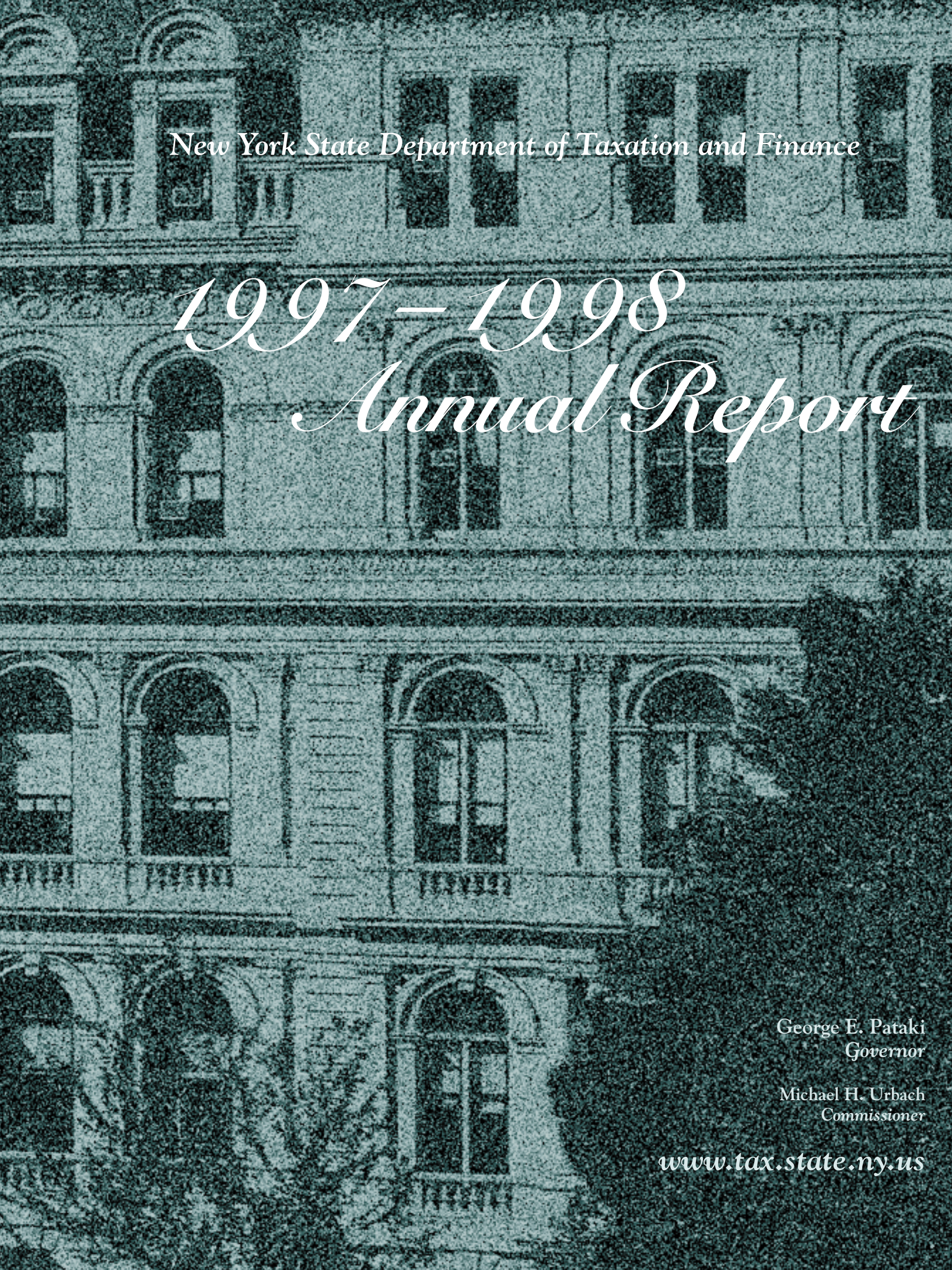




New York State Department of Taxation and Finance

*1997-1998
Annual Report*

George E. Pataki
Governor

Michael H. Urbach
Commissioner

www.tax.state.ny.us

Message from the Commissioner



J.M. Elario — photo — ©1998

Michael H. Urbach
Commissioner
New York State Department
of Taxation and Finance

Under the leadership of Governor George E. Pataki, the New York State Department of Taxation and Finance continues to work to achieve our mission of providing a fair, responsive and efficient system of tax administration while remaining a partner in New York State's economic revitalization. Working together, this administration and our employees have helped make that mission a reality.

Total Quality Management (TQM), a major initiative undertaken by the Department just a few short years ago, has allowed our employees to foster better relationships with management, each other, and most importantly, taxpayers.

We continually recognize that our employees are our most valuable resource and our TQM initiative has made it a top priority to supply employees with the technology and training needed to allow them to do their jobs more efficiently and with less frustration. Taxpayers across New York State see the benefits of these initiatives every day.

From our Internet web site to our newly redesigned tax forms to our state-of-the-art tax processing systems, the Department's use of the latest technology has allowed us to serve taxpayers more effectively, while allowing us to continue to increase productivity. Meanwhile, the Department has continued its commitment to reducing burdensome and unnecessary regulations and eliminating red-tape, thereby making life easier for all taxpayers.

These initiatives have resulted in a continuance of our commitment to serve New York State and its taxpayers in a fair, responsive, efficient manner, while being a catalyst to New York's economic resurgence.

On behalf of all Tax Department employees, I am proud to present to you the Department's 1997-1998 Annual Report.

List of Public Documents

The Printing and Public Documents Law was amended in 1993 to require state agencies to forward 30 copies of each report to the Gifts and Exchange Division of the New York State Library, and to incorporate a list of these documents within each agency's annual report. Listed below are all such documents that have been forwarded to the New York State Library during fiscal year 1997-1998. All of the reports have been published by the Office of Tax Policy Analysis.

*New York Adjusted Gross Income and Tax Liability
Analysis of 1994 State Personal Income Tax Returns
by Place of Residence*
(April 1997)

*Analysis of 1994 Personal Income Tax Returns
Profile of Income, Deductions, Credits and Tax
from Taxable Returns*
(April 1997)

New York State Tax Sourcebook
(May 1997)

*Taxable Sales and Purchases County and Industry Data
for March 1995–August 1996*
(July 1997)

Summary of 1997-98 Tax Provisions
(September 1997)

*1996-97 New York State Tax Collections Statistical
Summaries and Historical Tables*
(October 1997)

*The Temporary Clothing Exemption Analysis of
the Effects of the Exemption on Clothing Sales in
New York State*
(November 1997)

*New York Adjusted Gross Income and Tax Liability
Analysis of 1995 State Personal Income Tax Returns
by Place of Residence*
(January 1998)

*Analysis of Article 9-A General Business Corporation
Franchise Tax Credits for 1994*
(January 1998)

New York State 1998-1999 Tax Expenditure Report
(February 1998)

*1990-1994 New York State Corporate Tax
Statistical Report*
(February 1998)

*Taxable Sales and Purchases County and Industry Data
for August 1996–February 1997*
(February 1998)

*Earned Income Tax Credit Analysis of Credit Claims
for 1996*
(February 1998)

Message from the Governor



George E. Pataki
Governor
State of New York

Over the last four years, New York has led the nation in cutting taxes, slashing them more than Illinois, Texas, and California combined. Since 1995, we have cut taxes 31 times, firmly establishing the Empire State as the tax-cutting capital of America.

Hardworking New Yorkers are now getting the benefit of these tax cuts every payday. Since 1994, a middle-class working family with two children and an income of \$50,000 has seen their state personal income taxes cut by more than 28 percent. This family's annual state tax bill is now almost \$700 lower than it was in 1994.

The personal income tax cut, combined with other tax cuts we have enacted, such as the School Tax Relief (STAR) plan, elimination of the sales tax on clothing, and elimination of New York's estate tax on middle-class families, will ultimately return more than \$12.5 billion to New Yorkers each year.

Just this past year, we enacted a vitally important reduction in New York State's corporate tax rate, dropping it to 7.5 percent from the 9 percent rate currently in effect. This tax cut will provide significant benefit to businesses across the State and stimulate the economy. It is a crucial improvement in the State's relative tax position given the growing national competition among states to attract new jobs and industry.

Just a few short years ago, the state would raise taxes year after year, reaching into the wallets of every New Yorker. Thankfully, over the last four years, New York has quickly gone from worst to first in the nation in cutting taxes, making New York a better place to live and work.

At the same time, the Department of Taxation and Finance, under the leadership of Commissioner Michael Urbach, continues to achieve its mission of providing a fair, responsive and efficient system of tax administration while playing an important role in New York State's economic revitalization.

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Leading the Nation

Over the last four years, New York State has cut taxes 31 times. That's more than all of the other states combined. These tax cuts have been across the board, including income tax, property tax, sales tax and business taxes. New Yorkers have saved \$7.4 billion this year alone and that figure will grow to \$13 billion once all the cuts are fully implemented.

Governor Pataki made a promise to New Yorkers that he would cut income taxes by 25 percent. In 1995, he made that promise a reality and returned \$4 billion to taxpayers through his tax cut plan. The most dramatic impact was on lower income New Yorkers. More than 450,000 lower income New Yorkers have been dropped entirely from the State's income tax rolls, paying no state income tax at all.

Governor Pataki's School Tax Relief (STAR) program cuts school property tax bills for senior citizens who own their own homes by at least 45 percent. In fact, by the end of this year many seniors will have their entire school property tax bill eliminated. Starting in 1999, all other taxpayers will save an average of 27 percent, for a total savings of \$2.7 billion.

There has been a significant change in the Estate and Gift Tax which will help working families and businesses alike. This change will put New York on par with 34 other states by raising the state exemption amount to a level equal to the Federal Estate Tax exemption. These reforms will completely phase out New York State's added-on estate tax, saving taxpayers \$400 million each year.

The year 1998 will be known as the year of business tax cuts — some \$4 billion worth. Under a tax cut package signed by Governor Pataki, the Corporate Franchise Tax rate has been reduced from 9 percent to 7.5 percent, the lowest rate since 1970.

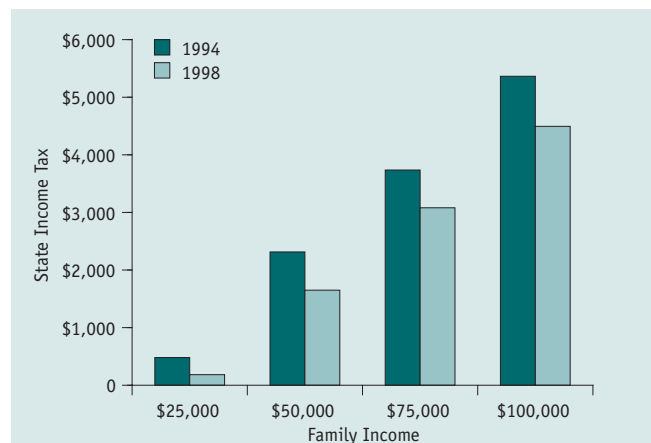
One of the most publicized and anticipated programs of 1997 was the Sales Tax Exemption on clothing and footwear. The pilot program in January 1997 was so successful, the program was expanded to include four additional weeks. Beginning December 1, 1999, clothing and footwear purchases up to \$110 will be exempt from state sales tax permanently. This permanent exemption will put \$600 million back into the pockets of New Yorkers each year.

Governor Pataki also enacted an Investment Tax Credit for the Securities Industry. This will provide a significant benefit by allowing a tax credit of up to 5 percent for New York businesses who are willing to invest in new technology. These investments are necessary for the ever expanding and changing field of global securities trading.

While the debate continues in Washington, New York took the lead to exempt Internet business from sales tax. We are proud to be the first state in the nation to exempt the

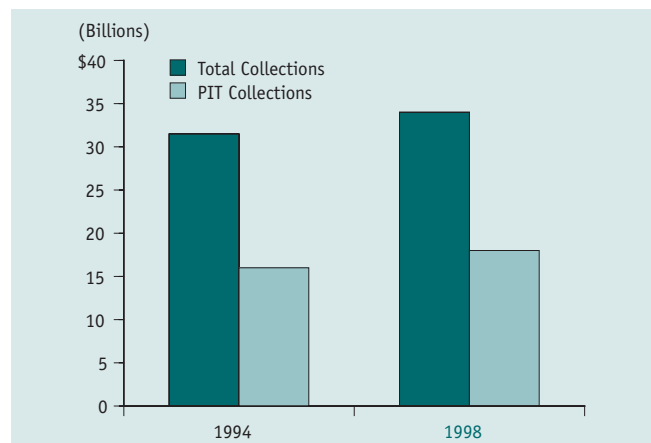
Internet and welcome companies to expand their businesses in New York State.

Some other examples of tax cuts have been a 25 percent reduction in motor vehicle registration fees, a reduction in the tax imposed on S-corporations and ensuring Holocaust survivors and their heirs not be subject to income or estate taxes. There has also been a reduction in the excise tax on beer and a reduction in the truck mileage tax.



Married Couple With Two Children Tax Cuts

Since 1994, families have seen their State Income Tax dramatically reduced sometimes by as much as 25%.



New York State Tax Collections

Even though taxes are being cut, collections continue thanks to New York's revitalized economy.

Total Quality Management Has Helped the Department Identify Key Service Areas, Values and Goals

TQM is a term that means many things to many people. At the Department of Taxation and Finance, it means agency-wide in scope ("total"), our emphasis is on the results we deliver to the taxpayers ("quality") and the institution of a comprehensive framework to manage ("management").

We have drawn on the best methods, tools and practices available today. We aim to take advantage of the ideas and practices that make the most sense for us, considering the nature of our work, our workforce and the environment in which we function.

We strive to be practical, to focus on results. Anything we implement is intended to meet a specific purpose and will be tested by the results we achieve. We continuously evaluate, modify and improve what we adopt and discard what doesn't work for us.

Mission

An agency that collects tax revenue and provides associated services in support of government services in New York State.

Vision

An agency that provides a fair system of tax administration, is accessible and responsive to taxpayers and contributes to a favorable economic climate.

Key Service Areas

Processing Services: Facilitating voluntary compliance, receiving and recording tax returns, documents and remittances; issuing refunds; distributing funds to State and local governments.

Compliance/Enforcement Services: Identifying and addressing errors, non-filers, and civil and criminal violators of the tax system. This is done through audit, investigation, collection, and dispute resolution activities.

Values

Service Excellence. We continuously strive to improve the quality and delivery of services to meet or exceed customer expectations.

Integrity. We accept responsibility and accountability to take actions consistent with our organization's vision, mission, values and goals.

Treating everyone with respect and civility. We appreciate the opinions, contributions, and concerns of others. We always conduct ourselves in a courteous and helpful manner.

Maintaining a relevant and competent workforce. We recruit and retain competent staff and invest in their development and motivation by providing appropriate opportunities, training, and tools.

Encouraging initiative and recognizing contribution. We encourage initiative by focusing recognition and rewards on the contributions of employees towards our vision, mission, values and goals. We also recognize the contributions of others outside the Department.

Goals

1. Work together to improve cooperation, communication and coordination within the Department.
2. Empower employees and improve morale through: values-based decision-making, participation, technology, training, investment in facilities, and rewards and recognition.
3. Partner with customers to improve the delivery of services and facilitate voluntary compliance.
4. Strive for universal commitment to TQM throughout the Department.

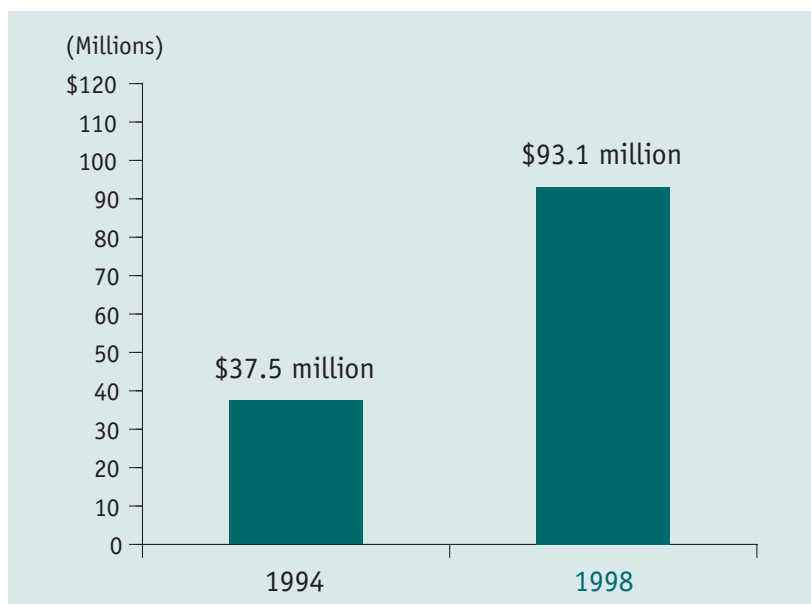


Tax Department employees met in October 1997 at the Department's first annual Strategic Planning Conference. A cross-section of employees spent two days formulating a mission and vision for the Department for the 21st century.

Working to Resolve Taxpayer Disputes Quickly and Fairly

This year, the Department continued its commitment to resolving taxpayer disputes in a fair and consistent manner. By working to avoid costly litigation, cases were settled more quickly.

- The Department's Office of Counsel continued to decrease its number of open cases through settlements instead of litigation. In 1995, there were 4,200 open litigation cases, additionally about 1,500 new cases are filed each year. The current inventory is 1,170 open cases — meaning 7,600 cases have been closed since 1995. There are multiple benefits from this: cases are closed faster, outstanding assessments are resolved more quickly, and annual revenue has increased.
- The Department's Bureau of Conciliation and Mediation Services (BCMS) reached its highest taxpayer agreement rate ever — 77 percent.
- The number of cases which were appealed beyond BCMS reached its lowest level ever — 7 percent.
- In order to solve taxpayer disputes more quickly and easily, the Department's Tax Compliance Division began a rollout of laptop computers and remote access to the Department's computer system for all of its field staff. This state-of-the-art technology has provided staff quick and instant access to a taxpayer's information allowing staff to settle many minor disputes while meeting with the taxpayer.

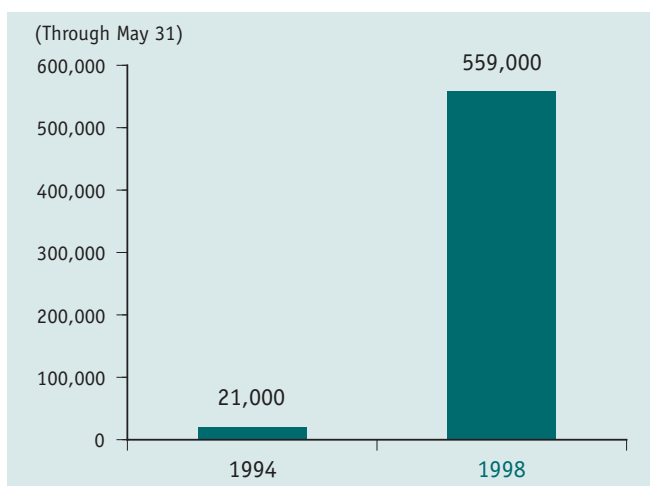


Revenue from Resolved Legal Disputes

The Office of Counsel's emphasis on settling more cases, rather than pursuing costly litigation as a matter of course, has resulted in a dramatic increase in overall revenue generated from resolved disputes.

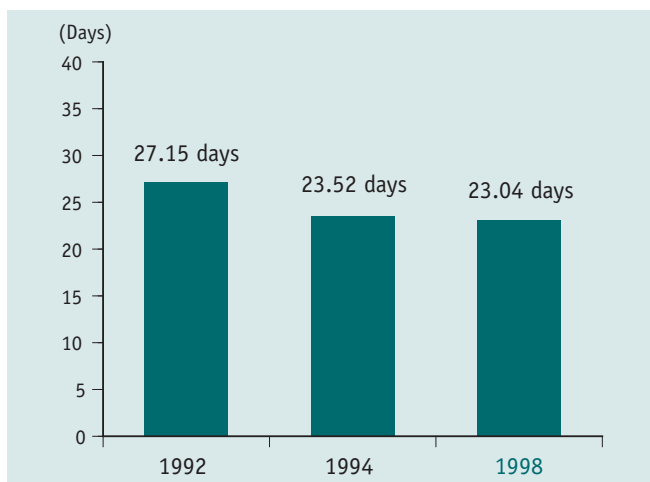
Continued Improvements in Technology Provide Taxpayers Better Access, Faster Response

The Tax Department recognizes the World Wide Web as the fastest growing way of doing business and its popularity is increasing rapidly. We also recognize that the Web is an effective and efficient way to disseminate information to the public. Since the debut of our Web site last year, we have received millions of visitors and a great deal of positive feedback. Last year, the number of "hits," or accesses was 635,000 in a four month period. This year we had over 850,000 on April 14th alone. Between April 13th and 15th, we received 2.3 million hits from taxpayers needing last minute tax filing information.



Electronically Filed Tax Returns

Improvements in technology have made it easier, faster and more appealing for taxpayers to file electronically.



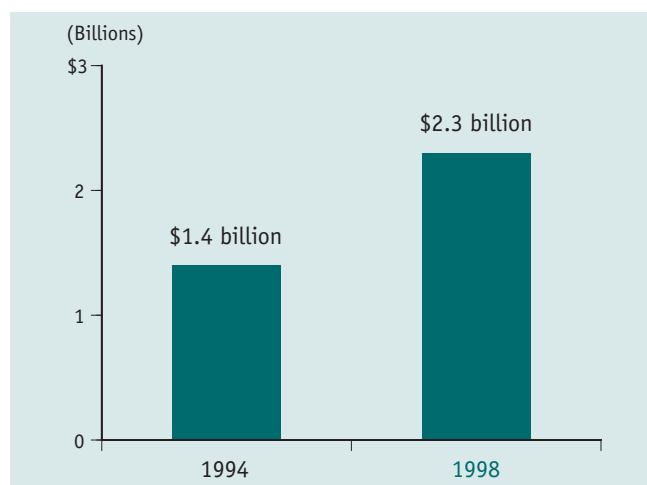
Personal Income Tax Refund Processing Time

This is another example of technology, state-of-the-art electronic scanning in this case, reducing the amount of time it takes to process each return.

One of our major accomplishments this past year was offering taxpayers the ability to file for a personal income tax extension via the Internet. Over 3,500 taxpayers filed their extensions electronically this past filing season.

Additional changes have been an increased amount of information offered through the Department's Web site. The number of forms and publications available has doubled since last year and the addition of a sales tax penalty and interest calculator has dramatically reduced the number of incorrect calculations on returns.

There are many more items planned for the Web site in the future — a search engine, personal income tax and corporation tax calculators, more "Frequently Asked Questions" and additional interactive options.



Personal Income Tax Refunds Issued Within 45 Days of Due Date

This technology has enabled the Department to nearly double the amount of refunds issued within 45 days of the April 15 filing deadline.

http://

We have expanded our state-of-the-art automated call distribution system which has enabled us to answer taxpayer calls more efficiently than ever before. When a call comes into the system, it prompts the taxpayer to answer a few questions so that the call, and any background case information, can be directed to a representative with the expertise in that particular area. In addition to the increased accuracy of the automated call distribution system, the automated system allows taxpayers to set up payment plans over the phone, at their convenience, without having to talk to a representative.

Also, the Department began to offer direct deposit as a faster, more convenient way to provide taxpayers with their income tax refund.



Application for the New York State Income Tax Electronic Filing Program

PH-684-RN

1. Application type (check one) ☐ Individual ☐ Business ☐ Partnership ☐ Trust ☐ Other		2. Filing season for this application	
3. Return for the year ending on: ☐ 12/31 ☐ 6/30			
4. Application for: ☐ First year electronic filing ☐ Second year electronic filing ☐ Third year electronic filing ☐ Fourth year electronic filing ☐ Fifth year electronic filing ☐ Sixth year electronic filing ☐ Seventh year electronic filing ☐ Eighth year electronic filing ☐ Ninth year electronic filing ☐ Tenth year electronic filing ☐ Eleventh year electronic filing ☐ Twelfth year electronic filing ☐ Thirteenth year electronic filing ☐ Fourteenth year electronic filing ☐ Fifteenth year electronic filing ☐ Sixteenth year electronic filing ☐ Seventeenth year electronic filing ☐ Eighteenth year electronic filing ☐ Nineteenth year electronic filing ☐ Twentieth year electronic filing ☐ Twenty-first year electronic filing ☐ Twenty-second year electronic filing ☐ Twenty-third year electronic filing ☐ Twenty-fourth year electronic filing ☐ Twenty-fifth year electronic filing ☐ Twenty-sixth year electronic filing ☐ Twenty-seventh year electronic filing ☐ Twenty-eighth year electronic filing ☐ Twenty-ninth year electronic filing ☐ Thirtieth year electronic filing ☐ Thirty-first year electronic filing ☐ Thirty-second year electronic filing ☐ Thirty-third year electronic filing ☐ Thirty-fourth year electronic filing ☐ Thirty-fifth year electronic filing ☐ Thirty-sixth year electronic filing ☐ Thirty-seventh year electronic filing ☐ Thirty-eighth year electronic filing ☐ Thirty-ninth year electronic filing ☐ Fortieth year electronic filing ☐ Forty-first year electronic filing ☐ Forty-second year electronic filing ☐ Forty-third year electronic filing ☐ Forty-fourth year electronic filing ☐ Forty-fifth year electronic filing ☐ Forty-sixth year electronic filing ☐ Forty-seventh year electronic filing ☐ Forty-eighth year electronic filing ☐ Forty-ninth year electronic filing ☐ Fiftieth year electronic filing ☐ Fifty-first year electronic filing ☐ Fifty-second year electronic filing ☐ Fifty-third year electronic filing ☐ Fifty-fourth year electronic filing ☐ Fifty-fifth year electronic filing ☐ Fifty-sixth year electronic filing ☐ Fifty-seventh year electronic filing ☐ Fifty-eighth year electronic filing ☐ Fifty-ninth year electronic filing ☐ Sixtieth year electronic filing ☐ Sixty-first year electronic filing ☐ Sixty-second year electronic filing ☐ Sixty-third year electronic filing ☐ Sixty-fourth year electronic filing ☐ Sixty-fifth year electronic filing ☐ Sixty-sixth year electronic filing ☐ Sixty-seventh year electronic filing ☐ Sixty-eighth year electronic filing ☐ Sixty-ninth year electronic filing ☐ Seventieth year electronic filing ☐ Seventy-first year electronic filing ☐ Seventy-second year electronic filing ☐ Seventy-third year electronic filing ☐ Seventy-fourth year electronic filing ☐ Seventy-fifth year electronic filing ☐ Seventy-sixth year electronic filing ☐ Seventy-seventh year electronic filing ☐ Seventy-eighth year electronic filing ☐ Seventy-ninth year electronic filing ☐ Eightieth year electronic filing ☐ Eighty-first year electronic filing ☐ Eighty-second year electronic filing ☐ Eighty-third year electronic filing ☐ Eighty-fourth year electronic filing ☐ Eighty-fifth year electronic filing ☐ Eighty-sixth year electronic filing ☐ Eighty-seventh year electronic filing ☐ Eighty-eighth year electronic filing ☐ Eighty-ninth year electronic filing ☐ Ninetieth year electronic filing ☐ Ninety-first year electronic filing ☐ Ninety-second year electronic filing ☐ Ninety-third year electronic filing ☐ Ninety-fourth year electronic filing ☐ Ninety-fifth year electronic filing ☐ Ninety-sixth year electronic filing ☐ Ninety-seventh year electronic filing ☐ Ninety-eighth year electronic filing ☐ Ninety-ninth year electronic filing ☐ One hundredth year electronic filing ☐			
5. Personal information (if you are filing as an individual, please provide the following information for the filer and spouse or partner, if applicable)			
6. Social Security number (SSN) (if you are filing as an individual, please provide the SSN for the filer and spouse or partner, if applicable)		7. Date of birth (MM/DD/YYYY)	
8. Address (Street, City, State, ZIP+4)		9. Telephone number (Area code, Number)	
10. E-mail address		11. Business information (if you are filing as a business, please provide the following information)	
12. Business name (If you are filing as a partnership, please provide the name of the partnership)		13. Business address (Street, City, State, ZIP+4)	
14. Business telephone number (Area code, Number)		15. Business e-mail address	
16. Signature and date (If you are filing as an individual, please provide the signature and date of the filer and spouse or partner, if applicable)			
17. Declaration (I declare that the information provided on this application is true and correct to the best of my knowledge and belief)			
18. Acknowledgment (I acknowledge that I have read and understand the terms and conditions of the New York State Income Tax Electronic Filing Program)			
19. Consent (I consent to the use of my information for the purposes of the New York State Income Tax Electronic Filing Program)			
20. Signature and date (If you are filing as a business, please provide the signature and date of the authorized representative)			
21. Business information (If you are filing as a business, please provide the following information)			
22. Business name (If you are filing as a partnership, please provide the name of the partnership)			
23. Business address (Street, City, State, ZIP+4)			
24. Business telephone number (Area code, Number)			
25. Business e-mail address			
26. Signature and date (If you are filing as a business, please provide the signature and date of the authorized representative)			
27. Business information (If you are filing as a business, please provide the following information)			
28. Business name (If you are filing as a partnership, please provide the name of the partnership)			
29. Business address (Street, City, State, ZIP+4)			
30. Business telephone number (Area code, Number)			
31. Business e-mail address			
32. Signature and date (If you are filing as a business, please provide the signature and date of the authorized representative)			
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35. Business address (Street, City, State, ZIP+4)			
36. Business telephone number (Area code, Number)			
37. Business e-mail address			
38. Signature and date (If you are filing as a business, please provide the signature and date of the authorized representative)			
39. Business information (If you are filing as a business, please provide the following information)			
40. Business name (If you are filing as a partnership, please provide the name of the partnership)			
41. Business address (Street, City, State, ZIP+			

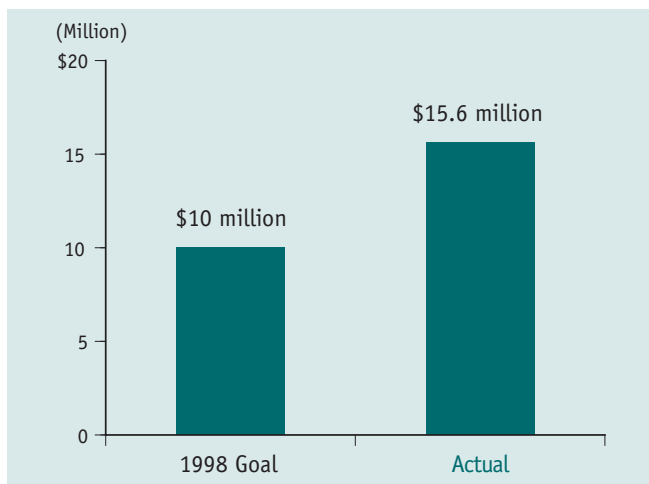
DEPARTMENT OF TAXATION AND FINANCE

Tax Department Plays Vital Role In Collecting Delinquent Child Support Payments

As part of Governor Pataki's campaign to improve child support collections, the Tax Department is using its unique collection powers to obtain payment from New York's most delinquent, deadbeat parents.

Under legislation signed into law by Governor Pataki, the Tax Department has begun to work in partnership with the state Office of Temporary and Disability Assistance (OTDA), to collect overdue child support payments from the worst deadbeat parents. Since this partnership began, Tax Department collectors have boosted child support collections by almost \$1 million each month, which has been returned directly to children.

When Governor Pataki proclaimed August 1998, "Child Support Awareness Month," he praised the work of all child support employees across the New York State, including Tax Department employees. The Governor said that "the accomplishments we've realized in our child support office were fostered by our essential partners in child support offices throughout New York State."



Child Support Collection

Since the Tax Department assumed responsibility for child support collections, revenues have increased dramatically.

The Tax Department has played its part in helping Governor Pataki make child support enforcement one of his top priorities. Since April 1997, the Tax Department has:

- Collected \$10,000 from a Monroe County man after the Department seized his business. He owned an auto repair shop catering to the owners of expensive sports cars.
- Seized a New York City Taxi Medallion, at which point the owner made good on the \$29,000 in back child support he owed.
- Seized the business of a Long Island man after he refused to make good on \$5,100 he owed in child support. After the seizure, the individual made full payment.
- Collected \$10,000 from an Erie County man after seizing his business.

Effective child support enforcement is one of Governor Pataki's top priorities. During his administration, more than \$2.4 billion in support payments have been collected and dispersed. Other achievements include:

- In 1997, annual child support collections reached \$798 million, an annual increase of \$223 million over 1994 levels.
- Since 1994, child support obligation establishments have increased 43 percent while paternity establishments have increased 46 percent.
- Since 1995, more than 43,500 families have received the child support payments due them and are no longer dependent on welfare.



Commissioner Urbach tours the Department's new child support enforcement unit.

Tax Department Takes the Lead in Assisting Disaster Victims

When an ice storm hit northern New York in January, Governor Pataki immediately directed that a toll-free telephone number for citizens in need of assistance be established. However, it was the Tax Department that ensured its success. Our employees worked selflessly to make sure the hotline was up and running within hours and took on the responsibility of answering the calls.

The response was overwhelming and not only in a monetary form. One man called to volunteer his services as a professional clown to entertain the displaced children who had been living

in shelters since the ice storm hit. Another caller generously opened her home to any family in need. Donations of money, services, firewood, generators and food were also received.

Tax Department employees also established an agency-wide fund-raising drive to assist victims of the ice storm. The money raised was donated to storm victims through the State Employees Ice Storm Relief Campaign. The funds were sent to food pantries and shelters and distribution of funds was decided by a committee of Department employees and union representatives.



Thanks to a bill signed into law by Governor Pataki, at the Tax Department's urging, New Yorkers affected by severe weather were able to put off tax filing and payments until they had some time to put their lives back together.

The new law allows the Tax Commissioner to postpone upcoming tax deadlines for up to ninety days and abate interest and penalties for New York individuals and businesses affected by a natural disaster declared by the President or the Governor.

So far this year, Governor Pataki has used this new law to assist other New Yorkers affected by tornadoes, flooding and severe thunderstorms.

Regulatory Reform

Over the last four years the Department has eliminated almost 25% of all regulations which existed prior to 1995. More than 1,000 pages of regulations have been entirely abolished, making life easier for all taxpayers.

The Tax Department has worked closely with Governor Pataki to remove unnecessary and burdensome regulations imposed upon New York State taxpayers. This year, in what we consider to be one of our greatest accomplishments, residents who suffer the effects of severe weather are now eligible for postponement of tax filing and payment deadlines. This was made possible by a new law which allows the Tax Commissioner to extend such deadlines when the President or Governor declares a natural disaster.

In our continuing effort to eliminate red tape, we have made it possible for brokers in the state to transmit stock transfer tax reports to clearinghouses electronically. The elimination of the \$4 fee for corporation franchise tax searches and requests to file combined corporate reports within 30 days of the close of the tax year have made doing business in New York much easier.

A new regulation has made it possible for New Yorkers to use copies or facsimile transmissions of a Power of Attorney rather than an original, and New York attorneys, accountants and enrolled agents no longer need to have their client's Power of Attorney notarized or witnessed. Another regulation eliminated the signature requirement on income tax extensions, thereby allowing the process to be done electronically over the Internet.



Another example of our efforts to revise the “hyper-technical” reading of tax statutes was the reclassification of large marshmallows. Originally, large marshmallows were classified as candy and therefore subject to tax. Mini marshmallows, marshmallow bits and marshmallow fluff were classified as food and therefore exempt from tax. The new regulation now groups all marshmallow products as exempt. This may seem like an insignificant change, but it has made life much easier for many merchants.



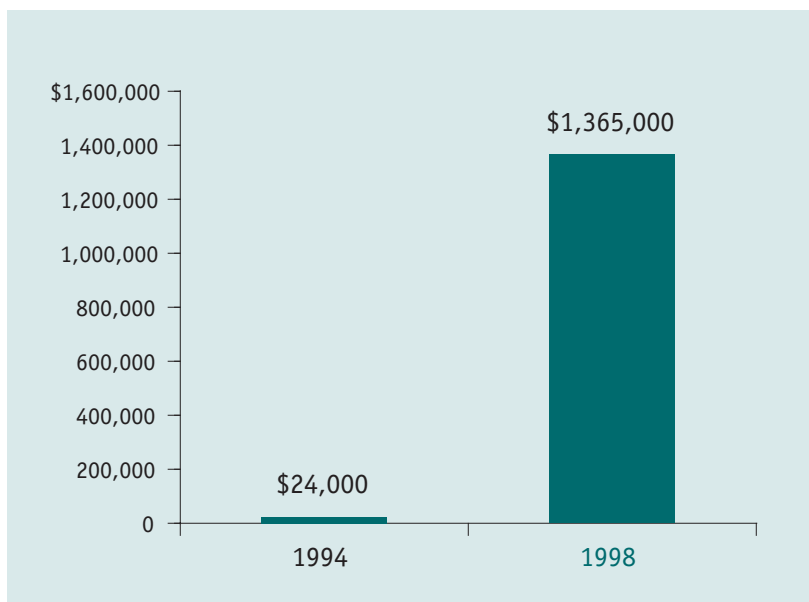
Tax Enforcement Efforts Continue to Protect Honest, Hardworking Taxpayers

The Tax Department has continued to seek innovative ways to crackdown on tax cheats who ultimately pass their tax burden onto honest, hard-working New Yorkers. This past year's successful cases included:

- In July 1997, a salesman for a major wholesale liquor company was arrested. The salesman purchased untaxed liquor in New Hampshire, where no state excise or sales tax exists, and sold it to his customers in New York City. The salesman pocketed the profits by offering his customers products which were not normally available through the company, at a substantially lower price. Apparently, he purchased the untaxed liquor in New Hampshire and then stored it in a New York City warehouse. The liquor was discovered during a routine search of the warehouse and traced to the salesman. A total of 12,000 liters of untaxed liquor and wine were seized by enforcement agents. The salesman pled guilty to a Class A misdemeanor and turned over the 12,000 liters of liquor to the Tax Department.
- Investigators conducted a raid of a Queens home and seized 1,300 cartons of cigarettes and 96,000 counterfeit cigarette stamps. Enforcement agents received information from sources that led to a stake out of the Queens address where half-cartons of cigarettes were seen being put into a van. The van was stopped as it pulled away and investigators arrested the two men and seized 300 cartons of cigarettes. The men subsequently told investigators they obtained the cigarettes from the basement apartment of the Queens address. When investigators knocked on the door, no one answered, however, half-cases of cigarettes were visible through the

window. The Tax Department obtained a search warrant from the New York City Criminal Court to search the premises. No one was found inside the residence, but 1,000 cartons of illegally stamped cigarettes, 96,750 counterfeit tax stamps and an assortment of counterfeiting paraphernalia were seized. Both men pled guilty to a misdemeanor crime of possession of a forged instrument in the third degree.

- In December 1997, investigators conducted a regulatory inspection of a Queens liquor store. During the inspection, 2,514 liters of untaxed liquor and 486 liters of untaxed wine were seized. The manager was arrested and charged with two felony violations of the Tax Law. This case was the largest liquor store seizure to date.
- A Massachusetts cigarette dealer paid the Tax Department a civil settlement of \$20,000 and his agent's license was suspended for 30 days (the maximum allowable by law) for participating in a rebate scam where he received an illegal rebate of \$0.50 per carton of cigarettes.
- During December 1997, the Department arrested 103 New York City employees who had either failed to file or had filed false returns. The City employees that failed to file had reduced the amount of tax withheld from their pay by filing false W-4 Forms. The under-reporters claimed that they were part of a group that was not subject to Federal, State or City laws and therefore, did not have any tax liability. These individuals filed returns that did not reflect their true income but did request a refund of most, if not all, of the taxes withheld from their salary.



Enforcement-Action Revenue

As enforcement efforts intensify, revenue from the sale of seized alcohol, tobacco and gasoline has risen significantly.

Working Together with the Business Community

This past year, State Tax Commissioner Michael H. Urbach continued a series of regional meetings across New York State to meet with taxpayers and tax practitioners to hear their ideas on how the Tax Department can continue to improve service and make complying with the state's tax laws easier for all New Yorkers.

"When I began my tenure in 1995, we held a similar series of meetings and they were tremendously helpful in formulating goals for the years ahead," said Commissioner Urbach. "We have implemented many of the ideas put forth

at those meetings, and those ideas have helped us to improve service to all taxpayers, reduce bureaucratic red tape and senseless over-regulation."

Keeping its commitment to work with the Business Community, the Tax Department also continued to meet with the Taxpayer Advisory Council. The Council, comprised of business representatives from across New York, provides input and suggestions to the Department before many of our policy decisions are made.



Taxpayer Advisory Council members exchange ideas with Commissioner Urbach and Executive Staff.



Commissioner Urbach receives an award from the Business Council of New York State for his outstanding efforts to partner with New York's business community.

Commissioner Urbach Held Regional Taxpayers Meetings in These Cities During 1997-1998



Tax Department executives take part in a panel discussion during one of the regional meetings held across New York State.

Need Help?

General Tax Information:

1 800 225-5829

Business Tax Information Center:

1 800 972-1233

Forms Ordering

Operated Assisted:

1 800 462-8100

Automated:

1 800 801-8092

*(Available only if you have IT-86,
Income Tax Forms Order Blank, or TP-1.5,
Post Card with pre-printed mailing label)*

Fax-On-Demand:

1 800 748-3676

Tax Compliance — Child Support

Collection Issues:

1 800 200-4834

Refund Offsets:

(518) 457-7502

Telecommunication Device for the Deaf:

1 800 634-2110

PromptTax Helpline:

1 800 338-0054

Corporation Tax Status Search:

(518) 457-4273

Bulk Sale:

(518) 457-4164

Business Ambassador:

(518) 485-5080

Office of Tax Enforcement —

Criminal Enforcement Issues:

(212) 383-1421

Internet Address:

<http://www.tax.state.ny.us>

Corporate Dissolution:

1 800 327-9688

Issuer's Allocation Percentage:

1 800 225-5829

Personal Income Tax Refund Information:

1 800 443-3200

(Available after April filing due date)

Electronically Filed Returns:

1 800 353-0708

Tax Compliance — Collection Issues:

1 800 835-3554

*Telephone assistance is available toll free from anywhere in
the United States and Canada for any of the above numbers.
From areas outside the U.S. and Canada, call (518) 485-6800.*



New York State Taxes Collected by the Department of Taxation and Finance

Fiscal Years 1997 and 1998

Tax	1997	1998	Percent Change
Personal Income Tax	\$16,370,887,332	\$17,758,697,181	8.5
Business Taxes, Total	\$ 5,920,605,026	\$ 5,957,475,493	0.6
Business Corporations Art. 9-A	2,062,043,678	2,074,352,141	0.6
Corporations, Art. 9, Total	1,625,474,631	1,575,327,215	(3.1)
Foreign Corporation Licenses, Sec. 181	37,758,824	23,729,286	(37.2)
Transportation, Transmission, Sec. 183	30,958,539	36,646,614	18.4
Transportation, Transmission, Sec. 184	81,670,023	106,830,534	30.8
Agricultural Co-operatives, Sec. 185	213,744	163,090	(23.7)
Light, Water, Power, Sec. 186	188,269,387	196,339,730	4.3
Utilities, Sec. 186-A&P	311,789,944	682,994,256	119.1
Telecommunications, Sec. 186-E	945,505,829	504,278,439	(46.7)
Importers of Natural Gas, Sec. 189	29,308,343	24,345,266	(16.9)
Corporations, Art. 13	4,651,335	6,810,791	46.4
Banks, Art. 32, Total	639,937,891	707,323,587	10.5
Commercial	637,448,699	700,344,217	9.9
Savings	(3,003,481)	1,183,430	139.4
Savings and Loan Associations	5,492,673	5,795,940	5.5
Insurance, Art. 33	615,941,506	611,761,032	(0.7)
Direct Writings, Art. 33-A	4,726,896	3,277,623	(30.7)
Petroleum, Total	967,829,089	978,623,103	1.1
Lubricating Oils, Art. 24	(8,028)	58,224	825.2
Oil Users, Art. 9, Sec. 182-A	476,456	241,375	(49.3)
Petroleum Businesses, Art. 13-A	967,360,661	978,323,504	1.1
Sales and Compensating Use Tax — State Share	\$ 7,060,391,379	\$ 7,308,285,190	3.5
Excise and Use Taxes and Fees, Total	\$ 1,549,400,373	\$ 1,571,165,134	1.4
Motor Fuel — N.Y.S. Total	471,508,471	491,712,710	4.3
Diesel	49,839,388	53,920,635	8.2
Gasoline	421,669,083	437,792,075	3.8
Petroleum Testing Fees	2,692,729	2,864,055	6.4
Cigarette and Tobacco Products	664,197,065	672,100,697	1.2
Cigarette License Fees	2,698,920	3,095,290	14.7
Cigarette Stickers	167,136	146,119	(12.6)
Alcoholic Beverage Tax — N.Y.S. Total	193,091,731	177,016,901	(8.3)
Non-Refillable Beverage Containers	25,460,376	26,936,549	5.8
Highway Use, Total	157,314,191	164,810,387	4.8
Truck Mileage Tax	133,054,966	136,002,761	2.2
Vehicle Permits	6,151,522	3,787,673	(38.4)
Fuel Use	18,107,703	25,019,953	38.2
Hotel/Motel Room Occupancy	827,854	54,469	(93.4)
Auto Rental	31,441,900	32,427,957	3.1
Property Transfer Taxes, Total	\$ 1,126,165,580	\$ 1,284,470,485	14.1
Estate Tax	791,558,612	919,361,137	16.1
Gift Tax	97,764,227	102,846,765	5.2
Real Estate Transfer Tax	194,487,907	229,631,947	18.1
Real Property Transfer Gains Tax	42,354,835	32,630,635	(23.0)
Other Taxes and Fees, Total	\$ 49,460,050	\$ 47,636,990	(3.7)
Pari-Mutuel Tax, Total	23,463,470	22,381,265	(4.6)
Flat Racing, Total	21,723,759	20,827,551	(4.1)
Flat Racing Tax	20,417,526	19,329,143	(5.3)
N.Y.R.A. Franchise Fee	132,000	176,000	33.3
Uncashed Tickets	1,174,233	1,322,408	12.6
Harness Racing, Total	1,739,710	1,553,714	(10.7)
Harness Racing Tax	1,075,835	1,013,436	(5.8)
Uncashed Tickets	663,875	540,278	(18.6)
Off-Track Betting, Total	25,493,000	24,306,669	(4.7)
Commissions and Breakage	20,123,477	18,022,091	(10.4)
Uncashed Tickets	5,369,523	6,284,579	17.0
Racing Admissions Tax (includes OTB Teletheater)	271,992	310,235	14.1
Boxing Tax	231,588	638,821	175.8
TOTAL COLLECTED BY TAX DEPARTMENT	\$32,076,909,739	\$33,927,730,472	5.8

Consolidated Statement of Securities and Cash Funds in Joint and Sole Custody

March 31, 1998	Securities	Cash	Total
Joint Custody Funds	Par Value		
General Checking Account (a)	\$ 9,345,630,000.00	\$(3,483,785,444.83) *cr	\$ 5,861,844,555.17
Common Retirement System (b)	104,921,773,000.00	(432,598.24) *cr	104,921,340,401.76
Unemployment Insurance Fund	0.00		
Benefits Account	0.00	(26,485,530.41) *cr	(26,485,530.41)
Individual & Family Grant Program	0.00	28,804.74	28,804.74
Occupational Training Account Fund	0.00	(451,674.59) *cr	(451,674.59)
Job Training Partnership Account	0.00	0.00	0.00
Emergency Highway Conditioning & Repair			
Bond Service 1010	0.00	4,085,704.72	4,085,704.72
Emergency Highway Reconditioning & Preservation			
Bond Service 1008	0.00	4,087,480.80	4,087,480.80
Finance Reserve 1007	0.00	8,163.34	8,163.34
TOTAL JOINT CUSTODY FUNDS	\$114,267,403,000.00	\$(3,502,945,094.47)	\$110,764,457,905.53
Sole Custody Funds			
Community College Tuition & Instructional Income Fund	\$ 10,430,000.00	\$ 18,199.31	\$ 10,448,199.31
Facilities Development Corporation			
Mental Hygiene Facilities Improvement Fund	18,250,000.00	23,542.53	18,273,542.53
Operating Accounts	11,710,000.00	5,193.30	11,715,193.30
State Advances Repayment Accounts	0.00	(21.00) *cr	(21.00)
Homeless Housing Assistance Corporation	8,135,000.00	487,570.62	8,622,570.62
Nelson A. Rockefeller ESP Performing Arts Corporation	35,000.00	(19,076.64) *cr	15,923.36
NY Convention Center Operating Corporation	17,090,000.00	858,229.71	17,948,229.71
NYS Affordable Housing Development Account	12,480,000.00	188,437.08	12,668,437.08
NYS Energy Research & Development Authority	67,946,465.59	(1,974,962.28) *cr	65,971,503.31
NYS Housing Finance Agency	108,373,000.00	326,476.10	108,699,476.10
NYS Housing Trust Fund	9,950,000.00	3,425,677.20	13,375,677.20
NYS Insurance Department			
Property & Casualty Insurance Security Fund	117,070,000.00	50,991.27	117,120,991.27
Public Motor Vehicle Liability Security Fund	22,670,000.00	28,296.75	22,698,296.75
Workers' Compensation Security Fund	25,575,000.00	29,216.45	25,604,216.45
NYS Job Development Authority	60,595,000.00	899,806.57	61,494,806.57
NYS Medical Care Facilities Finance Agency	3,735,000.00	27,308.24	3,762,308.24
NYS Project Finance Agency	1,075,000.00	3,050.99	1,078,050.99
NYS Science & Technology Foundation	8,135,000.00	28,266.00	8,163,266.00
NYS Tax Commission			
Excelsior Linked Deposit	15,232,488.00	0.00	15,232,488.00
Exchange Account	0.00	0.00	0.00
Off-Track Parimutuel Bet Tax Revenue Transfer Account	0.00	0.00	0.00
Parimutuel Revenue Transfer Account	0.00	0.00	0.00
Stock Transfer Incentive Fund	0.00	80,626.72	80,626.72
Stock Transfer Tax Fund	0.00	731,795.46	731,795.46
NYS Teachers' Retirement System			
FHA Trust for Various Mortgages	0.00	426,071.61	426,071.61
General Account	45,178,260,522.10	(23,463,925.34) *cr	45,154,796,596.76
Money Market Investment Account	0.00	3,271.81	3,271.81
State Insurance Fund			
Administrative Expense Account	0.00	(1,433,447.44) *cr	(1,433,447.44)
Aggregate Trust Fund	166,278,336.75	(185,753.40) *cr	166,092,583.35
Disability Benefits Administrative Expense Account	0.00	(703.42) *cr	(703.42)
Disability Benefits Fund	47,543,881.15	(181,394.09) *cr	47,362,487.06
Disability Benefits Tax Escrow Account	0.00	15,000.00	15,000.00
State Insurance Fund	7,212,451,717.50	(114,330,521.53) *cr	7,098,121,195.97
State University Construction Fund			
Debt Service Account	1,210,000.00	12,036.19	1,222,036.19
Deductions Account	0.00	129,082.32	129,082.32
Income Account	28,377,047.88	5,178.78	28,382,226.66
Operating Account	0.00	22,324.82	22,324.82
Workers' Compensation Board			
Fund for Reopened Cases	373,325,000.00	(2,524,117.04) *cr	370,800,882.96
Special Disability Fund	94,700,000.00	(538,615.02) *cr	94,161,384.98
Special Fund for Disability Benefits	14,815,000.00	26,738.45	14,841,738.45
Uninsured Employers' Fund	5,935,000.00	(9,994.13) *cr	5,925,005.87
Total Sole Custody Funds	\$ 53,641,383,458.97	\$ (136,810,143.05)	\$ 53,504,573,315.92
TOTAL JOINT CUSTODY AND SOLE CUSTODY FUNDS	\$167,908,786,458.97	\$(3,639,755,237.52)	\$164,269,031,221.45

General Checking Account Funds

The following General Checking Account funds had investment balances as of 03/31/98:

Fund	Par Value Balance
Short Term Investment Pool	9,301,562,000.00
Debt Accumulation Reserve — Regular	8,125,000.00
Debt Accumulation Reserve — New York City	500,000.00
Environmental Protection Bond Fund	5,158,000.00
Mental Health Services Fund	30,285,000.00

Summary of Cash

04/01/97-03/31/98	Balance 04/01/97	Receipts and Transfers	Disbursements and Transfers	Balance 03/31/98
Joint Custody				
General Checking Account	\$(3,485,401,638.38) *cr	\$269,331,354,435.95	\$269,329,738,242.40	\$(3,483,785,444.83) *cr
Common Retirement System Fund	(273,715.17) *cr	48,403,047.85	48,561,930.92	(432,598.24) *cr
Unemployment Insurance Fund				
Benefits Account	(31,264,683.17) *cr	1,753,075,000.00	1,748,295,847.24	(26,485,530.41) *cr
Individual & Family Grant Program	2,876.79	3,671,380.58	3,645,452.63	28,804.74
Occupational Training Account	341,043.74	19,716,501.33	20,509,219.66	(451,674.59) *cr
Job Training Partnership Account	0.00	223,407,943.15	223,407,943.15	0.00
Emergency Highway				
Conditioning & Repair				
Bond Service 1010	4,155,721.03	29,238,821.06	29,308,837.37	4,085,704.72
Emergency Highway				
Reconditioning & Preservation				
Bond Service 1008	4,157,497.11	27,602,885.30	27,672,901.61	4,087,480.80
Finance Reserve 1007	2,466.83	41,393,387.79	41,387,691.28	8,163.34
Total Joint Custody Funds	\$(3,508,280,431.22)	\$271,477,863,403.01	\$271,472,528,066.26	\$(3,502,945,094.47)
Total Sole Custody Funds	\$ (57,828,152.79)	\$ 38,562,180,751.74	\$ 38,645,629,061.84	\$ (141,276,462.89)
TOTAL ALL FUNDS	\$(3,566,108,584.01)	\$310,040,044,154.75	\$310,118,157,128.10	\$(3,644,221,557.36)

(*cr) MANAGED OVERDRAFT — Sufficient funds are deposited to pay checks as presented.

- The investments for essentially all joint custody funds within the General Checking account of the State are made on a consolidated basis through the Short Term Investment Pool. The overall cash needs of the various funds are determined on a daily basis and the investment holdings of the Pool are adjusted accordingly to meet such needs. The Short Term Investment Pool was designed to provide a more comprehensive approach to the cash management and investment of the various funds of the State.
- Includes reinvestment of funds. Value for securities for the Common Retirement System are reported at fair value as of March 31, 1998.

Personal Income Tax

New York adopted its personal income tax in 1919. Currently 43 states impose a personal income tax. The tax has consistently accounted for about half of all State tax revenues for many years.

Adjusted Gross Income

New York's personal income tax starts from Federal Adjusted Gross Income (FAGI). Taxpayers may exclude from FAGI social security benefits, U.S. government bond interest, all federal, New York State and local pension income, up to \$20,000 of qualifying private pension and annuity income, a limited amount of long-term care insurance costs, and certain other items of income.

Beginning in 1998, individuals may contribute up to \$5,000 per year under the College Choice Tuition Savings Program. Aggregate contributions may not exceed \$100,000 per beneficiary. Contributions are deductible from FAGI. Distributions are exempt from tax if used to pay for qualified higher education expenses.

Taxpayers must then 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. This results in New York Adjusted Gross Income (NYAGI).

Deductions

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 1998, the New York standard deduction equals:

Married Filing Jointly	\$13,000
Heads of Households	\$10,500
Single Individuals	\$ 7,500
Married Filing Separately	\$ 6,500
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.

In addition, high income taxpayers face limitations on their New York itemized deductions. For tax year 1998, federal law requires taxpayers with FAGI in excess of \$124,500 to reduce their itemized deductions (except those for medical expenses, casualty losses, wagering losses and investment interest expense) by 3 percent of the amount by which their FAGI exceeds \$124,500. The threshold is annually indexed for inflation. This limitation cannot reduce the selected deductions by more than 80 percent. New York itemized deductions conform to this limitation.

New York's Tax Law also 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 NYAGI above \$525,000.

Exemptions

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 and Brackets

For tax year 1998, New York imposes a graduated income tax with rates ranging between 4.0 and 6.85 percent of taxable income. Taxable income equals NYAGI less the deductions and exemptions described above. The tax provides separate rate schedules for married couples, single individuals and heads of households. The tax brackets for the married filing jointly tax rate schedule include full income splitting. This means that the brackets are twice as wide as those for single individuals to avoid any "marriage penalty" resulting from the joint rate schedule.

A supplemental income tax for the purpose of recapturing the benefits conferred to taxpayers through tax brackets with rates lower than the maximum rate applies to all taxpayers with NYAGI over \$100,000. The benefit of the lower brackets begins to be recaptured at \$100,000 of NYAGI and is totally recaptured at \$150,000. Once taxpayers' NYAGI exceeds \$150,000, all of their taxable income becomes effectively subject to a flat 6.85 percent tax.

Credits

New York provides a credit for child care expenses equal to a minimum of 20 percent of the corresponding federal credit. The credit rate is 100 percent for taxpayers with NYAGI of \$17,000 or less. The credit phases down from 100 percent at \$17,000 of NYAGI to 20 percent at \$30,000 and above. Beginning in 1999, the phase down range will increase to a range of \$35,000 to \$50,000. The credit is refundable to resident taxpayers.

New York allows an earned income credit equal to 20 percent of the corresponding federal credit. The credit is refundable to residents. Taxpayers must subtract any

household credit used from their earned income credit. Taxpayers who do not use the earned income credit receive the full household credit.

New York also allows a 4 percent investment credit (7 percent for research and development property) for certain business investments in qualifying production facilities. Residents may claim credit for income taxes paid to other states and their political subdivisions or provinces of Canada. Also, a real property tax "circuit breaker" credit and a household credit provide tax relief to low and moderate-income taxpayers. Taxpayers can claim a refund of their unused real property tax credit.

1998 New York State Personal Income Tax Rates

Married Filing Jointly

Taxable Income	Tax ¹
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	\$1,946 plus 6.85% of excess over \$40,000

Single, Married filing Separately, Estates and Trusts

Taxable Income	Tax ¹
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	\$ 973 plus 6.85% of excess over \$20,000

Head of Household

Taxable Income	Tax ¹
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	\$1,492 plus 6.85% of excess over \$30,000

¹ Certain high income taxpayers lose the benefit of the lower rates applicable to the lower income brackets.

For 1998, this rate recapture is calculated as follows:

(Lesser of \$50,000 or NYAGI minus \$100,000)/\$50,000 multiplied by:

If married filing jointly:	\$794
If single:	\$397
If head of household:	\$563

Source: NYS Department of Taxation and Finance, Office of Tax Policy Analysis.

There is also 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. 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 \$100,000. Beginning in 1998, taxpayers may subtract principal payments on farm indebtedness from NYAGI in order to calculate the income limitation.

Other credits apply for taxes on accumulation distributions and certain activities in economic development zones (EDZs) and for residential investments in solar electric generating equipment placed in service beginning in 1998. Legislation in 1997 also extended the employment incentive credit (EIC) to small businesses such as partnerships, S corporations, LLCs, LLPs and sole proprietorships whose owners pay tax under the personal income tax. The economic development zone employment incentive credit (EDZ-EIC) was also extended to these taxpayers.

Minimum Tax

A 6 percent minimum tax applies to certain items of federal tax preference (e.g., intangible drilling costs). 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 earnings. 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 also 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 New York partnership law and provisions of the Business Corporation Law. LLCs classified as partnerships for federal income tax purposes are treated as partnerships for New York State tax purposes. The LLC/LLP offers one major non-tax benefit which makes it an attractive form of business organization: the protection of a member from liability for the debts and other obligations of the LLC/LLP. LLCs and LLPs, whether foreign or domestic, with

New York source income must pay an annual filing fee determined by multiplying the number of members (partners) of the LLC/LLP by \$50. The LLC/LLP cannot pay less than the annual minimum payment of \$325 or more than the annual maximum payment of \$10,000.

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 only on income earned or derived within New York.

Withholding

New York requires employers to withhold and remit personal income taxes on wages, salaries, bonuses, commissions and 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. Large employers (aggregate tax of more than \$400,000 per year) must make timely payment by electronic funds transfer or by certified check.

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

Estimated Tax

New York residents, part-year residents and nonresidents with New York-source income, must make payments of estimated tax under certain conditions. The estimated tax rules apply if they expect to owe at least \$100 of tax for the current tax year (\$300 for tax years beginning after 1998) 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). Taxpayers make payments in four equal installments on April 15, June 15, September 15, and January 15 of the following year. Penalties apply for failure to accurately estimate and pay tax for any of the installments.



Business Taxes

Typically, general business corporations pay taxes computed under Article 9-A of the Tax Law. Separate articles of the law apply to corporations other than general business corporations. Article 32 applies to banking corporations. Article 33 taxes insurance corporations. Article 33-A taxes anyone who buys insurance from an unauthorized insurance company. Article 9 imposes tax on transportation and transmission corporations except airlines (Section 183/184), utility companies (Section 186/186-a), telecommunications services (Section 186-e), anyone importing natural gas for their own consumption (Section 189), and agricultural cooperatives (Section 185). Article 13 imposes tax on the unrelated business income of nonstock not-for-profit corporations. Article 13-A imposes tax on petroleum businesses.

Since 1982, the Metropolitan Transportation Authority (MTA) surcharge (currently at a rate of 17 percent) applies to business taxes (except the petroleum business tax) otherwise due, after deduction of credits, allocable to the 12-county Metropolitan Commuter Transportation District. This 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, 2001.

Corporation Franchise Tax

Currently 44 states, including New York, impose some type of corporate tax measured by net income. Article 9-A imposes tax 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 and 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 of 9 percent (or between 8 and 9 percent for businesses with less than \$290,000 of entire net income) on allocated entire net income, 2) a tax of 0.178 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), 3) a 3.5 percent tax on the alternative minimum taxable base, or 4) a separate minimum tax at fixed dollar amounts.

For tax years beginning after June 30, 1999, the corporate franchise tax rate imposed under the entire net income (ENI) base is reduced over a three year period from 9 percent to 7.5 percent. The rate is also reduced for small business taxpayers.

The fixed dollar minimum tax equals \$325 for businesses with a gross payroll less than or equal to \$1 million. If payroll exceeds \$1 million, but is less than \$6.25 million, the tax equals \$425. If payroll exceeds \$6.25 million, the tax equals \$1,500. 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 6 months but less than or equal to 9 months. Corporations whose gross payroll, total receipts and average value of gross assets each equals \$1,000 or less must pay an \$800 fixed dollar minimum tax.

Phased in over a two year period for tax years beginning after June 30, 1998, small business taxpayers will realize a reduction in the fixed dollar minimum tax. Taxpayers with gross payrolls of \$250,000 or less will realize a decrease from the current \$325 fixed dollar minimum tax to \$100. The fixed dollar minimum tax will drop further from \$325 to \$225 for taxpayers with gross payrolls of \$500,000, but more than \$250,000.

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.

New York uses a three-factor formula to allocate business income. The factors include property, payroll (excluding general executive officers) and receipts, with the latter double weighted. 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 alternative minimum tax rate for Article 9-A corporation franchise taxpayers drops from 3.5 percent to 3.25 percent for taxable years beginning after June 30, 1998. The rate is further reduced to 3 percent for taxable years beginning after June 30, 1999. 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.

Firms that paid additional tax during the 1990 through the 1993 period, because of disallowed net operating losses under the AMT, receive credits to use against future regular tax liability based on entire net income (ENI). Taxpayers may

calculate the alternative minimum tax credit retroactively for taxable years after 1989 and carry forward the credit indefinitely. This pre-1994 net operating loss component of the AMT credit is subject to a five-year transition rule, beginning in taxable years after 1993 and ending before 1999. Under the transition rule, a taxpayer may use up to 20 percent of the credit in each of the five years beginning with the 1994 tax year. The taxpayer will have available the remainder of any unused credit in full for years after 1998.

S Corporations

General business corporations and banks 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 proportional share of S corporation income or loss and deductions on their personal income tax returns.

S corporations pay an entity-level tax under Article 9-A. The S corporation tax on net income equals the difference between the taxes calculated at the applicable corporate rate and 7.875 percent, or, if larger, \$325. In 1998, the difference in the two rates varies from 0.125 to 1.125 percent. The personal income tax (Article 22) equivalent used to compute the rate differential is reduced over a three year period beginning in tax years after June 30, 1999. In the first year, the rate is reduced from 7.875 percent to 7.525 percent. In the second year, the rate is further reduced to 7.125 percent. In the third year, the rate drops to 6.85 percent. Upon full phase in of the reduction, the rate differential will have dropped from 1.125 percent to 0.65 percent for large S corporations and from 0.125 percent to 0.05 percent for small S corporations. The \$800 fixed minimum tax for inactive corporations and the MTA surcharge do not apply to S corporations.

Tax Incentives

New York provides tax incentives in the form of tax credits, deductions, and allocation formula adjustments. These incentives 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 investments, plus 4 percent for investments over that amount, for certain eligible property;*
- *A refundable ITC for certain new businesses;*
- *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;*
- *An ITC for corporations, banks and personal income taxpayers that are brokers or dealers in securities. The credit is available for equipment or buildings used in the broker/dealer activity and for associated activities. The credit also extends to national security exchanges. The credit is available for property placed in service for the five year period between October 1, 1998 and September 30, 2003;*
- *A school property tax credit for eligible farmers. The credit is based on the amount of school district real property taxes paid on qualified farmland and buildings, subject to certain acreage and income limitations;*
- *An employment incentive credit (EIC) available to employers who add jobs and are eligible for the ITC. A sliding scale links larger EIC amounts with increasing employment;*
- *Various credits for certain activities conducted in economic development zones (EDZs);*
- *A credit of up to \$2,100 per qualified employee to employers who employ disabled individuals;*
- *A credit for electric vehicles, clean fuel vehicles using natural gas, methanol and other alternative fuels, and clean fuel refueling facility property;*
- *Credits under the "New York State Emerging Industry Jobs Act" for qualified emerging technology companies that invest in research and development in New York State. The provisions include an employment tax credit equal to \$1,000 per qualified employee and emerging technology capital credits that vary depending on how long the investment is held. The new law takes effect for tax years beginning on or after January 1, 1999;*
- *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.*

Taxpayers may apply credits against tax computed on the apportioned entire net income base or the apportioned business and investment capital base. However, credits may not reduce a taxpayer's liability below the higher of the tax on the alternative minimum taxable income base, or the fixed dollar minimum tax.

Unrelated Business Income Tax

Article 13 imposes a tax on the income of tax-exempt organizations derived from the conduct of a trade or business. Approximately 1,000 organizations pay this tax. The tax equals 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. Article 13 does not apply to corporations subject to the Article 9-A tax, certain nonprofit organizations providing insurance, and certain income derived from operating licensed games of chance.

Corporation and Utility Tax

Article 9 of the Tax Law applies taxes to a variety of specialized businesses and imposes initial taxes and fees on domestic and foreign corporations. The MTA surcharge of 17 percent applies to each of these taxes for the portion of the tax attributable to the Metropolitan Commuter Transportation District.

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 charges in capital structure. Domestic corporations must pay a minimum tax of \$10. State and national banks, trust companies, building, mutual loan, accumulating fund and corporate 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 from all foreign (out-of-state) corporations, including foreign S corporations. Foreign corporations may credit this fee against any tax due under Article 9 (except Sections 180 or 181), Article 9-A or Article 32.

Most foreign banks, national banking associations, federal savings banks, federal savings and loans associations, fire, marine, casualty and life 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 will be subject to the corporate franchise tax (Article 9-A) for taxable years beginning after 1997 unless they elect to remain in Article 9.

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 12 trips or less) must pay tax under Article 9-A when the motor fuel tax exceeds 2 cents per gallon. This tax does not apply to aviation companies. These companies are taxed under Article 9-A.

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 0.75 percent on gross earnings from all sources in the State. This rate falls to 0.375 percent effective July 1, 2000. This tax also applies to an allocated portion of receipts from interstate and international activities (except for railroads). Beginning in 1997, the gross receipts tax, as it applies to truckers and railroads falls from 0.6 percent to 0.375 percent effective July 1, 2000. Trucking and railroad companies will be subject to the corporate franchise tax (Article 9-A) for taxable years beginning after 1997 unless they elect to remain in Article 9.

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. This tax does not apply to aviation companies which are taxed under Article 9-A. Omnibus and taxicab corporations (other than those making 12 trips or less) must pay tax under Article 9-A when the motor fuel tax exceeds 2 cents per gallon.

Companies engaged in the conduct of subway, railroad, elevated railroad, or surface railroad not operated by steam, whose property is leased to another railroad corporation, pay an annual tax of 4.5 percent on dividends paid during the year in excess of 4 percent of paid-in capital employed in the State.

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) 1 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 6 percent or more of the amount paid in on such stock, 1/4 mill for each percent of dividends paid; or 3) \$10.

Franchise Tax on Water-Works Companies, Electric or Steam Heating, Lighting and Power Companies (186)

This tax applies to corporations, joint-stock companies or associations principally engaged in the business of supplying water, steam, gas, or electricity. The rate equals 0.75 percent of gross earnings from all sources within the State. The law also imposes a 4.5 percent tax on dividends paid in excess of 4 percent of the amount of paid-in capital employed in New York State. Companies must pay a minimum tax of \$125.

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

This tax is imposed on any business selling utility services such as gas, electricity, steam, water, or refrigeration. Utilities subject to the supervision of the Public Service Commission pay a tax of 3.5 percent of gross income. Other businesses that furnish utility services pay a 3.5 percent tax on gross operating income. The rate falls to 3.25 percent effective October 1, 1998 and further to 2.5 percent, effective January 1, 2000.

Both gross income and gross operating income include receipts from the sale of utility services. However, gross income also includes profits from the sale of property within this State, receipts from interest, dividends, and royalties derived from sources within this State, and profits from any other transactions (except sales for resale and rentals) within this State. Providers of utility services exclude sales for resale from gross income or gross operating income. In some cases, a sale to a reseller may be considered a final sale for ultimate consumption.

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

Tax on Telecommunications Services (186-e)

Section 186-e imposes a tax of 3.5 percent on receipts from the sale of telecommunications services. The rate falls to 3.25 percent, effective October 1, 1998 and further to 2.5 percent effective January 1, 2000. Telecommunications services are defined to include services provided by wires, cables, satellites, fiber-optics, lasers, microwaves, radiowaves or similar media.

The Goldberg allocation method is used to determine New York taxable telecommunications receipts from interstate and international services. Under this method, receipts from telecommunications services are allocated to New York if the call originates or terminates in this State and is charged to a services address in this State. This Goldberg method is also used to calculate any associated metropolitan transportation business tax surcharge.

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.

Privilege Tax on Importation of Gas Services for Consumption (189)

This tax applies at the rate of 4.25 percent of the consideration given by a gas importer for gas services imported into the State for its own use or consumption. The tax applies to every individual or business importing gas into this State for its own use or consumption in New York. The tax does not apply to public utilities subject to the supervision of the Public Service Commission (PSC).

A public utility, subject to the supervision of the PSC, that delivers gas services to a gas importer, acting as a trustee for the State, is required to collect the tax on a monthly basis from gas importers and remit the tax to the Department of Taxation and Finance on a quarterly basis. The public utility determines the amount to be collected from the gas importer by multiplying the average annual gas price, published by the Department, by the quantity of gas services delivered. Effective on December 1, 1996, importers whose gas is delivered by a PSC regulated utility presenting a direct pay permit remits the Section 189 tax to the Department. In this case, the utility is not responsible for collecting the tax. Gas importers must pay the tax directly to the Department on a quarterly basis for gas services delivered by other than a public utility.

The tax provides an exemption for the portion of natural gas imported by a cogeneration facility to produce steam or electricity for its host.

With the exception of the special additional mortgage recording tax credit, Article 9 taxpayers can neither earn, nor apply, credits against their Article 9 tax liability. However, three new credits have been added in recent years: the alternative fuels vehicle credit; the employment of disabled individuals credit; and the power for jobs credit.

Petroleum Business Tax

Article 13-A of the Tax Law imposes privilege taxes 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-type diesel motor fuel and residual petroleum product generally become taxable on the final sale or use of the product in New York.

The Article 13-A tax 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 (see page 29).

Exemptions, Reimbursements and Credits

The petroleum business tax (PBT) excludes sales of kerosene, crude oil, and liquefied petroleum gas 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, and provides refunds for the PBT attributable to certain consumer bad debt. In addition, the PBT provides exemptions, reimbursements and credits based on certain uses of petroleum. The tax rates 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. Petroleum businesses are required to pay a minimum tax of \$25 a month. Aviation fuel businesses pay a minimum tax of \$2 per month.

Dedication of Revenue

Various percentages of the petroleum business tax are allocated to the Dedicated Mass Transportation Fund, the Dedicated Highway and Bridge Trust Fund, and the Mass Transportation Operating Assistance Fund. For the 1997 fiscal year, slightly less than 15 percent of PBT receipts went to the general fund, with the Dedicated Highway and Bridge Trust Fund, the Dedicated Mass Transportation Fund, and the Mass Transportation Operating Assistance Funds receiving the remaining shares in descending orders of magnitude. In fiscal year 1998, almost 90 percent of PBT receipts will go to funds other than the general fund.

Bank Tax

Article 32 of the Tax Law levies a franchise tax on banking corporations doing business in the State. This tax consists of the highest of 1) 9 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 alternative provides lower tax rates for institutions having both mortgages comprising 33 percent or more of total assets and net worth exceeding 5 percent of total assets.

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 9 percent 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 alternative income, the three factors have equal weighting, and no discount applies to the numerator of the wage factor.

Insurance Tax

Article 33 imposes a franchise tax on insurance companies. There are two components of the tax: 1) a tax based on the higher of four bases plus a tax on subsidiary capital; and 2) a tax based on gross direct premiums written on State-located risks or residents in the State.

The first component of the tax is based on 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:

- 9 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 entire net income plus officers' salaries basis. The basis equals 30 percent of the sum of entire net income plus officers' salaries minus \$15,000 and any net loss for the reported year; or
- a minimum tax of \$250.

The second component of the Article 33 tax is a tax on gross premiums, less return premiums thereon, written on risks located or resident in New York. The rate of the tax on premiums varies according to the type of insurance risk covered by a premium, except for accident and health premiums which are taxed at different rates dependent on the type of insurer. Effective January 1, 1998, premiums received by corporations licensed as life and health insurers, including premiums on accident and health contracts, are taxed at the rate of 0.7 percent (instead of 0.8 percent). Premiums written by corporations licensed as property and casualty insurers are taxed at the rate of 1.3 percent, excepting premiums on accident and health contracts which are taxed at the rate of 1.0 percent. All premiums are computed as received during the taxable year and allocated to New York. Also effective January 1, 1998, captive insurance companies are subject to a special premiums tax in lieu of the premiums tax and "income-based" tax that applies to other insurers.

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 2.0 percent of taxable premiums for life insurers and 2.6 percent of taxable premiums for all other insurers. This cap represents the maximum tax on insurance companies.

Insurance — Direct Writings Tax

Article 33-A of the Tax Law, the direct writings tax, imposes a 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.

Article 33-A exempts insurance premiums purchased from unauthorized carriers through an 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.



Sales and Compensating Use Tax

Forty-five states impose a sales tax. Apart from a short-lived emergency tax on retail sales in 1933-34, New York had no general State sales tax until 1965. At that time, Article 28 imposed the State sales and use taxes, and provided authority for similar taxes to counties and cities choosing to adopt them (although some counties and cities already levied their own sales taxes). The State collects the local portion of the sales tax and distributes net collections to localities.

Tax Rates

The current statewide State tax rate equals 4 percent. Many cities, and most counties, impose an additional tax of 3 percent for a combined State and local rate of 7 percent. Delaware and Westchester counties impose county sales tax rates below 3 percent. Some 25 counties and five cities are authorized to impose tax at additional rates, from $\frac{1}{4}$ percent to $1\frac{1}{4}$ percent. The five cities are Mt. Vernon, New Rochelle, Rome, White Plains and Yonkers. The State imposes a 4 percent tax in New York City for the benefit of the Municipal Assistance Corporation.

The State also imposes the Metropolitan Commuter Transportation District tax of 0.25 percent in 12 downstate counties. Table 50 shows combined State and local sales tax rates in each county and in cities which impose sales and use taxes.

An additional 5 percent State tax applies to information and entertainment services furnished by telephone (e.g., "900" numbers) and received by the customer exclusively in an aural manner. An additional 5 percent tax also applies to charges for passenger car rentals. These taxes are in addition to the regular State and local sales tax on such services.

Tax Base and Exemptions

The sales tax applies to retail sales of tangible personal property (unless specifically exempt) 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. 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 federal and New York State governments, charitable organizations and certain other exempt organizations, sales of most food for home consumption, and sales of both prescription and nonprescription medicines. Most clothing purchases were exempted from State and most local sales taxes for two separate weeks in both 1997 and 1998 (a permanent exemption for clothing and footwear costing less than \$110 will take effect in December 1999). Also, the sales tax does not apply to most services. Examples of services not subject to tax include medical care, transportation, education, and personal and professional services.

Economic Development Exemptions and Credits

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

An exemption also applies to tangible personal property used directly 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 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.

In addition, the law permits a refund or credit for sales and use taxes paid on materials used to expand, construct or restore certain industrial and commercial projects within designated economic development zones.

Registration and Payment

Every person who sells tangible personal property or taxable services must register with the Department before commencing business. Currently, approximately 560,000 vendors are registered.

Generally, sales tax vendors must file quarterly tax returns with the Department. However, vendors whose taxable receipts total \$300,000 or more in any quarter must also file monthly returns by the 20th day of the following month. Vendors who remit tax of \$250 or less per year may file an annual return. This annual threshold will increase to \$3,000 in June 1998.

Sales tax vendors with annual sales and compensating use tax liability exceeding \$1 million, or with annual liability for prepaid sales tax on motor fuel and diesel motor fuel exceeding \$5 million, must make monthly partial payments of tax by electronic funds transfer (EFT) or certified check. They must pay the balance of the tax liability with the regular filing of the sales tax return. Other monthly filers may participate in the EFT program on a voluntary basis. Licensed cigarette stamping agents are required to prepay sales tax due on retail cigarette sales when they purchase State excise tax stamps.

Vendors who timely file their quarterly sales tax return and remit full payment of tax due with the return may retain, as compensation for expenses, 1.5 percent of the amount of State sales tax collected, up to \$100 per quarter. The vendor credit will increase to 3.5 percent up to \$150, in March 1999.

Excise and User Taxes and Fees

New York State imposes various excise and user taxes. These include the cigarette and tobacco tax (Article 20), the motor fuel excise tax (Article 12-A), a petroleum testing fee (also Article 12-A), the alcoholic beverage tax (Article 18), the highway use tax (Article 21), the fuel use tax (Article 21-A), the beverage container tax (Article 18-A), the passenger car rental tax (Article 28-A), and the boxing and wrestling exhibitions tax (Article 19).

The Department of Taxation and Finance also administers other taxes and fees. These include the parimutuel and horse racing taxes and the hazardous waste fees contained in Article 27 of the Environmental Conservation Law.

Cigarette and Tobacco Products Taxes and Fees

New York collects the cigarette tax (Article 20) through the sale of tax stamps to licensed agents. Agents must affix the stamps to each package of cigarettes before sale in New York State. The tax rate equals 56 cents per pack of 20 cigarettes. New York City's separate 8 cents per pack tax brings the combined per pack tax rate in the City to 64 cents.

Distributors of other tobacco products such as cigars, snuff, pipe and chewing tobacco pay a 20 percent excise tax on the wholesale price. Distributors include persons importing, manufacturing or possessing for sale such products in New York.

Sellers of cigarettes and other tobacco products must pay an annual \$100 registration fee for every location in the State where they sell product at retail, and \$25 yearly registration fees for every vending machine handling these products. Vendors must also display valid permits.

Motor Fuel Taxes

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 tax has three rate components, as detailed below:

Regular Tax	4 cents
Additional Tax	3 cents
Supplemental Tax	1 cent
Total	8 cents

Retail sales of aviation gasoline used by aircraft receive an up-front exemption from the motor fuel excise tax. The 8 cents per gallon first importation tax on aviation gasoline is retained to ensure compliance. However, distributors may sell aviation gasoline tax-free to registered retail sellers of aviation gasoline. The distributor may then obtain a credit or refund of the motor fuel excise tax paid on aviation gasoline.

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.

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

Certain omnibus carriers engaged in local transit service and nonpublic school operators in the State may claim full refund of motor fuel and diesel fuel taxes paid. The law allows partial refunds of 3 cents per gallon of these automotive fuel taxes paid by operators of other private buses and taxicabs.

Dedication of Revenue

Various portions of motor fuel tax collections are dedicated to certain highway expenditure funds. Receipts attributable to one and three-fourths cents of the tax on each gallon of gasoline and diesel fuel sold in the State are earmarked equally to the Emergency Highway Reconditioning and Preservation Fund and the Emergency Highway Construction and Reconstruction Fund. Also, one half of the entire gasoline tax is deposited into the Dedicated Highway and Bridge Trust Fund, established to help finance the reconstruction, replacement, reconditioning and preservation of the State's highways and bridges.

Petroleum Testing Fee

A regulatory fee of one half mill (0.05 cents) per gallon applies to motor fuel (gasoline and other nondiesel automotive fuels) imported, sold or manufactured within New York. The distributor may not pass this fee on to the consumer and the consumer cannot obtain a refund for off-highway use. The fee finances petroleum testing to protect the quality standards of motor fuel supplies.

Alcoholic Beverage Tax

The alcoholic beverage tax (Article 18) imposes liquor, beer, wine and specialty beverages taxes at various rates upon registered distributors and noncommercial importers of alcoholic beverages.

The table below shows 1998 tax rates for different beverages:

Alcoholic Beverages	Rate Per Liter	Rate Per Gallon
Liquors (Over 24% Alcohol)	\$1.70	\$6.43
Liquors (2%-24% Alcohol)	67 cents	\$2.53
Beer		16 cents*
Still Wine and Wine Coolers		18.93 cents
Sparkling Wine (Carbonated)		18.93 cents
Sparkling Wine (Natural)		18.93 cents
Cider Over 3.2% Alcohol . (Still or Carbonated)		3.79 cents

* Effective January 1, 1999, the tax rate on beer will be reduced to 13.5 cents per gallon.

No tax applies to the first 100,000 barrels of beer brewed and sold in New York each year by brewers with headquarters in New York.

Highway/Fuel Use Taxes

The Tax Law imposes three separate highway and fuel use taxes, as described below. Exemptions from tax include motor vehicles owned and operated by governmental entities, fire companies and farmers. It also exempts vehicles used exclusively to transport household goods.

Truck Mileage Tax

The truck mileage tax (TMT) 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. In addition, a supplemental tax applies which effectively doubles the tax rate. The truck mileage tax does not apply to mileage on the toll-paid portion of the New York State Thruway. Further, legislation enacted as part of the SFY 98-99 budget reduces the supplemental rate portion of the TMT by 50 percent effective January 1, 1999.

Highway Use Permits

Highway use permits, issued for not more than three years, identify vehicles subject to the highway use tax. Permit fees equal \$15 per truck, tractor or taxable bus. Each trailer used to haul automotive fuel requires a \$5 permit. Buses not subject to fuel use tax and other trailers do not need a permit. A special \$25 single-trip permit, available to a carrier no more than 10 times per year, exempts a carrier from truck mileage and fuel use taxes for a single 72-hour period.

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.

Fuel Use Tax

The fuel use tax (Article 21-A) 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 motor fuel 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 on fuel used outside the State.

New York's fuel use tax provisions also conform to those of the International Fuel Tax Agreement (IFTA). The minimum gross vehicle weight of vehicles required to pay the fuel use tax is 26,000 pounds. A special \$25 single fuel use tax trip permit is available which exempts an IFTA licensed carrier from the New York fuel use taxes for a single 72 hour period for that vehicle.

Pari-Mutuel and Horse Racing Taxes

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.

Legislation enacted in 1995 reduced tax rates on certain wagering pools and extended simulcasting provisions. The tax rate reductions vary by track and type of racing. Certain reductions are permanent while others will expire in July 2002.

Beverage Container Tax

The beverage container tax (Article 18-A) imposes a nonrefundable one cent tax on the initial sale in New York of non-refillable carbonated soft drink, mineral water or soda water, in containers holding less than 3.8 liters or one gallon. The first seller of the filled container within the State must pay the tax. Thus, the taxpayer may be a manufacturer, distributor or dealer importing from outside of the State. No tax applies to containers sold for immediate export and use outside New York. The tax was repealed effective October 1, 1998.

Passenger Car Rental Tax

The passenger car rental tax is a sales tax imposed under Article 28-A, which applies to receipts from every rental or use of passenger cars, at a 5 percent rate. The law defines passenger cars as motor vehicles weighing 9,000 pounds or less with seating capacity for 9 or fewer persons, excluding motorcycles. The tax does not apply to leases for terms of one year or longer. This sales and use tax applies in addition to existing State and local sales and use taxes on rentals.

Boxing and Wrestling Exhibitions Tax

Article 19 of 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 5.5 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.

Exemptions from the tax apply in the following situations: gross receipts from certain boxing, sparring or wrestling matches or exhibitions conducted by the New York State National Guard or naval militia (all of the contestants must be members of the active militia); gross receipts from any match

or exhibition of amateurs sponsored by any university, college, school or other institution of learning, recognized by the Regents of New York State; and gross receipts from matches or exhibitions of amateurs sponsored by the U.S. Amateur Boxing Federation or its local affiliates of the American Olympic Association.

Since 1988, the Department of Taxation and Finance has been responsible for administering this tax. Prior to that time, administration rested with the State Athletic Commission. The Tax Law provides that employees and officers of the State Athletic Commission shall act as agents of the Department in collecting the tax.

Hazardous Waste Fees

Article 27 of the Environmental Conservation Law imposes special assessments on persons involved in the production, treatment, or disposal of hazardous waste. The Tax Department co-administers this fee along with the Department of Environmental Conservation. Every person engaged within New York in the generation of hazardous waste is subject to the special assessments. Persons holding permits or who are required to hold permits, for the storage, treatment or disposal of hazardous wastes are subject to a comparable hazardous waste disposal special assessments.

The term "hazardous waste" means any waste (or combination of wastes) which, because of its quantity, concentration, or physical, chemical or infectious characteristics may 1) cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or 2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed, or otherwise managed.

The special assessments are imposed on the tonnage of hazardous waste produced, disposed of, or treated. The assessments vary by method of treatment or disposal of waste and its treatment, ranging between \$2 to \$27 per ton.

No special assessments are imposed on the resource recovery of any hazardous waste. However, materials remaining from resource recovery which are hazardous wastes and that are subsequently disposed of, treated or incinerated, are subject to the special assessments. "Resource recovery" does not include the removal of water from a hazardous waste.

Property Transfer Taxes

New York imposes two major property transfer taxes: the Estate and Gift Tax, and the Real Estate Transfer Tax. A third tax, the Real Property Transfer Gains Tax was repealed effective June 15, 1996.

Estate Tax

Similar to federal law, New York imposes a unified estate and gift tax system (Articles 26 and 26-A, respectively). The Department administers the tax, but the Surrogate Courts of counties throughout the State have primary authority over probate matters and adjudication of disputes.

The estate tax applies against the transfer of property from the estate of a decedent, plus taxable gifts which the decedent made. Graduated tax rates apply from 2 percent on taxable amounts of \$50,000 or less up to 21 percent on such amounts over \$10.1 million. The Internal Revenue Code (IRC) provides a credit against the federal estate tax for state death tax. The maximum allowable federal credit varies with the size of the taxable estate, up to a maximum credit of 16 percent on adjusted taxable estates above \$10.04 million. Net of the tax benefits from the federal credit, the top effective State estate tax rate equals 5 percent. Also, the federal credit acts as a minimum New York estate tax.

New York law generally conforms to federal IRC amendments through August 5, 1997. For example, as under federal law, New York permits a full marital deduction for transfers to a spouse who is a U.S. citizen and the exclusion for closely held business assets enacted in 1997. However, unlike the personal income and business taxes, the State Constitution prohibits the estate and gift tax from automatically conforming to federal changes in the IRC.

Similar to federal law, New York law allows a unified credit against either, or both, estate and gift taxes. The State allows a maximum unified credit of \$2,950 and a minimum credit of \$500 where the tax equals \$5,400 or more. In effect, the credit provides a lifetime \$115,000 exemption to estates and gifts. Also, a credit against the estate tax applies for gifts included in the estate that were previously subject to gift tax.

A deduction applies for up to \$250,000 of equity in the decedent's principal residence in computing adjusted taxable estate. Property deducted due to the marital or charitable deduction does not qualify for this deduction.

A "closely held business" credit applies for estates comprised of at least 35 percent business assets. The credit equals 5 percent of the first \$15 million of such qualifying assets, for a maximum amount of \$750,000. The assets must

be part of a closely-held business, which includes sole proprietorships, partnerships with 15 or fewer partners, or corporations with 15 or fewer shareholders. Also, the decedent must bequeath the assets to a qualified heir. Assets used to fund the marital deduction, or as part of the exclusion which flows through from federal law, do not qualify for the credit.

Ninety percent of the estate tax is payable within six months of the decedent's death, and 100 percent must be paid within 9 months, when tax returns are due. However, qualifying small businesses may defer payment for up to four years, and can pay tax in installments over the next 10 years.

Legislation enacted in 1997 repeals the current estate and gift tax effective for decedents dying on or after February 1, 2000. At that time, New York will impose a tax equal to the maximum federal credit for state death tax. This is commonly termed a "pickup" or "sop" tax because it "picks up" or "sops up" the maximum credit allowed against the federal estate tax. Also effective February 1, 2000, returns and payments will be due within 9 months of the decedent's death.

As an interim measure, the unified credit will increase to \$10,000, effective for decedents dying on or after October 1, 1998. This will exempt estates of up to \$300,000. Also effective October 1, 1998, the six month estimated tax requirement will increase to seven months.

Gift Tax

The State gift tax also uses the comparable federal gift tax base as its starting point. Exclusions apply for transfers of real and tangible personal property located outside the State. Like the federal gift tax, the New York law exempts all gifts to U.S. citizen spouses and recognized charities. It also provides an annual exclusion of \$10,000 per donee. Any unused unified credit reduces the amount of tax. Unlike the federal, New York State also provides an unlimited marital deduction for gifts made to noncitizen spouses. By January 15, grantors must make an estimated payment equal to 90 percent of the tax due on gifts made during the prior calendar year. They must pay the full amount of tax by April 15, the due date for the return.

Legislation enacted in 1997 repeals the gift tax effective January 1, 2000. As an interim measure, the unified credit will increase to \$10,000 effective January 1, 1999.

Generation Skipping Transfer Tax

A New York Generation Skipping Transfer tax (GST) (Article 26-B), like its federal counterpart, applies to the transfer of assets through trusts across family generations which would otherwise escape taxation. The tax equals the maximum federal credit for state generation-skipping transfer taxes, which in turn equals 5 percent of federal GST. This means that the GST “soaks up” the federal credit without actually imposing additional tax liability.

Real Estate Transfer Tax

Adopted in 1968, Article 31, New York’s real estate transfer tax, applies to the transfer of each deed which conveys real property with a value over \$500. The tax is due within 15 days after the conveyance. The tax equals \$2.00 for each \$500 or additional fraction of \$500. The tax is to be paid by the grantor. 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 taxable transfers and acquisitions include long-term leaseholds and transfers of controlling interest in entities which own real property. Article 31 also imposes an additional tax of 1

percent of the consideration paid for residences selling for \$1 million or more (the so-called “mansion tax”). The person receiving the real property interest, usually the buyer, must pay this additional tax.

A portion of the real estate transfer tax is earmarked to the Environmental Protection Fund. In 1997, the amount equals \$87.0 million. Beginning in 1998, the amount increases to \$112.0 million. Any remaining transfer tax revenues are earmarked for the Clean Water/Clean Air fund debt service requirements.

The 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. Effective July 13, 1996, the reduced rate was expanded to also apply to qualifying transfers by existing REITs. However, the latter provision is scheduled to sunset on September 1, 1999.

Certain counties are required to remit real estate transfer tax revenues on a semi-monthly payment schedule. If total payments remitted during the prior calendar year exceeded \$1.2 million after deduction of statutory fees, monies collected from the 1st to 15th day of a month must be remitted to the Department on the 25th day of that month. Revenues received after the 15th day of the month through the last day of such month would continue to be remitted on the 10th day of the succeeding month as required by law.