New York State Department of Taxation and Finance
Office of Tax Policy Analysis
Taxpayer Guidance Division

TSB-M-09(4)C
Corporation Tax
January 23, 2009

Supplemental Summary of Corporation Tax Legislative Changes Enacted in 2008

This TSB-M is a summary of corporation tax legislation signed into law in 2008 that was not addressed in TSB-M-08(12)C, *Summary of Corporation Tax Legislative Changes Enacted in 2008*.

The following legislative changes are summarized in this memo:

- Brownfield redevelopment tax credit
- Investment tax credit for the financial services industry and the empire zone investment tax credit for the financial services industry
- Certain corporations remain taxable under Article 32
- Exemption from excise taxes for providers of telecommunication services with certificates of resale

Brownfield redevelopment tax credit (Articles 9, 9-A, 22, 32, and 33)

Chapter 390 of the Laws of 2008 amended the brownfield redevelopment tax credit allowed under section 21 of the Tax Law and made other technical amendments to the Brownfield Cleanup and Remediation Program under the Environmental Conservation Law.

For more information on the amendments to the brownfield redevelopment tax credit, see TSB-M-08(13)C, (8)I, *Revisions to Brownfield Cleanup and Remediation Program*.

(Tax Law sections 21(a)(3), 21(a)(3-a), 171-r, and 171-s)

Investment tax credit for the financial services industry and the empire zone investment tax credit for the financial services industry (Articles 9-A, 22, 32, and 33)

Chapter 637 of the Laws of 2008 amended certain provisions of the investment tax credit for the financial services industry and the empire zone investment tax credit for the financial services industry (financial services investment tax credits) allowed under Article 9-A (franchise tax on business corporations), Article 22 (personal income tax), Article 32 (franchise tax on banking corporations), and Article 33 (franchise tax on insurance corporations) of the Tax Law.

The provisions of Chapter 637 of the Laws of 2008 apply to taxable years ending on or after January 1, 2008.

For more information on the amendments to the financial services investment tax credits, see TSB-M-09(3)C, (1)I, *Amendments to the Investment Tax Credit for the Financial Services Industry and the Empire Zone Investment Tax Credit for the Financial Services Industry*.

(Tax Law sections 210.12(b)(i), 210.12(d), 210.12-B(b), 210.12-B(c), 606(a)(2)(A), 606(a)(4), 606(j)(2), 606(j)(3), 1456(i)(1), 1456(i)(2), 1456(i)(4), 1511(q)(1), 1511(q)(2), 1511(q)(3))

Certain corporations remain taxable under Article 32

Chapter 636 of the Laws of 2008 amended the Gramm-Leach-Bliley Act (GLBA) transitional provisions in Article 32 (franchise tax on banking corporations) of the Tax Law. A limitation was included in the GLBA provisions in Chapters 60 and 96 of the Laws of 2007 that was applicable to the 2008 and 2009 tax years. The limitation stated that a corporation taxed as an Article 32 taxpayer before 2008 would need to meet the definitional standards of a banking corporation to remain taxable under Article 32 in 2008 and 2009. Chapter 636 of the Laws of 2008 eliminates this limitation. As a result of this legislation, a corporation that was taxed under Article 32 in 2007 would continue to be taxed under that article in 2008 and 2009, even if its ownership or business operations no longer meet the Article 32 requirements to be taxed as a banking corporation.

(Tax Law section 1452(m)(1))

Exemption from excise taxes for providers of telecommunication services with certificates of resale (Article 9)

Chapter 297 of the Laws of 2008 amended section 186-e of the Tax Law, which imposes the excise tax on telecommunication services. Providers of telecommunication services will now be allowed a sale-for-resale exclusion from the excise tax for any sale of telecommunication services made to a person who resells telecommunication services as such and who presents the provider with a valid resale certificate. Previously, providers were allowed an exclusion from the tax only when the sale was to interexchange carriers or local carriers, which include facilities-based cellular common carriers. The exclusion applies to services sold on or after January 1, 2009.

A reseller of telecommunication services seeking to obtain telecommunication services exempt from the section 186-e excise tax must provide a properly completed copy of Form CT-120, *Resale Certificate for Telecommunication Purchases*, to its provider of telecommunication services for services it purchases on or after January 1, 2009. Form CT-120 should be presented to the provider within 90 days after the provision of the service.

For more information on the resale certificate, see TSB-M-09(2)C, *Resale Certificates for Certain Telecommunications Purchases*. To obtain a copy of Form CT-120, visit our Web site at www.nystax.gov.

(Tax Law sections 186-e.2(b)(1) and 186-e.4(a)(1))

NOTE: A TSB-M is an informational statement of existing Tax 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.