



## **Summary of Personal Income Tax Changes Enacted in the 2018-2019 Budget Bill**

The following personal income tax changes were part of the 2018-2019 New York State budget and are briefly discussed in this memo:

- [Definition of New York State resident](#)
- [Empire State child credit](#)
- [Empire State musical and theatrical production credit](#)
- [Hire a veteran credit](#)
- [Historic homeownership rehabilitation credit](#)
- [New York youth jobs program tax credit](#)
- [Rehabilitation of historic properties credit](#)
- [Statute of limitations on amended returns](#)
- [Wage reporting requirements](#)

In addition, the following budget changes will be discussed in future guidance:

- Contributions to charitable gift fund accounts (including New York City decouple) and New York State credit
- Decoupling from Internal Revenue Code changes
- Employer Compensation Expense Program
- Low-income housing credit

### **Definition of New York State resident**

The definition of resident individual for New York State income tax purposes has been clarified for tax years 2019 and after to state that an individual who maintains a permanent place of abode in New York State and spends more than 183 days of the tax year in New York State, whether or not they are domiciled in this state, is a resident unless they were in active service in the military.

Previously, a resident individual was defined as an individual who is not domiciled in New York State but maintains a permanent place of abode in the state and spends more than 183 days of the tax year in New York State, unless they were in active service in the military.

The same clarification has been made to the definition of resident individual for New York City income tax purposes.

[Part O of Chapter 59 of the Laws of 2018; Tax Law §§ 605(b)(1)(B), 1305(a)(2), and 11-1705(b)(1)(B)]

### **Empire State child credit**

Beginning with tax year 2018, you can no longer use the amount of your federal child tax credit or additional child tax credit to compute your Empire State child credit. The Tax Law has been changed to base the Empire State child credit eligibility and credit amounts on the federal

child care credit as it existed prior to the 2018 federal law changes (Public Law 115-97, Tax Cuts and Jobs Act). Therefore, you will use the federal credit amounts and income thresholds that were in effect for tax year 2017 to calculate your Empire State child credit.

[Part P of Chapter 59 of the Laws of 2018; Tax Law §606(c-1)(1)]

### **Empire State musical and theatrical production credit**

The Empire state musical and theatrical production credit has been extended and will now expire on January 1, 2023. Previously, the credit was due to expire on January 1, 2019. This credit is available to qualified musical and theatrical production companies and is administered by Empire State Development (ESD).

For more information on this credit, see [TSB-M-15\(1\)I](#), *Summary of Budget Bill Personal Income Tax Changes Enacted in 2014*, or visit ESD's website at [www.esd.ny.gov](http://www.esd.ny.gov).

[Part III of Chapter 59 of the Laws of 2018; Part HH of Chapter 59 of the Laws of 2014; Tax Law §§ 24-a and 606(u)]

### **Hire a veteran credit**

The hire a veteran credit has been extended through tax year 2020. Previously, the last tax year the credit could be claimed was 2018.

The credit is available to employers for hiring and employing, for not less than one year and not less than 35 hours each week, qualified veterans. To be eligible, a qualified veteran must now begin employment prior to January 1, 2020.

For more information on this credit, see:

- [TSB-M-13\(9\)C, \(8\)I](#), *Hire a Veteran Credit*
- [TSB-M-16\(8\)C, \(6\)I](#), *Summary of Changes to Existing Tax Credits Enacted as Part of the 2016-2017 New York State Budget*

[Part Q of Chapter 59 of the Laws of 2018; Tax Law § 606(a-2)]

### **Historic homeownership rehabilitation credit**

The following enhancements to the historic homeownership rehabilitation credit have been extended through tax year 2024. Prior to the amendment, the last tax year the enhancements were in effect was 2019.

- Enhanced credit limit of \$50,000 per tax year (\$100,000 for taxpayers filing a joint return)
- Refundability of any excess credit without interest for taxpayers with New York Adjusted Gross income of \$60,000 or less.

Upon expiration of the enhancements, the credit limit will revert to \$25,000 per tax year (\$50,000 for taxpayers filing a joint return) and the credit would no longer be refundable. However, if the amount of credit allowed exceeds the taxpayer’s tax due for the year, the excess credit may be carried over to the following tax year or years.

This program is administered by the New York State Office of Parks, Recreation, and Historic Preservation (OPRHP). For more information on this credit, visit OPRHP’s website at [www.parks.ny.gov](http://www.parks.ny.gov).

[Part RR of Chapter 59 of the Laws of 2018; Tax Law § 606(pp)]

**New York youth jobs program tax credit**

The New York Youth Jobs Program encourages businesses to hire unemployed, disadvantaged youth, ages 16 to 24, who live in New York State. This program is administered by the New York State Department of Labor (DOL).

For tax years beginning **on or after January 1, 2018**, the credit amounts for each certified youth have been increased as follows:

Employment period	Prior Amount		New Amount	
	Full-time	Part-time*	Full-time	Part-time*
Monthly credit for first 6 months	\$500	\$250	\$750	\$375
Credit after additional 6 consecutive months	\$1,000	\$500	\$1,500	\$750
Credit for additional year**	\$1,000	\$500	\$1,500	\$750

\*A part-time job is a job of at least 20 hours per week, or 10 hours per week when the certified youth is enrolled in high school full-time.

\*\* After the completion of the first two time periods and all the employment conditions were met for those time periods.

For tax years beginning **on or after January 1, 2019**, changes will be made to how the program is administered.

Qualified employers will continue to submit applications to participate in the program to DOL. If approved, the employer will receive a preliminary certificate of eligibility from DOL that will state the maximum amount of tax credit that the employer may be allowed to claim and the program year in which it may be claimed.

Qualified employers will be required to submit an annual report to DOL. The report is due on or before January 31<sup>st</sup> of the calendar year after the payment of wages to a certified youth. The report must show that the employer has satisfied all eligibility requirements and must provide all the information necessary for DOL to compute a final credit amount.

If DOL approves the report and eligibility for the credit, it will issue a final certificate of tax credit to the qualified employer.

Employers who file a calendar-year tax return may claim the credit for the tax year for which the final certificate of tax credit was issued. If the employer is a fiscal tax year filer, the employer may claim the credit on the tax return for the fiscal year that includes the date that the final certificate of tax credit was issued.

For tax years beginning on or after January 1, 2019, qualified employers claiming the credit must attach the final certificate of tax credit issued by DOL to their tax return.

For more information on this credit, visit the DOL website at [www.labor.ny.gov](http://www.labor.ny.gov).

[Part R of Chapter 59 of the Laws of 2018; Labor Law § 25-a; Tax Law § 606(tt)]

### **Rehabilitation of historic properties credit**

The enhanced rehabilitation of historic properties credit has been extended to tax years beginning before January 1, 2025. The enhanced credit is equal to 100% of the federal rehabilitation credit allowed under Internal Revenue Code (IRC) § 47(c)(3) for the rehabilitation of a certified historic structure located in New York State. The credit cannot exceed \$5 million per structure.

Upon expiration of the enhanced credit provisions, the credit will be equal to 30% of the federal rehabilitation credit allowed under IRC § 47(c)(3) for the rehabilitation of a certified historic structure located in New York State. The credit for tax years beginning on or after January 1, 2025, cannot exceed \$100,000 per structure.

The 2018-2019 NYS Budget decoupled from a new federal law requiring the credit to be claimed over five years, so New York taxpayers may continue to claim 100% of the credit in the year the certified historic structure is placed in service.

The Budget also made two modifications to the requirement that the rehabilitation project be located within a census tract that is at or below 100% of the state median family income. The median family income calculation which uses the most recent five-year estimate from the American community survey published from the United States Census Bureau, is shifted from January 1 each year to April 1 each year. Also, a census tract will remain eligible for the credit for two additional years if there is a change in the most recent five-year estimate and the census tract qualified before the new estimate was released.

For more information on this credit, see [TSB-M-13\(4\)C. \(2\)](#), *Amendments to the Rehabilitation of Historic Properties Credit*.

[Part RR of Chapter 59 of the Laws of 2018; Tax Law § 606(oo)].

### **Statute of limitations on amended returns**

The statute of limitations has been extended for assessments based on changes or corrections reported on amended returns. Generally, the Department may now issue an assessment on an amended return until the later of:

- one year from the date the amended return was filed, or
- three years from the date the original return was filed.

This change applies to amended returns filed on or after April 12, 2018.

[Part H of Chapter 59 of the Laws of 2018; Tax Law §§ 683(c)(12) and 11-1783(c)(9)]

### **Wage reporting requirements**

Recent changes were made to the reporting requirements for all employers required to file:

- Form NYS-45, *Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return*, or
- Form NYS-45-ATT, *Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return-Attachment*

Effective for calendar quarters beginning on or after January 1, 2019, employers are required to complete all of Part C, *Employee wage and withholding information*, including columns d and e, each calendar quarter for all employees. Prior to this change, employers were only required to complete Part C, columns d and e, annually or on the last return for the calendar year. In addition, the penalty for failing to complete columns d and e was amended to allow imposition on a quarterly basis.

[Part I of Chapter 59 of the Laws of 2018; Tax Law §§ 658(d)(1), 674(a)(4)(A), and 685(v)(3)]

**Note:** A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.