

2016-17 NEW YORK STATE BUDGET

State & Local Tax Alert
May 2, 2016

On April 13, 2016, Governor Andrew M. Cuomo signed the 2016-17 New York State Budget into law. We summarize the highlights of the revenue provisions below.

Personal Income/Estate Taxes

- **Personal Income Tax rates are scheduled to drop for incomes below \$300,000 and above \$2 million.** In 2012, the state lowered Personal Income Tax rates from 6.85 percent to 6.45 percent for married-filing-jointly taxpayers in the \$40,000 – \$150,000 income bracket, and to 6.65 percent for mfj taxpayers in the \$150,000 – \$300,000 income bracket. **Beginning in 2018, rates will decrease again.** The Budget provides that the rate for mfj taxpayers in the \$40,000 – \$150,000 income bracket will drop to 6.33 percent in 2018, eventually decreasing to 5.5 percent by tax year 2024. For mfj taxpayers in the \$150,000 – \$300,000 income bracket, rates will drop to 6.49 percent in 2018 and will decrease to 6.00 percent by 2024. For mfj taxpayers in the \$300,000 - \$2 million bracket, the rate remains unchanged: 6.85%. However, the so-called Millionaires' Tax Rate of 8.82% will, as provided by prior law, sunset after the 2017 tax year. There is already speculation that a continuation of the Millionaires' Tax Rate will be addressed in subsequent legislation.
- The Budget also makes the **enhanced earned income tax credit for noncustodial parents** permanent. The credit was previously set to expire on December 31, 2016.
- The Budget **eliminates charitable giving as a factor for determining domicile under the Estate Tax.** The state had previously enacted a similar provision under the Personal Income Tax (Tax Law § 605(c)). Accordingly, charitable contributions should no longer impact domicile determinations in either Personal Income or Estate Tax matters.

Sales and Use Taxes

- The Budget adds or expands several **new exemptions from Sales and Use Taxes.** First, beginning June 1, 2016, **room remarketers** may purchase occupancies tax-free from hotel operators using a valid resale certificate. And sales of **fuel sold for use in commercial aircraft and general aviation aircraft** will be exempt from the local portion (only) of the sales and use taxes beginning December 1, 2017.

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Practices & Industries

Business Tax
State & Local Tax

2016-17 NEW YORK STATE BUDGET

- The Budget also extends the **alternative fuel tax exemption** for another five years through September 1, 2021. The alternative fuel tax exemption applies to the Motor Fuel (Article 12-A), Petroleum Business (Article 13-A), Fuel Use (Article 21-A), and Sales (Articles 28 and 29) taxes, and the exemption covers receipts from the sale of E85, CNG, hydrogen, and B20 fuel.

Business-Related Taxes

- The Budget **extends** certain soon-to-expire **business tax credits** (Tax Law §§ 210-B, 606) including the **hire a veteran credit** (extended through tax year 2018), the **empire state commercial production credit** (extended through tax year 2018), and the **clean heating fuel credit** (extended to include fuel purchases made through 2019). The **credit for companies who provide transportation to people with disabilities** is now set to expire in tax year 2022.
- The Budget **expands** other **business tax credits** including the **beer production credit** (Tax Law § 37), which will now provide a credit to in-state producers of cider, wine, and liquor (the credit also still applies to in-state beer production). The credit is renamed the **alcoholic beverage production credit**.
- The Budget adds a **new refundable farm workforce retention credit**, which offers eligible farm employers a tax credit for each eligible farm employee who is employed for at least 500 hours in a taxable year. The credit first applies in tax year 2017 and is valued at \$250 per eligible farm employee, rising to \$600 per eligible farm employee by tax year 2021.
- The Budget conforms New York State and New York City **business tax filing due dates** to the new federal filing deadlines. Beginning for tax year 2016, most returns for C corporations will be due on April 15th. The previous due date for these returns was March 15th. Partnership returns (including New York City Unincorporated Business Tax returns) will be due on March 15th. The previous due date for these returns was April 15th. Also beginning for tax year 2016, **first-quarter estimated tax payments** will be calculated based off the tax due in a taxpayer's "second preceding" tax year. Previously, estimates were based on the tax due in the immediately preceding tax year.
- The Budget amends the definition of a **qualified financial instrument** to exclude stock that generates "other exempt income." Accordingly, stocks that generate other exempt income are now classified as "nonqualified financial instruments" for purposes of the state's Article 9-A Business Franchise Tax and the city's Corporate Business Tax.

Other Changes of Note

- The Budget adds a new registration requirement for "**Wholesalers of motor fuel.**" Effective December 1, 2016, wholesalers of motor fuel, which include vendors who do not qualify as fuel distributors and who make sales of motor fuel to consumers for direct use in the operation a vehicle, must **register with the Department** before making retail sales and must **file monthly returns** stating the number of gallons of motor fuel purchased and sold in the state during the preceding calendar month. The new registration requirements are found under the Article 12-A Fuel Tax.
- Tax preparers who, under section 29 of the Tax Law, are required to electronically file taxpayers' returns will remain subject to the **e-filing requirements** through December 31, 2019. The requirements were previously set to expire on December 31, 2016.

2016-17 NEW YORK STATE BUDGET

- The Budget retroactively extends the requirements that taxpayers who are required to file a **disclosure statement relating to a reportable transaction** with the Internal Revenue Service, pursuant to IRC § 6011, must also disclose that information to New York State. The state's disclosure provisions, found under section 25 of the Tax Law, expired on July 1, 2015, but are now extended through July 1, 2019.

If you have any questions about this or any other aspect of New York State's new budget, please call any member of our State & Local Tax Practice Group.