimed in the 2013 tax year and unused amounts can be carried forward indefinitely. Refundable credits in excess of \$2 million will be accumulated in the temporary deferral refundable payout credit. Taxpayers may utilize 50 percent of the amount of the refundable credit in the 2013 tax year, 75 percent of the remaining balance in 2014 and the entire remainder of the credit in the 2015 tax year.

Minimum Tax

A six percent minimum tax applies to certain federal tax preferences. Taxpayers subject to the minimum tax pay this tax in addition to the regular income tax. The law permits a “specific deduction” equal to \$5,000, and a deduction for regular income tax.

Business Taxpayers

The personal income tax also applies, at the individual level, to persons receiving income from business entities in which they perform services or hold an interest. For example, while sole proprietorships do not pay an entity-level tax, they pay tax on their businesses’ net earning. Also partnerships do not pay an entity-level tax, but individual partners pay tax on their distributive share of the partnership’s income.

New York State allows for the formation of limited liability companies (LLCs) and limited liability partnerships (LLPs). Based on existing New York law and practice, the LLC/LLP statute borrows heavily from provisions of the New York Partnership Law and Business Corporation Law. LLCs are classified as partnerships for New York State purposes. LLCs and LLPs, whether foreign or domestic, with New York source income must pay an annual filing fee based on their prior year’s New York source gross income.

The LLC/LLLP fee ranges from \$25 for those with New York source gross income of \$100,000 or less to \$4,500 for LLCs with New York source gross income greater than \$25 million.

The annual filing fee imposed on LLCs and LLPs extends to general partnerships. However, general partnerships whose New York source gross incomes is less than \$1 million dollars are exempt from the fee.

Additionally, single-member LLCs, which are disregarded entities for Federal income tax purposes, are required to remit a filing fee of \$25.

*Nonresident
Taxpayers*

Nonresident individuals, estates and trusts pay New York State income tax if they derive income from New York sources. They first compute a base tax using the same rates, exemptions, deductions, and most credits applicable to residents. Next, nonresidents multiply this base tax by the ratio of New York source NYAGI to total NYAGI as a resident. The result ensures that nonresidents pay tax on income earned or derived within New York.

*Withholding &
Estimated Tax*

Employers are required to withhold and remit personal income taxes on wages, salaries, bonuses, commissions similar income. Employers must remit withholding liability within three business days after each payroll once the cumulative amount of liability reaches \$700. Certain small businesses and educational and health care organizations may make their withholding remittance within five business days, and employers with less than \$700 of withheld tax can remit it on a quarterly basis.

Employers that withheld \$100,000 or more during the previous year are required to participate in the PromptTax program whereby filing and payment of withholding is done electronically. Filers not meeting this criteria may apply to voluntarily participate in the program. Under PromptTax, tax is due three business days following a payroll date. For educational organizations and voluntarily participating health care providers, tax is due eight business days following a payroll date.

As under federal law, New York requires withholding of personal income tax on lottery winnings of \$5,000 or more. Tax is withheld at the highest tax rate in effect.

New York residents, part-year residents and nonresidents with New York-source income, must make payments of estimated tax under certain conditions. Flow-through entities, such as partnerships and S corporations, with nonresident partners and shareholders must make payments of estimated tax on behalf of such members, unless they certify to the Department that such members are voluntarily complying with the law. Also, nonresidents with gain from certain sales of New York real property must pay estimated tax before the property deed may be transferred to the buyer.

The general estimated tax rules apply if they expect to owe at least \$300 of tax (after withholding and credits) for the current tax year and they expect their withholding and credits will not equal at least: a) 90 percent of the current-year tax, or b) 100 percent of the prior-year tax (110 percent if NYAGI exceeds \$150,000). Penalties apply for failure to accurately estimate and pay tax for any of the installments. Taxpayers must make up to four installment payments (i.e., April 15, June 15, September 15, and January 15) depending on when income is earned.

*Tax Preparer
Registration Fee*

Certain tax return preparers, facilitators of refund anticipation loans, and facilitators of refund anticipation checks must register with the Tax Department. A tax return preparer who meets the definition of a commercial tax return preparer is required to pay an annual fee of \$100. There are certain requirements and restrictions on tax return preparers and facilitators, plus significant penalties, for those who do not comply.

For additional information, please see the following publications:

- Publication 36, *General Information for Senior Citizens and Retired Persons for Tax Year 2009*
- Publication 80, *General Income Tax Information for New York State Residents for Tax Year 2009*
- Publication 88, *General Tax Information for New York State Nonresidents and Part-Year Residents for Tax Year 2009*

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- Publication 99-IND, *General Information on New York State and New York City Income Tax Credits for Individuals for Tax Year 2009*
 - *New York's College Savings Program: Imagine the Returns (Office of the State Comptroller)*
 - Publication NYS-50, *Employer's Guide to Unemployment Insurance, Wage Reporting, and Withholding Tax*
 - Publication 58, *Information for Income Tax Preparers for Tax Year 2009*
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Business Taxes

Typically, general business corporations pay taxes computed under the corporation franchise tax. Separate taxes apply to banks and insurance companies, including anyone who buys insurance from an insurance company that is not authorized to write insurance in New York State. The utility corporations tax applies to certain transportation and transmission corporations (except airlines), utility companies, telecommunications services, and agricultural cooperatives. In addition, as under federal law, there is a tax on the unrelated business income of nonstock not-for-profit corporations. Finally, a gross receipts tax applies to petroleum businesses.

The Metropolitan Transportation Authority (MTA) surcharge applies, at a rate of 17 percent, to business taxes otherwise due (except the petroleum business tax), after deduction of credits and allocable to the 12-county Metropolitan Commuter Transportation District. This region includes the City of New York, Long Island and the mid-to-lower Hudson River Valley. The MTA surcharge remains in effect through tax years ending before December 31, 2013.

Corporation Franchise Tax (Article 9-A)

This tax is imposed on corporations for the privilege of exercising their corporate franchise in New York. It applies to general business corporations not taxed under another article of the Tax Law.

Tax Bases & Rates

Corporations compute tax under four bases, and pay tax on the base yielding the highest liability. An additional tax applies based on the corporation's subsidiary capital allocated to New York, at a rate of 0.09 percent.

The four bases include: 1) a tax on allocated entire net income (ENI) with rates that vary, 2) a tax of 0.15 percent on business and investment capital allocated to New York after deduction for short- and long-term liabilities (the maximum tax on this alternative equals \$350,000 for manufacturers and \$10 million (\$1 million beginning in tax year 2011) for all others), 3) a 1.5 percent tax on the alternative minimum taxable base, or 4) a separate minimum tax at fixed dollar amounts.

The entire net income base equals federal taxable income modified for income and deduction items that New York treats differently. For example, New York’s tax base excludes subsidiary income items and does not allow deductions directly and indirectly attributable to subsidiary capital.

The tax rate on allocated ENI varies depending upon the taxpayer’s particular circumstances. Most taxpayers are subject to a rate of 7.1 percent. Small business taxpayers with an ENI base of \$290,000 or less are subject to a rate of 6.5 percent, which rises in stages to 7.1 percent as ENI increases to \$390,000. Qualified New York manufacturers and qualified emerging technology companies (QETCs) are subject to a 6.5 percent rate.

The fixed dollar minimum tax is based on the taxpayer’s New York receipts as follows:

<u>NY Receipts</u>		<u>C Corporations</u>	<u>S Corporations</u>
Less than	\$100,000	\$25	\$25
\$100,000	- \$250,000	\$75	\$50
\$250,000	- \$500,000	\$175	\$175
\$500,000	- \$1,000,000	\$500	\$300
\$1,000,000	- \$5,000,000	\$1,500	\$1,000
\$5,000,000	- \$25,000,000	\$3,500	\$3,000
\$25,000,000	- Over	\$5,000	\$4,500

If the taxable period does not equal a full year, the taxpayer can reduce the fixed dollar minimum tax by 50 percent for a period of 6 months or less, and 25 percent for a period of more than six months but less than or equal to 9 months.

New York uses a business income allocation formula based solely on receipts. Taxpayers allocate investment income by a formula that reflects the New York presence of the issuers of the obligations generating such investment income.

The alternative minimum taxable income base equals entire net income plus certain federal items of tax preference and adjustments. The tax rate is 1.5 percent. Taxpayers may use a net operating loss deduction (NOLD) in computing alternative minimum taxable income. This deduction is comprised of all net operating losses (NOLs) existing at the start of the 1994 tax year and any accumulated thereafter. The law limits the deduction to 90 percent of alternative minimum taxable income without regard to the NOLD.

S Corporations

General business corporations that file as S corporations for federal tax purposes may also elect S status for New York State franchise tax purposes. This election requires the shareholders to report their proportionate share of S corporation income, gain, or loss and deductions on their personal income tax returns. Businesses that are eligible S corporations for federal tax purposes, but do not make the election to be a New York S corporation, are deemed to be New York S corporations if investment income for the current taxable year is more than half of federal gross income for the year. S corporations are subject only to the fixed dollar minimum tax at the corporate entity level, but at different rates than for C corporations.

Tax Incentives

New York provides tax incentives in the form of tax credits, deductions, and allocation formula adjustments. These incentives are intended to encourage business investment and economic development within the State. Major provisions include:

- An investment tax credit (ITC) of 5 percent of the first \$350 million of investment, plus 4 percent for investment over that amount, for certain eligible property including equipment or buildings used in broker/dealer and associated activity and certain property used in film production. The ITC is refundable for new businesses and certain;
- An ITC on research and development property at an optional rate of 9 percent;
- An ITC for rehabilitation of historic barns based on 25 percent of qualified rehabilitation expenditures;

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- An employment incentive credit (EIC) available to employers claiming for the ITC and adding jobs. A sliding scale links larger EIC amounts with larger employment increases;
 - An Excelsior Jobs Program credit consisting of components for capital investment, research and development costs, job creation, and real property taxes;
 - Credits for employers who employ disabled individuals, or pay premiums for employee long-term care insurance;
 - Alternative energy credits for the production of biofuel and alternative fuel vehicle refueling property placed in service in New York State;
 - Credits for construction of green buildings and the clean-up and redevelopment of brownfields;
 - Credits designed to encourage the growth of qualified emerging technology companies (QETCs) in New York State. The employment tax credit equals \$1,000 for each employee hired over a base year figure. The capital tax credit equals 10 or 20 percent of the investment in a QETC, depending upon how long the investment is held. The QETC facilities, operations, and training credit has three components: an 18 percent ITC on research and development property; a 9 percent credit on qualified research expenses; and a credit for high-technology training expenses, up to \$4,000 per employee per year;
 - Refundable credits to encourage film, television, and commercial productions;
 - Various special methods for allocating receipts from certain types of services, such as advertising, publishing and printing, broadcasting and motion pictures, and financial services; and
 - The exclusion from entire net income of interest income and gains from subsidiary capital.

Credit Deferral

In tax years 2010 through 2012, the aggregate amount of certain tax credits that taxpayers may use and refund is limited to \$2 million. Nonrefundable credits that exceed the \$2 million cap will be accumulated in the temporary deferral nonrefundable payout credit. This new credit may first be claimed in the 2013 tax year and unused amounts can be carried forward indefinitely. Refundable credits in excess of \$2 million will be accumulated in the temporary deferral refundable payout credit. Taxpayers may utilize 50 percent of the amount of the refundable credit in the 2013 tax year, 75 percent of the remaining balance in 2014 and the entire remainder of the credit in the 2015 tax year.

Unrelated Business
Income Tax (UBIT)
(Article 13)

The UBIT is imposed on the income of tax-exempt organizations derived from the conduct of a trade or business, at a rate of 9 percent of the unrelated business income allocated to New York. The tax base equals federal unrelated business taxable income with certain modifications. Taxpayers may subtract net operating losses and tax credits. A fixed dollar minimum tax of \$250 applies. The tax does not apply to corporations subject to the corporate franchise tax, certain nonprofit organizations providing insurance, and certain income derived from operating licensed games of chance.

Corporation & Utility
Tax (Article 9)

This tax applies taxes to a variety of specialized businesses and imposes initial taxes and fees on domestic and foreign corporations. Historically, with the exception of the special additional mortgage recording tax credit, taxpayers could neither earn, nor apply, credits against their utility tax liability. However, various credits have been added in recent years for alternative fuels vehicle refueling property, employment of disabled individuals, “power for jobs,” security officer training, brownfield cleanup and redevelopment, and long-term care insurance.

*Organization Tax;
Taxes on Changes
in Capital (§ 180)*

This tax applies to domestic (in-state) corporations. The rate equals 0.05 percent of the total amount of the par value of authorized capital stock. The rate for shares without par value equals 5 cents per share. The tax also applies to any subsequent increases in authorized stock or other changes in capital structure. Domestic corporations must pay a minimum tax of \$10. State and national banks, trust companies, building, mutual loan, accumulating fund and corporative associations do not pay this tax.

*License and
Maintenance Fees on
Foreign (Out-of-State)
Corporations (§ 181)*

The Tax Law imposes a license fee on the value of capital stock employed within New York on out-of-state corporations for the privilege of exercising its corporate franchise or conducting business in New York. A rate of 0.05 percent applies to issued par value capital stock. A rate of 5 cents per share applies to capital stock without par value. A minimum payment of \$10 is required for the first payment. The fee also applies to any subsequent changes in the capital share structure or increases in the amount of capital stock employed in New York State.

The law also imposes an annual maintenance fee of \$300 on all foreign corporations incorporated outside New York, including foreign S corporations. Foreign corporations may credit this fee against any franchise tax due (except Sections 180 or 181). Most foreign banks, national banking associations, federal savings banks, federal savings and loans associations and most insurance companies and building and loans associations do not pay these fees.

*Franchise Tax on
Transportation and
Transmission
Corporations and
Associations (§ 183)*

This tax is imposed on corporations, joint stock companies, or associations *principally engaged* in transportation, telephone, or other transmission businesses. The tax equals the highest of the following calculations: 1) 1.5 mills on each dollar of net value of issued capital stock; 2) if the share of dividends paid on capital stock is 6 percent or more, 0.375 mills per dollar of par value for each one percent of dividends paid; or 3) \$75. Trucking and railroad companies are subject to the corporate franchise tax under Article 9-A unless they had elected to remain taxable under the corporate utility tax.

Section 183 exempts foreign taxicab and omnibus corporations which do not own or lease property in New York and which make fewer than 12 trips into the State in a calendar year. Omnibus and taxicab corporations (other than those making fewer than 12 trips) must pay tax under the corporate franchise tax when the motor fuel tax exceeds 2 cents per gallon. Similarly, this tax does not apply to aviation companies, also taxable under the corporate franchise tax.

*Additional Franchise
Tax on Transportation
and Transmission
Corporations and
Associations (§ 184)*

This tax is imposed on corporations, joint stock companies, or associations *principally engaged* in transportation, local telephone business, or other transmission businesses. It applies a rate of 0.375 percent on gross earnings from all sources in the State. This tax also applies to an allocated portion of receipts from interstate and international activities (except for railroads).

The gross receipts tax, as it applies to truckers and railroads that elected to remain taxable under this tax (instead of electing to be taxed under the corporate franchise tax), is also 0.375 percent.

In the case of local telephone businesses, receipts from sales for ultimate consumption from: 1) inter-LATA, interstate, or international telecommunications services, and 2) 30 percent of intra-LATA toll telecommunications services, including interregion regional calling plan services, are excluded from the tax.

Foreign taxicabs and omnibuses which do not own or lease property in New York (except the vehicle), and which make fewer than 12 trips into the State in a calendar year, must pay an annual tax equal to \$15 per trip rather than the tax on gross earnings.

*Franchise Tax on
Agricultural
Co-operatives (§ 185)*

This tax applies to farmers, fruit growers and other like agricultural corporations operated on a co-operative basis. The tax equals the greatest of the following: 1) one mill per dollar of the net value of issued capital stock allocated to New York (based on gross assets); 2) for corporations with stock without nominal or par value, if dividends paid equals six percent or more of the amount paid in on such stock, 1/4 mill of each percent of dividends paid; or 3) \$10.

*Gross Receipts Tax on
the Furnishing of Utility
Services (§ 186-a)*

The Section 186-a tax on receipts from sales of utility services is imposed on transportation and distribution services to residential customers only, at a rate of 2 percent.

Some businesses selling telecommunications services are subject to tax under Section 186-a on their non-telecommunications receipts as well as the Section 186-e tax on telecommunications services (below). However, this is limited to those businesses selling telecommunications services which are also subject to the supervision of the Public Service Commission.

*Tax on
Telecommunications
Services (§ 186-e)*

Section 186-e imposes a tax of 2.5 percent on receipts from the sale of telecommunications services. Telecommunications services are defined to include services provided by wires, cables, satellites, fiber-optics, lasers, microwaves, radiowaves or similar media. Receipts from telecommunications services are allocated to New York if the call originates or terminates in this State and is charged to a New York service address.

The metropolitan transportation business tax surcharge is computed based on receipts from calls in the MCTD.

An exclusion exists for sales for resale, where the sale is made to either an interexchange carrier, a local carrier or a facilities-based cellular carrier. Telecommunications companies must include sales for resale to companies other than an interexchange carrier or a local carrier in their Section 186-e tax base. However, the law allows a credit to purchasers that subsequently resell these services.

*Public Safety
Communications
Surcharge
(§186-f)*

Section 186-f imposes a monthly surcharge of \$1.20 per wireless device that has two-way wireless communications capabilities over a public switched network, if the customer's place of primary use of the wireless device is in New York State.

Petroleum Business
Tax (Article 13-A)

The petroleum business tax (PBT) is a privilege tax on petroleum businesses operating in New York State. This tax is in addition to other corporate taxes (e.g., corporation franchise tax) that may be due. Imposition of the tax occurs at different points in the distribution chain depending upon the type of petroleum product. Motor fuel (gasoline) becomes subject to tax at the initial point in the New York distribution chain (e.g., importation), while automotive-type diesel motor fuel becomes taxable upon the first otherwise non-exempt sale or use of the product in New York. Nonautomotive diesel motor fuel and residual petroleum product generally become taxable on the final sale or use of the product in New York.

The PBT also applies to motor carriers on the fuel they purchase outside New York State, but consume in the operation of motor vehicles within the State. The carriers pay this tax, with their fuel use tax, at a per gallon rate equal to the rate for motor fuel or automotive-type diesel motor fuel. This tax is administered with the fuel use tax. Publication 908 provides the current rate structure as well as exemptions, reimbursements and credits as of January 1, 2010. The tax rates shown include the basic tax and the supplemental tax for the period. The cents-per-gallon rates vary by product and/or transaction type. Also, the law requires annual indexing of the tax rates to reflect changes in product prices.

*Exemptions,
Reimbursements and
Credits*

PBT excludes sales of kerosene, crude oil, liquefied petroleum gas, compressed natural gas, and E-85 from the tax. It also excludes sales of petroleum for export, sales of fuel oil for residential use, sales to government entities for their own use, sales of fuel oil to exempt organizations for use in exempt purposes, and sales to manufacturers (fuel oil) and farmers (diesel) for use in production. There is also a partial rate reduction for sales of B-20 (biodiesel) fuel. In addition, the PBT provides exemptions, reimbursements and credits based on certain uses of petroleum.

Also, there is a full reimbursement of the PBT paid on diesel motor fuel and residual oil used in mining and/or extracting processes. Finally, there is a full reimbursement for diesel motor fuel and residual fuel oil used in passenger commuter ferries and buses engaged in local transit, and gasoline used by farmers in production.

Bank Tax (Article 32)

A franchise tax applies to banking corporations doing business in the State. This tax consists of the highest of:

- 1) 7.1 percent of allocated entire net income,
- 2) 3 percent of such income without regard to certain specified exclusions,
- 3) \$250, or
- 4) one-tenth of 1 mill upon each dollar of taxable assets allocated to New York.

This asset alternative applies to institutions with a net worth exceeding 5 percent of total assets. It also provides lower tax rates for institutions having both mortgages comprising 33 percent or more of total assets and lower net worth ratios.

Banks conducting business both inside and outside New York allocate their income and assets by applying a three-factor allocation formula consisting of payroll, deposits and receipts. For the tax on entire net income and the tax on assets, the deposits and receipts factors have a weight of 40 percent each, and the wage factor has a weight of 20 percent. In addition, the law discounts the numerator of the wage factor by 20 percent, making the maximum allocation percentage 96 percent. For the 3 percent tax on allocated entire net income without exclusions, the three factors have equal weighting, and no discount applies to the numerator of the wage factor. New York applies a single receipts factor formula for certain banks that provide management services to investment companies.

Banks are able to claim many of the same tax credits as corporation franchise taxpayers. Banks are also subject to many of the same modifications to entire net income which apply under Article 9-A, although at different rates.

Insurance Tax (Article 33)

Article 33 imposes tax on insurance corporations. Life insurers are subject to a franchise tax, which includes an income tax component as well as a tax on premiums. Non-life insurers are subject only to a premiums tax.

A franchise tax is imposed on life insurance companies. There are two components of the tax: 1) a tax computed on the higher of four bases plus a tax on subsidiary capital, and 2) a tax computed on gross direct premiums written on State-located risks or residents in the State.

The first component of the tax is determined from one of four alternative bases. An insurance corporation's tax liability for this component is based on the alternative that results in the largest tax, plus an additional 0.08 percent tax on subsidiary capital allocated to New York. The four bases are:

- 7.1 percent of allocated entire net income with the allocation percentage equal to the weighted average of the New York premium percentage (weighted as nine) and the New York payroll percentage (weighted as one);
- 0.16 percent of allocated business and investment capital;
- 9 percent of allocated entire net income plus officers' salaries basis. The basis equals 30 percent of the sum of entire net income plus officers' salaries and other compensation minus \$15,000, and any net loss for the reported year; or
- a minimum tax of \$250.

The second component of the franchise tax is a tax on gross premiums, less return premiums thereon, written on risks located or resident in New York. Premiums written by corporations licensed as life insurers, including premiums on accident and health contracts, are taxed at the rate of 0.7 percent.

The total tax equals the sum of the largest of the four alternative bases, plus the tax on subsidiary capital, and the sum of the premiums based taxes. However, this total cannot exceed 2 percent of taxable premiums. This cap represents the maximum tax on life insurers. In addition, the total tax cannot be less than 1.5 percent of taxable premiums, which constitutes a floor amount of tax for life insurers.

A premiums tax is imposed on non-life insurance corporations. The tax is imposed on gross premiums, less return premiums, written on risks located or residing in New York. Premiums written on accident and health contracts are taxed at a rate of 1.75 percent. Premiums written on all other non-life risks are taxed at a rate of two percent. Non-life insurers are also subject to a minimum tax of \$250.

A special premiums tax is imposed on captive insurance companies. Captive insurers are subject to tax on gross premiums, less return premiums, written on risks located in New York. The top tax rate is 0.4 percent on direct premiums and 0.225 percent on reinsurance premiums. A minimum tax of \$5,000 applies.

Insurance companies are able to claim some of the same tax credits as corporation franchise taxpayers. However, they are also able to claim certain credits specific to the insurance tax:

- A credit is available for 90 percent of retaliatory taxes paid to other states;
- A credit is available for 100 percent of investments in certified capital companies (“CAPCOs”); and
- A credit is available for taxes imposed under the Insurance Law of foreign and alien fire insurers.

Insurance-Direct Writings Tax (Article 33-A)

The direct writings tax equals 3.6 percent tax on premiums paid by persons who buy or renew insurance policies from companies not authorized to do business in New York. These persons must file a return and pay the tax within 60 days of the end of the calendar quarter in which any policy purchased or renewed takes effect. Federal, New York State and local governments, the United Nations and foreign governments are exempt.

The tax exempts insurance premiums purchased from unauthorized carriers through a New York-licensed excess line broker, because the Insurance Law taxes those premiums at the same rate of 3.6 percent. Where insurance covers risks located or residing both in and out of New York, the Commissioner of Taxation and Finance regulates allocation of the tax.

For additional information on business taxes, please see the following:

- Publication 20, *New York State Tax Guide for New Businesses*
- Publication 112, *General Information on New York State Tax Credits for Article 9-A Businesses*
- Publication 908, *Fuel Tax Rates (Motor Fuel and Petroleum Business Taxes)*

Sales & Use Tax (Article 28)

Tax Bases & Rates

New York State imposes a 4 percent sales and compensating use tax (sales tax). Cities and counties are authorized by the Tax Law to impose a local sales tax in one-half percent increments, up to a maximum of 3 percent. All counties and 20 cities impose a local sales tax. Of these localities, 6 cities (including New York City) and 52 counties have sought and received legislative authority to impose tax at additional rates, ranging from 0.125 percent to 1.75 percent. Towns and villages may not impose a sales tax, although they often share in the distribution of county sales tax proceeds.

The State also imposes an additional sales tax rate of 0.375 percent in the 12 counties which comprise the Metropolitan Commuter Transportation District (MCTD). Publication 718 shows combined State and local sales tax rates in each county and in cities that impose sales tax.

The sales tax on gasoline and highway use of diesel fuel is imposed at a fixed rate of 8 cents-per-gallon (8.75 cents-per-gallon in the MCTD).

An additional 11 percent tax applies to charges for passenger car rentals in the MCTD. Outside the MCTD, the car rental tax equals 6 percent. Also an additional 5 percent State tax applies to information and entertainment services heard over the telephone (e.g., “900” numbers). These taxes are in addition to the regular State and local sales tax on such services.

A \$1.50 per unit per day fee on hotel occupancy in New York City applies in addition to the sales tax on the rent for hotel occupancy.

The sales tax applies to retail sales of tangible personal property (unless specifically exempted) and to certain services. A compensating use tax applies to the use within the State of tangible personal property and services purchased outside the State. Specifically, the sales tax is applied

- tangible personal property (unless specifically exempt);
- gas, electricity, refrigeration and steam, and telephone service;
- selected services;
- food and beverages sold by restaurants, taverns, and caterers;
- hotel occupancy; and
- certain admission charges and dues.

New York's retail sales tax is a destination tax. The point of delivery or the point at which possession is transferred by the vendor to the purchaser determines the rate of tax to be collected. Sales delivered outside New York State are exempt from tax.

Exemptions

Sales and use taxes do not apply to sales or rentals of real property. The Tax Law also exempts purchases for resale, most sales to or by the federal and New York State governments, charitable organization and certain other exempt organizations, sales of most food for home consumption, and sales of prescription and nonprescription medicines. As of October 1, 2010 the exemption for clothing items costing less than \$110 will be suspended. Starting April 1, 2011 the exemption will be reinstated but only for items costing below \$55. Then, beginning after March 31, 2012, the exemption for items priced less than \$110 will be reinstated in full.

Also, the sales tax does not apply to most services. Examples of services not subject to New York State sales tax include capital improvements to real property, medical care, education, and personal and professional services.

*Vendor Registration
and Payment*

New York State and its localities exempt machinery, equipment, parts, tools, and supplies used directly and predominantly in manufacturing property for sale. The State and its localities also exempt fuels and utility services used in manufacturing property for sale.

An exemption also applies to tangible personal property used directly and predominantly in experimental research and development activity. Also, gas, electricity, refrigeration and steam (and related services) used or consumed directly and exclusively for research and development is exempt from sales and use taxes.

The sales tax does not apply to purchases of materials incorporated into buildings owned by an *industrial development agency* (IDA). Recipients of IDA funding may also claim exemption for certain other purchases made as agents of an IDA.

Every person who sells tangible personal property or taxable services must register with the Department before commencing business. Generally, sales tax vendors must file quarterly tax returns with the Department.

Also, vendors whose taxable receipts total \$300,000 or more in any quarter must file monthly returns by the 20th day of the following month. Vendors who remit tax of \$3,000 or less per year may file an annual return.

Sales tax vendors with an annual sales and use tax liability exceeding \$500,000 or with an annual liability for prepaid sales tax on motor fuel and diesel motor fuel exceeding \$5 million, are required to participate in the Department's electronic funds transfer (EFT) program. Other vendors may request to participate in the EFT program on a voluntary basis.

Vendors who file quarterly or annually and who file their sales tax return in a timely manner and remit full payment of tax due with the return are entitled to claim a vendor collection credit equal to 5 percent of the State and local sales tax remitted. The maximum credit is \$200 each quarter.

For additional information, please see the following:

- Publication 750, *A Guide to Sales Tax in New York State*
- Publication 850, *New York State and Local Sales and Use Tax Quick Reference Guide*
- Publication 718 Series (718, 718-A, 718-C, 718-EZ, 718-F, 718-R, 718-S) which shows tax rates by jurisdiction and by product.

Excise Taxes

New York State imposes various excise taxes. These include cigarette and tobacco products taxes, motor fuel taxes and fees, alcoholic beverage taxes, highway/fuel use taxes, pari-mutuel (horse racing) taxes, and the boxing and wrestling tax.

Cigarette & Tobacco Products Taxes & Fees (Article 20)

New York collects the cigarette excise tax through the sale of tax stamps to licensed agents. Agents must affix the tax stamps to each package of cigarettes before sale can occur in New York State. The tax rate is \$4.35 per pack of 20 cigarettes. New York City also imposes a separate excise tax of \$1.50 per pack, which brings the combined per pack tax rate in the City to \$5.85. In addition to the excise tax, a prepaid sales tax is paid by the agent at the time the cigarette tax stamp is purchased.

Distributors of other tobacco products such as cigars, chewing tobacco, pipe, and loose tobacco pay a 75 percent excise tax on the wholesale price. Little cigars are taxed at the same rate as cigarettes. The tobacco products tax on snuff is computed at the rate of \$2.00 per ounce, and a proportionate rate on any fractional parts of an ounce. Distributors include persons importing, manufacturing or possessing for sale such products in New York.

Sellers of cigarettes and other tobacco products including operators of vending machines, must pay an annual registration fee for every location in the State where they sell product. Registration fees are based on the annual gross sales of the vendor. Vendors must also display valid permits.

Alcoholic Beverage
Tax (Article 18)

The alcoholic beverage tax imposes liquor, beer, and wine taxes at various rates upon registered distributors and noncommercial importers of alcoholic beverages. The table below shows tax rates for different beverages:

Alcoholic Beverage Tax Rates as of September 1, 2010		
Alcoholic Beverages	Rate Per Liter	Rate per Gallon
Liquors (over 2% Alcohol)	\$1.70	\$6.43
Liquors (2% - 24% Alcohol)	67 cents	\$2.53
Beer		14 cents
Wine and Wine Coolers		30 cents
Cider Over 3.2% Alcohol (Still or Carbonated)		3.79 cents

Motor Fuel Tax
(Article 12-A)

Article 12-A imposes an 8 cents per gallon tax on diesel motor fuel at the point of first taxable sale or use in New York. An 8 cents per gallon tax also applies to other motor fuel, including gasoline, upon first import into or production within New York.

The law requires the pass-through of these taxes to consumers. It also exempts from tax purchases by federal, New York State and local government agencies. Full exemptions from tax are also provided for sales of E-85 and compressed natural gas. A partial 20 percent rate reduction is provided for sales of B-20 (biodiesel) fuel.

An exporter of motor fuel must be registered as a licensed distributor in the jurisdiction to which the fuel is exported in order to qualify for an export credit or refund.

The motor fuel tax generally does not apply to fuel used for non-highway purposes. For example, fuel on which tax is already paid is eligible for a refund when it is used exclusively to operate road building machinery, for farming or commercial marine purposes, or in vehicles operated on rails or tracks.

Certain bus operators engaged in local transit service and non public school operators in the State may claim full refund of motor fuel and diesel fuel taxes paid. The law allows partial refunds of three cents per gallon for motor fuel taxes (one cent for diesel motor fuel) paid by operators of other private buses and taxicabs.

Highway/Fuel Use
Taxes
(Articles 21 and 21-A)

The Tax Law imposes three separate highway and fuel use taxes, as described below. Exemptions from these taxes include motor vehicles owned and operated by governmental entities, fire companies, farmers, U.S. mail delivery, and household goods movers. The highway use tax also exempts buses.

Highway Use Tax (HUT)

The HUT applies to any motor vehicle with a gross weight over 18,000 pounds, or where elected, the tax applies to trucks with an unloaded weight of over 8,000 pounds and tractors with an unloaded weight in excess of 4,000 pounds. Rates increase according to vehicle weight, and apply to miles traveled on public highways; however, the tax does not apply to mileage on the toll-paid portion of the New York State Thruway.

*Highway Use Tax
Certificates*

Highway use tax certificate of registration (C of R), issued for not less than one year, identify vehicles subject to the highway use tax. C of R fees equal \$15 per truck or tractor for initial registrations and \$15 per truck or tractor renewals. Each trailer used to haul automotive fuels requires a \$15 C of R. A special \$25 single-trip C of R, available to a carrier no more than 10 times per year, exempts a carrier from the HUT for a single 72-hour period. A separate permit must be obtained for the fuel use tax to exempt the carrier for a single 72-hour period.

Fuel Use Tax

New York conforms to the International Fuel Tax Agreement (IFTA). New York-based carriers operating in more than one IFTA jurisdiction must obtain an IFTA license and two decals (costing \$4 each) for each qualified vehicle.

The fuel use tax applies to fuel bought outside New York State by truck, tractor and bus carriers, but used while traveling on New York highways. It reduces opportunities for such carriers to buy motor fuel outside New York to avoid State and local taxes.

The fuel use tax consists of two components: the fuel tax component and the sales tax component. Carriers also report the petroleum business tax on fuel used, but not purchased, in the State on the same return as the fuel use tax. Carriers may claim credits or refunds for New York taxes paid on fuel used outside the State.

New York's fuel use tax provisions also conform to those of the IFTA. The tax generally applies to vehicles with a gross weight over 26,000 pounds. A special \$25 single fuel use tax trip permit is available which exempts IFTA licensed carrier from the New York fuel use taxes for a single 72 hour period for that vehicle.

For additional information on highway and fuel use taxes, please see the following:

- Publication 538, *A Guide to Highway Use Tax and Other New York State Taxes for Carriers*
- Publication 536, *International Fuel Tax Agreement—A Guide for New York State Motor Carriers*

Pari-Mutuel & Horse Racing Taxes (Racing, Pari-Mutuel Wagering & Breeding Law)

The Racing, Pari-Mutuel Wagering and Breeding Law imposes a tax on pari-mutuel wagering at horse racetracks and at off-track betting (OTB) parlors throughout the State for the privilege of conducting pari-mutuel wagering on horse races. The Department of Taxation and Finance administers this tax. Each racing association or corporation pays to the State a portion of the commission withheld from wagering pools. Tax rates vary by type of race and wager. State horse racing revenues also include the racing admission tax, breakage, nonprofit racing association franchise fees, and revenue from uncashed tickets.

Boxing & Wrestling Exhibitions Tax (Article 19)

The Tax Law imposes a boxing and wrestling exhibitions tax on the total gross receipts of promoters of professional or amateur boxing, sparring and wrestling matches. The tax rate equals three percent of gross receipts. Gross receipts include not only receipts from admissions charges but also receipts from broadcasting and movie rights. However, live broadcast rights and closed-circuit broadcast rights of matches and events held in New York are included in gross receipts subject to tax only to the extent that they relate to transmissions and presentations received or exhibited in the State.

Each tax (admission charges, broadcasting) is capped at \$50,000 per match or exhibition resulting in a combined maximum imposition of \$100,000. Exemptions apply for certain military matches, amateur scholastic and collegiate events, and official U.S. Amateur and Olympics events

Waste Tire Management Fee (Environmental Conservations Law Section 27-1913)

New York State imposes a waste tire management fee of \$2.50 per tire on the retail sale of new tires in the State. Retailers are allowed to retain 25 cents of the tire fee they collect to cover their administrative costs. The fee is imposed under the Environmental Conservation Law, but is administered and collected by the Tax Department. The waste tire fee expires on December 31, 2013.

Hazardous Waste Generation Tax (Environmental Conservation Law Section 27-0923)

The Tax Department also administers a tax on the generation of hazardous waste. The tax is imposed at \$27 per ton of hazardous waste that is disposed of in a landfill on the site where the waste was generated, or that was removed from the generation site and then deposited into a landfill; \$9 per ton of hazardous waste that was removed from the generation site for incineration; \$2 per ton of hazardous waste that was incinerated at the generation site; and \$16 per ton of hazardous waste that was removed from the generation site for treatment or disposal, but not in a landfill or by incineration.

Property Transfer Taxes

New York imposes two property transfer taxes: the estate tax and the real estate transfer tax.

Estate Tax (Article 26)

The estate tax is based on the maximum federal credit for state death tax paid as it existed prior to 2002. The credit was repealed after 2004 and replaced with a deduction for state death tax paid. The federal deduction offsets nearly 50 percent of the New York estate tax for estates of decedents dying after 2004. Taxable estates under \$1 million are exempt from tax, and returns and payments are due within 9 months of the decedent's death.

Real Estate Transfer Tax (Article 31)

The real estate transfer tax applies to the transfer of any interest in real property, including a deed, where the consideration is over \$500. The tax is due within 15 days of the conveyance. The tax equals \$2.00 for each \$500 or additional fraction of \$500. The tax is to be paid by the grantor (i.e., the seller).

However, if the grantor has failed to pay the tax or is exempt from the tax, the grantee has the duty to pay the tax. The grantor and the grantee are jointly and severally liable for the tax.

The tax also applies to transfers of economic interest such as shares in cooperatively owned apartments. Other such taxable interest transfers include long-term leaseholds and transfers of controlling interest in entities which have an interest in real property.

Also, an additional tax of 1 percent of the consideration paid for residences selling for \$1 million or more (the so-called “mansion tax”) is imposed upon the transfer of a one, two, or three-family house. The person receiving the real property interest, the grantee (usually the buyer), must pay this additional tax. If the grantee is exempt, the grantor (usually the seller) must pay the tax.

The real estate transfer tax rate is reduced by 50 percent for qualifying transfers of real property to, or acquisition of real property by, a real estate investment trust (REIT) upon its initial formation, or to existing REITs before September 1, 2011.

In addition, certain local governments are authorized to impose real estate transfer taxes. The “Local Taxes” section describes these (usually the seller) must pay the tax.

Local Taxes

Property Taxes (Real Property Tax Law)

Local governments in New York levy taxes on real property, which is defined as land and any permanent structures attached to it. No taxes apply to other types of property, and no State property tax is levied. In addition, the State Constitution prohibits the imposition of taxes on intangible property. In general, separate property taxes apply for school districts and for county/municipal government.

The property tax applies to the market value of land and structures as determined by local property tax assessors. Market value may be determined by sales prices of similar properties, replacement cost, or potential to produce rental income (commercial property).

State law requires the assessment of property values at a uniform percentage of full value. This means, for example, that residential and business property must be assessed at the same percentages of value. Exceptions apply in New York City and Nassau County, which can assess each of four different classes of property differently. The law requires that assessors maintain tax rolls which show the full value of each property and the uniform percentage of value for their assessing units.

Local governments are responsible for setting tax rates, expressed as the amount to be paid on each \$100 or \$1,000 of assessed property value. In general, they determine how much revenue needs to be raised (known as the levy), and divide this amount by the total assessed value of all property to determine the applicable tax rate.

Many types of exemptions are available, as authorized by State law and implemented and administered at the local level. Among the most common are those for veterans, low-income senior citizens, farmers, clergy, and non-profit educational, religious and charitable organizations.

Also, the School Tax Relief Program (known as “STAR”) provides an exemption against residential school property taxes of at least \$50,000 for senior citizens with 2009 incomes under \$79,050 and at least \$30,000 for all other homeowners. Actual maximum amounts in each county vary depending upon the median residential property value in each county compared to the Statewide median. Also, the maximum income for the enhanced senior exemption is indexed annually for inflation. Beginning with the school tax rolls for the 2010-11 school year, basic STAR exemptions will be eliminated for homeowners with income over \$500,000.

The Office of Real Property Tax Services, now part of the Tax Department, is responsible for assisting local governments in their property tax administration, especially in ensuring that assessments are consistent and equitable both within and across taxing jurisdictions. Additional information may be obtained through its website (www.orps.state.ny.us).

Selected publications include:

- *How the Real Property Tax Works*
- *STAR Program, Questions and Answers*

Sales Taxes (Tax Law Articles 28 and 29)

Local governments are authorized to impose sales and compensating use taxes. These taxes are generally levied by counties and are largely linked to the State sales tax base and administered by the Department of Taxation and Finance, which distributes the local portion to local governments. Cities and counties may choose to impose a selective sales tax on certain items instead of conforming with the overall State sales tax base. These include utility services, “restaurant” food and drink, hotel room occupancy, and certain amusement charges.

The maximum allowed rate is three percent, with approval by the State Legislature required for rates in excess of three percent. Within counties, cities may impose sales taxes that pre-empt a portion of the county tax, meaning that the municipal tax is in place of rather than in addition to the county tax.

Currently, 6 counties levy sales taxes of up to 3 percent, while 51 counties and New York City have combined local rates in excess of 3 percent.

School districts that are partly or wholly within cities with populations under 125,000 may impose sales tax on utility services at a rate up to 3 percent. This results in a wide range of tax rates on these services, depending upon whether the services are subject to State sales tax, and the local rate exercised

Finally, the cities of Lockport, Long Beach, Newburgh, Niagara Falls, and Port Jervis have elected to impose a selective sales tax.

For additional information, please see the following:

- Publication 750, *A Guide to Sales Tax in New York State*
- Publication 850, *New York State and Local Sales and Use Tax Quick Reference Guide*
- Publication 718 Series (718, 718-A, 718-C, 718-EZ, 718-F, 718-R, 718-S) which shows tax rates by jurisdiction and by product

Excise Taxes

Local Utility Gross Receipts Taxes (Section 20-b of General City Law and 5-530 of Village Law)

Cities other than New York and villages may impose selective gross receipts taxes on sales of utility services. These are in addition to sales taxes, and are locally administered. The maximum rate is 1 percent of the gross income of utilities operating in their jurisdiction. Sixty cities other than New York City and 365 villages impose these taxes, with Buffalo, Rochester and Yonkers authorized by the State to impose the tax at a 3 percent rate

Local Hotel Occupancy Taxes

Most counties impose locally administered hotel occupancy taxes. In addition, many cities, towns and villages are also authorized to impose occupancy taxes.

Local Racing Admissions Taxes

The New York State Racing, Pari-Mutuel Wagering and Breeding Law provides for locally administered admissions taxes on horse race meetings. The rates vary by type of facility and locality.

Property Transfer Taxes

Mortgage Recording Tax (Tax Law Article 11)

New York imposes a tax on the recording of mortgages on real property located in New York. In addition, New York City, Yonkers, and various counties are authorized to impose similar taxes. Exemptions apply for certain types of mortgages, such as those involving the New York State or federal governments. The tax is payable to the recording office of the county in which the mortgaged property is located.

The following mortgage recording taxes could apply, varying by county:

- a basic tax equal to 50 cents per \$100 of mortgage debt or obligation secured;
- an additional tax of 25 cents per \$100, (30 cents per \$100 for counties within the Metropolitan Commuter Transportation District) with a \$10,000 exemption for one or two-family residences; and
- a special additional tax equal to 25 cents per \$100.

The three distinct taxes reflect the fact that revenues from each tax are generally dedicated to various State and local transportation and housing programs, or other specified local governmental purposes.

Overall,

- 21 counties impose the basic and special additional taxes for a rate of 75 cents per \$100; and
- 41 counties impose the basic, additional, and special additional taxes for a rate of \$1 per \$100 (\$1.05 in the MCTD).

The following table shows the local taxes that apply in certain jurisdictions:

County/City	Local Tax Rate	Combined Tax Rate (1)
New York City	\$1 per \$100 for all mortgages under \$500,000.	\$2.05 per \$100.
	\$1.125 per \$100 for residential mortgages of \$500,000 or more.	\$2.175 per \$100.
	\$1.75 per \$100 for other mortgages of \$500,000 or more.	\$2.80 per \$100.
Broome, Cortland, Hamilton, Herkimer, Lewis, Schoharie, Sullivan, Yates	25 cents per \$100.	\$1.00 per \$100.
Albany, Cattaraugus, Chautauqua, Essex, Genesee, Rensselaer, Schenectady, Steuben, Warren, Wayne, Wyoming	25 cents per \$100	\$1.25 per \$100.
Rockland, Westchester	25 cents per \$100	\$1.30 per \$100.
Columbia, Greene	50 cents per \$100	\$1.25 per \$100.
Yonkers	50 cents per \$100	\$1.80 (2)
(1) County/City Rate combined with State tax rates.		
(2) Includes Westchester County tax.		

*Real Estate Transfer
Tax (Various Articles)*

Tax rates currently in each county as of December 1, 2009 are listed on the mortgage recording tax return, Form MT-15.

Along with New York City (discussed in the next section) several local jurisdictions impose real estate transfer taxes in addition to the State tax. The local taxes are substantially linked to the State tax base. The taxes and rates include:

Erie County (Article 31-A)	\$5 per \$1,000 of consideration, paid by the grantor (seller)
Broome County (Article 31-C)	50 cents per \$500 of consideration, paid by the grantor (seller)
Columbia County (Article 31-A-2)	\$1 per \$500 of consideration, paid by the grantor (seller)
Essex County (Article 31-B-1)	\$1 per \$500 of consideration, paid by the grantor (seller)
Tompkins County (Article 31-G)	\$1 per \$500 of consideration, paid by the grantor (seller)
Towns in the Peconic Bay Region* (Article 31-D)	2.0 percent of consideration, paid by the grantee (buyer)
Town of Red Hook (Dutchess County) (Article 31-A-1)	2.0 percent of consideration, paid by the grantee (buyer)
Town of Warwick (Orange County) (Article 31-F)	0.75 percent of consideration, paid by the grantee (buyer)
City of Mount Vernon (Article 29)	1.0 percent of consideration in excess of \$100,000, paid by the grantor (seller)
City of Yonkers (Code of the City of Yonkers, Chapter 15, Article V)	1.5 percent of consideration when consideration exceeds \$25,000, paid by grantor (seller)

- The “Peconic Bay Region” includes the towns of East Hampton, Riverhead, Shelter Island, and Southhampton and Southhold in Suffolk County.

New York City Taxes

New York City imposes many of the same taxes imposed at the State level. Some of them, such as the personal income and sales taxes, are generally linked to State law and require approval by the State Legislature to be amended. These taxes are also administered by the New York State Department of Taxation and Finance. Almost all other taxes, such as the property and various business and excise taxes are administered by the New York City Finance Department, although most cannot be amended except by State law.

Personal Income Tax (Tax Law Article 30 and NYC Administrative Code)

A tax is imposed on residents and part-year residents of the City. Using the same filing statuses as under the State income tax, the starting point is State taxable income, with rates for tax year 2010 ranging from 2.907 percent to 3.876 percent.

Like the State tax, an add-on minimum tax applies to tax preferences subject to the State minimum tax, at a rate of 2.85 percent.

Credits

Similar to the State income tax, a nonrefundable household credit is allowed for low and moderate-income taxpayers. Also similar to State law, an earned income credit equal to 5 percent of the federal credit applies, though unlike the State credit, no household credit offset is required.

Also, a nonrefundable credit is allowed to sole proprietors and partners for between 100 percent and 23 percent (the credit declines as taxable income increases between \$42,000 and \$142,000) of the City's unincorporated business tax (UBT) which they paid as members of entities subject to the UBT.

In addition, a refundable credit is allowed to many New York City residents as part of the State's STAR program. If a taxpayer's federal adjusted gross income less IRA distributions is \$250,000 or less, the credit equals \$125 for married couples filing jointly, and \$62.50 for all others in 2010.

New York City personal income taxpayers whose household gross income is not greater than \$30,000 are allowed a refundable credit for the qualified child care expenses for children under the age of four. The credit equals 75 percent of the amount of the New York State Child and Dependent Care Credit for taxpayers with household gross income of \$25,000 or less and phases down to zero percent for taxpayers with income above \$30,000.

The New York City income tax does not permit a credit for taxes paid to other jurisdictions.

Business Taxes
(NYC Administrative
Code)

New York City imposes many of the same taxes on businesses that the State imposes. Unlike the State, it also has an unincorporated business tax. The New York City Department of Finance administers the City's business taxes.

Unincorporated Business
Tax (UBT)

A tax is imposed on unincorporated businesses, such as sole proprietorships and partnerships. The tax is generally based on the firm's federal gross income, at the rate of 4 percent, after allowance of a \$10,000 exemption. Compensation paid to a proprietor or partner for services or the use of capital in excess of \$10,000 per partner is not deductible.

Unincorporated businesses allocate income to New York City by using a three-factor formula allocation method based on property, payroll and receipts unless that method does not fairly and equitably reflect the taxpayer's income. Taxpayers who properly used the books and records method for the past two taxable years immediately preceding January 1, 2004, which consist of 12 months each, may elect to continue to use that method for each of its taxable years before January 1, 2012.

However, starting in the 2009 tax year, New York City will begin phasing in a single receipts factor allocation formula, to be completed in the 2018 tax year. In 2009, the receipts factor is weighted at 40 percent while the other two factors are weighted at 30 percent each. Manufacturers will retain their current double-weighted sales factor until the 2011 tax year, when the phase-in schedule weights the receipts factor at 53 percent. Starting in that year, manufacturing corporations will use the same allocation formula as all other industries.

A credit eliminates the tax for businesses with taxable incomes of \$85,000 or less, and phases out for businesses with taxable incomes of \$135,000 or more. Other credits apply for sales tax

General Corporation
Tax (GCT)

on certain machinery and equipment used in production, and relocation and employment assistance (see below). Returns are generally due on April 15 and estimated taxes must be paid.

Like the State corporate franchise tax, the general corporation tax (GCT) starts with federal corporate income and applies to most incorporated businesses except banks and regulated utilities, which are taxed under separate taxes. However, unlike federal and State law, New York City does not allow for the S corporation election, meaning that all corporations are subject to the GCT.

Also, unlike federal and State law, no unrelated business income tax applies. Insurance companies are not subject to GCT.

Four taxes apply, with corporations paying the highest tax. They include:

- a tax on allocated entire net income at a rate of 8.85 percent;
- a tax on allocated business and investment capital at the rate of 0.15 percent, with tax not to exceed \$1 million;
- a tax of 8.85 percent on 15 percent of entire net income plus the amount of salaries and compensation paid to any person who owned more than 5 percent of the taxpayers capital stock; or
- a fixed dollar minimum tax ranging from \$25 to \$5,000 depending on the corporation's New York City receipts.

Small businesses are subject only to the entire net income or fixed dollar minimum tax bases. In addition, taxpayers are subject to an additional tax of 0.075 percent of allocated subsidiary capital.

Starting in the 2009 tax year, New York City began phasing in a single receipts factor allocation formula, to be completed in the 2018 tax year. In 2010, the receipts factor is weighted at 46 percent while the other two factors are weighted at 27 percent each. Manufacturers will retain their current double-weighted sales factor until the 2011 tax year, when the phase-in schedule weights the receipts factor at 53 percent. Starting in that year, manufacturing corporations will use the same allocation formula as all other industries.

Various credits apply, including:

- Industrial Business Zone (IBZ) employment credit equal to \$1,000 for each full-time employee at eligible premises in the IBZ;
- Relocation and Employment Assistance (REAP) credit for businesses that relocate to Manhattan above 96th Street or the other boroughs;
- Real Estate Escalation Credit for firms that relocate to leased premises in New York City from outside the State and create jobs, based on increased property taxes generated by their relocation;
- Employment Opportunity Relocation Costs Credit for businesses that bring industrial or commercial jobs to New York City from outside the State, equal to a maximum of \$300 per commercial job and \$500 per industrial job;
- Biotechnology credit for expenses incurred by emerging biotech companies;
- A credit for the portion of the UBT paid by corporations that are partners in entities subject to the UBT; and
- New York City is authorized to allow a credit for certain film production activity in the City. It equals 5 percent of qualified production costs.

Returns are generally due May 15, and payment of estimated tax is required.

Bank Tax

Like the GCT and State corporate franchise tax, the bank tax starts with federal income. Four taxes apply, with corporations paying the highest tax. They include:

- a tax on allocated entire net income at a rate of nine percent;
- a tax on allocated assets at a rate of 1/10 of a mill per dollar, except for alien banks, which are subject to a tax on allocated issued capital stock of 2.6 mills per dollar;

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- A tax on alternative allocated entire net income at a rate of three percent; or
 - A fixed dollar minimum of tax \$125.

“Alternative entire net income” equals entire net income minus the partial deduction for income from subsidiary capital, and minus a percentage of interest from New York State and federal obligations.

Banks allocate income to New York City using the same formula that applies for the State bank tax. However, banks providing certain services to investment companies will be able to use an allocation formula that phases into a single sales factor formula beginning in 2018. In 2010, the formula is 16 percent payroll, 52 percent receipts, and 32 percent deposits.

Banks may be eligible for some of the credits available under the GCT. Returns are generally due March 15, and payment of estimated tax is required.

Sales &
Compensating
Use Tax (Tax Law
Article 29 and
NYC Administrative
Code)

In general, the sales tax in New York City follows the State sales tax. The City imposes a rate of 4.5 percent, which when combined with the State 4.0 percent rate and the 0.375 percent Metropolitan Commuter Transportation District (MCTD) tax, yields a combined rate in New York City of 8.875 percent.

New York City also imposes its 4.5 percent sales tax on selected services not subject to State tax. These include credit rating and reporting, interior decorating and design services, and personal services such as beauty, barbering, massage, and health salons.

As part of the sales tax, New York City also imposes an increased sales tax rate on parking or garaging motor vehicles. The rate is six percent (with an additional eight percent in Manhattan). As a result, the combined State-City-MCTD tax rate on parking and related services is 10.375 percent (18.375 percent in Manhattan). Manhattan residents can obtain an exemption from the 8 percent additional tax for their personal vehicles.

Excise &
Miscellaneous
Taxes (NYC
Administrative
Code)

New York City imposes and administers many of the same types of excise and other taxes levied at the State level.

Cigarettes – \$1.50 per pack of 20 cigarettes.

Hotel Occupancy – Ranges from 50 cents per day for rooms renting for \$10 to \$19.99 per day, to \$2 per day for rooms renting for more than \$40 or more per day. An additional tax of 5.875 percent of the daily rent charge is also imposed. Permanent residents (occupants for 180 days or more) are exempt.

Alcoholic Beverages – 12 cents per gallon on beer and 26.4 cents per liter on liquors with alcohol content greater than 24 percent by volume. There is no City tax on wines.

Commercial Rents – 3.9 percent, effectively, of rent of \$250,000 or more. Exemptions apply for governments and certain non-profit organizations. Also, a sliding scale credit applies to the tax on base rent under \$300,000.

Real Property Transfers – Similar to the State Real Estate Transfer Tax (RETT), New York City imposes Real Property Transfer Tax (RPTT) on sellers of real estate. For most residential property, the rate is 1 percent where the consideration is \$500,000 or less, and 1.425 percent where the consideration is more than \$500,000. For all other property, the respective rates are 1.425 percent and 2.625 percent.

Insurance Companies— A 2 percent tax applies on all fire insurance premiums of foreign and alien fire insurance companies. Domestic insurance companies exempt.

Utilities — A tax of 2.35 percent (1.17 percent for bus companies) applies to the gross income of utilities and to the gross utility income of vendors of utility services. Credits are allowed for sales tax paid on machinery and equipment used in production, and for relocation and employment assistance. Vendors of utility services are subject to UBT or GCT on their net income not subject to the utility tax.

Taxicab License Transfers— A tax of five percent of consideration is imposed on each transfer of a taxicab license (“medallion”) or interest therein. This tax is collected by the Taxi and Limousine Commission.

Additional information about New York City taxes is available at the Department of Finance Website, www.nyc.gov/finance.

City of Yonkers Taxes

Income and
Earnings Taxes
(Tax Law
Articles 30-A and
30-B)

Yonkers is authorized by State law to impose personal income tax on residents, and an earnings tax on its nonresidents with wage or self-employment income from working in Yonkers. The resident income tax equals 10 percent of State tax liability after nonrefundable credits. The nonresident earnings tax equals 0.50 percent of wages and self-employment earnings, after an allowable exclusion of \$3,000 which phases out when earnings exceed \$30,000. The Department of Taxation and Finance administers both taxes.

MTA (Metropolitan Transportation Authority) Taxes

Mobility Tax (Tax Law Article 23)

A tax is imposed on employers and self-employed individuals engaged in business within the Metropolitan Commuter Transportation District (MCTD). The Department of Taxation and Finance administers this tax. New York State then distributes the mobility tax revenue to the MTA.

The tax on employers equals 0.34 percent of the payroll expense for employees stationed within the MCTD. The employer's payroll expense must be greater than \$2,500 in a calendar quarter before the tax applies. The same tax rate applies to individuals, including partners in partnerships and members of limited liability companies that are treated as partnerships, on their net earnings from self-employment allocated to the MCTD. The tax does not apply if the individual's allocated net earnings from self-employment are \$10,000 or less for the tax year.

The mobility tax contains few exemptions except for an agency or instrumentality of the United States, the United Nations, or an interstate agency or public corporation created under an agreement or compact with another state or Canada. However, public school districts will have their mobility tax completely reimbursed by New York State in the following State fiscal year.

Employers must report and pay the mobility tax for each calendar quarter by the last day of the month following the end of the quarter. However, employers (other than public school districts) who are required to enroll in the PromptTax program for withholding tax purposes are required to make mobility tax payments on the same dates that they remit withholding tax. Self-employed individuals make estimated payments of mobility tax on the same date as the non-PromptTax employers. Most personal income tax estimated tax rules apply to the mobility tax payments by the self-employed. A final reconciliation of the prior year's mobility tax payments by self-employed individuals is made by the 30th day of the fourth month following the close of the tax year (April 30th for calendar year taxpayers).

Medallion Taxicab
Ride Tax (Tax Law
Article 29-A)

The Tax Law imposes a 50 cent tax for every taxicab ride that originates in New York city and terminates anywhere in the Metropolitan Commuter Transportation District. The tax is paid by owners of medallion yellow taxicabs in New York City. It is presumed that every taxicab ride that originates in the City is subject to the fee unless the contrary can be shown.

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

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