

Key Budgetary Changes Affecting Small Businesses – FY08-09 to FY09-10

Agency: Office of General Services

Program: Procurement Services Group

2008-09 Appropriation (or Tax/Fee Level if applicable): Not Applicable

2009-10 Appropriation (or Tax/Fee Level if applicable): Not Applicable

Summary: In 2008, §163-c was added to the State Finance Law providing for a centralized procurement contract fee. Contractors with centralized contracts for commodities, services and technology are required to add and remit a procurement fee of one-half of one percent of the price of sales made during the preceding quarter. Sales reports relative to the fee are to be submitted to OGS, but the fee is remitted to the Department of Taxation and Finance on a quarterly basis. The effective date for imposition of the procurement fee on small businesses was prospective and was postponed until the fourth quarter of fiscal year 2008-09 and applies to bids issued after January 1, 2009.

Small businesses face an increase in recordkeeping and reporting requirements. They also incur the cost of the procurement fee. The requirements increase their cost of doing business.

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Agency: Office of General Services

Program: Procurement Services Group

2008-09 Appropriation (or Tax/Fee Level if applicable): Not Applicable

2009-10 Appropriation (or Tax/Fee Level if applicable): Not Applicable

Summary: In 2008, amendments were made to §163 of the State Finance Law (Chapter 137 of the Laws of 2008). Certain amendments were intended to assist small businesses participation in public procurement. The amendments:

- Requires consideration that the State's centralized contracts be open for continuous recruitment during the life of the contract,
- Encourage the creation of regional contracts for commonly used commodities and services in order to enable more small businesses to participate and compete in the State's centralized contracts,
- Requires the Office of General Services to consider a potential vendor's public sales when determining if the vendor could service a centralized contract and
- Require that decisions made during a centralized contract procurement be maintained in the procurement record;

These amendments would provide for better participation by more small businesses in the State's procurement of commodities, services and technology.

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Agency: Insurance Department

Program: Regulation – Suballocation Programs

2008-09 Appropriation (or Tax/Fee Level if applicable): \$421 million

2009-10 Appropriation (or Tax/Fee Level if applicable): \$456 million

Summary: The operations and activities of the NYS Insurance Department are funded exclusively from assessments on domestic insurers. Revenue from such assessments fund both departmental regulatory programs as well as programs of other State agencies that are intended to have a positive effect on insurance premiums. From 2008-09 to 2009-10, Insurance Department assessments on insurers increased by \$35 million, or 8 percent.

While not easily measurable, generally speaking, increases in the assessment on insurers will be absorbed through premium increases by both large and small businesses and their employees.

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Agency: Department of Taxation and Finance

Program: Alcohol Beverage Tax

2008-09 Appropriation (or Tax/Fee Level if applicable):

Beer: 11 cents per gallon

Wine: 19 cents per gallon

2009-10 Appropriation (or Tax/Fee Level if applicable):

Beer: 14 cents per gallon

Wine: 30 cents per gallon

Summary: The increased tax rates have increased prices for small business customers who buy beer and wine and also increased the administrative burden on small wholesalers.

For State Fiscal Year 2009-10:

- 1) Increased tax rates as noted above for beer and wine.
- 2) Required third party reporting for sales tax compliance--this provision requires wholesalers (of alcohol) to report the amounts sold to retailers (bars, restaurants, grocery stores) in order to encourage greater sales and excise tax compliance.

The noted tax increases are expected to generate \$14 million in State Fiscal Year 2009-10. Much of the increased beer and wine tax will be by customers of small businesses (bars, restaurants, wineries and grocery stores).

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Agency: Department of Taxation and Finance

Program: Highway Use Tax Registration Fee

2008-09 Appropriation (or Tax/Fee Level if applicable):

\$2-4 dollars per application.

2009-10 Appropriation (or Tax/Fee Level if applicable):

\$15 dollars per application

Summary: This provision increased costs for small trucking businesses.

Effective April 7, 2009, the application fee for a certificate of registration for any trailer, semi-trailer, dolly, or other attached device used for transporting automotive fuel was increased from \$5 to \$15. The renewal fee for any truck, tractor, or other self propelled vehicle was increased from \$4 to \$15, and the renewal fee for any trailer, semi-trailer, dolly, or other attached device used for transporting automotive fuel was increased from \$2 to \$15. Based on these amendments, the initial cost and the renewal fee for a certificate of registration are now all \$15.

Revenues are estimated to increase by \$4.6M in 2009-10.

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Agency: Department of Taxation and Finance

Program: Revised Schedule of Limited Liability Company (LLC) Fees and Corporate Tax Minimum Taxes

2008-09 Appropriation (or Tax/Fee Level if applicable):

2009-10 Appropriation (or Tax/Fee Level if applicable):

Summary: Effective for tax years beginning on or after 1/1/2008 (2008-09 fiscal impact).

This provision replaced the old fee schedule (levied on a fee-per-member basis), and minimum corporate taxes (which were based on total payroll, receipts, or gross assets), with fees / minimum taxes based on New York source income.

This provision increased costs for LLCs with relatively few partners but relatively larger gross income (e.g. car dealerships).

Revenue increase of \$85 million annually beginning in 2008-09.

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Agency: Department of Taxation and Finance/MTA

Program: MTA region (MCTD) payroll tax.

2008-09 Appropriation (or Tax/Fee Level if applicable): NA

2009-10 Appropriation (or Tax/Fee Level if applicable): 0.34 percent of payroll and proprietorship income.

Summary: Impose a 0.34 percent tax on wages paid and proprietorship income earned within the MCTD to support the MTA.

Effective beginning March 1, 2009 for all employers except school districts and September 1, 2009 for school districts.

This provision will increase the tax burden (because this is a new tax) and administrative burden (because there will be additional electronic or paper tax filings) for small businesses within the MCTD.

\$1.5 billion in revenue is expected in 2009-10.

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Agency: Department of Taxation and Finance

Program: Narrow Non-Profit Sales Tax Exemption

2008-09 Appropriation (or Tax/Fee Level if applicable):

2009-10 Appropriation (or Tax/Fee Level if applicable):

Summary: The 2008-09 Enacted Budget required nonprofit charitable, educational, religious and other organizations to collect sales and use tax on retail sales of certain property and services. This provision aids small for-profit sales tax vendors by closing a loophole that allowed non-profits to compete on an unfair basis with for profit vendors.

Revenues are estimated to increase by \$7.5 million in 2008-09 and \$15 million thereafter.

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Agency: Department of Taxation and Finance

Program: Personal Income Tax Rate Increase

2008-09 Appropriation (or Tax/Fee Level if applicable): See summary

2009-10 Appropriation (or Tax/Fee Level if applicable): See summary

Summary:

Effective for tax years beginning on or after 1/1/2009, this action temporarily increased the top personal income tax rate from 6.85 percent to 7.85 percent on taxable income over \$300,000 for married joint filers (lower level for others) and from 6.85 percent to 8.97 percent on taxable income over \$500,000 for all filers. This increase expires after tax year 2011.

Revenue increase of \$3.6 billion in 2009-10, \$4.2 billion in 2010-11, and \$4.2 billion in 2011-12. This would affect small businesses who pay tax via the personal income tax (defined as individuals with incomes from S corporations, partnerships, sole proprietorships, and farms). These taxpayers account for between 15 and 20 percent of the impact, though this share can vary from year to year.

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Agency: Department of Taxation and Finance

Program: Tobacco Retail Dealer Registration Fee

2008-09 Appropriation (or Tax/Fee Level if applicable):

\$100 per retail location

2009-10 Appropriation (or Tax/Fee Level if applicable):

\$1,000 to \$5,000 per retail location

Summary: Increased the cigarette and tobacco retailer fee from \$100 to \$1,000 for retailers with gross sales of under \$1 million, to \$2,500 for retailers with gross sales of \$1 million but less than \$10 million, and to \$5,000 for retailers with gross sales of \$10 million or more.

Increased State revenue by \$16.7 million in 2009-10 and \$6.2 million in 2010-11.

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Agency: Department of Taxation and Finance

Program: Transportation Services

2008-09 Appropriation (or Tax/Fee Level if applicable):

N/A

2009-10 Appropriation (or Tax/Fee Level if applicable):

7-8.875 percent sales tax, depending on the local jurisdiction.

Summary: This provision requires certain small businesses to collect State and local sales taxes on the transportation services they sell. This would tend to raise their prices and increase their administrative burden.

The 2009-10 Enacted Budget imposed the sales tax on certain transportation services, including limousine, black car, and community car services.

Revenues are estimated to increase by \$45M in 2009-10 and \$60 million thereafter.

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Agency: Department of Taxation and Finance

Program: Vendor Registration Program

2008-09 Appropriation (or Tax/Fee Level if applicable):

\$50 one-time fee per new or already registered vendor. 600,000 currently registered vendors' complete registration over a 3 year period. Previously no charge to register.

2009-10 Appropriation (or Tax/Fee Level if applicable):

Same as 2008-09.

Summary:

The 2008-09 Enacted Budget instituted a registration program to update taxpayer information, delete obsolete registrations and collect past-due taxes on all sales tax vendors. A \$50 registration fee is imposed on all vendors.

Revenues increased by \$1M in 2008-09 and are estimated to increase by \$34.2 million in 2009-10 and \$3.8 million in 2010-11.

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Agency: Department of Taxation and Finance

Program: Miscellaneous Receipts – Tax Preparers Registration Fee

2008-09 Appropriation (or Tax/Fee Level if applicable): \$0

2009-10 Appropriation (or Tax/Fee Level if applicable): \$4 million

Summary: The 2009-10 Enacted Budget imposed a new \$100 registration fee for all tax preparation businesses operating within the State except for the following: Licensed CPA's, Attorneys and Public Accountants.

The new \$100 annual registration fee is estimated to impact 40,000 tax preparers, some of which work for both large and small tax preparation businesses.

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Agency: New York State Environmental Facilities Corporation (EFC)

Program: Small Business Environmental Assistance Program (SBEAP)

2008-09 Appropriation (Contract NYSDEC – Special Air Funds): \$744,000

2009-10 Appropriation (Contract NYSDEC – Special Air Funds): \$744,000

Summary: The EFC is under contract with the New York State Department of Environmental Conservation (NYSDEC) to oversee, manage and provide the SBEAP the venue to assist small businesses in determining appropriate mechanisms to control air pollution for compliance with the Clean Air Act. The SBEAP provides free and confidential technical assistance to help businesses voluntarily achieve compliance with requirements of Federal and State air pollution regulations. The program also conducts outreach to alert small businesses of new regulations that impact their operations; and available compliance options.

The SBEAP provides technical assistance and information regarding control technologies, pollution prevention, material substitution, process modification and permitting. The SBEAP assists companies in determining if environmental requirements apply to their small business, understand what their obligations are under the law, and how to achieve compliance.

For the SFY 2008-09, funding includes a 7 % reduction to \$744,000; EFC's contract was revised with the NYSDEC to reflect this level of funding for SFY 2008 through 2011.

Like many agencies, the fiscal crisis has resulted in fewer services provided to the Small Business community. The sectors targeted include (but are not limited to) metal fabrication and finishing, graphic arts, auto body refinishing, dry cleaning operations and gasoline dispensing facilities. The number of small businesses impacted in New York exceeds 25,000 facilities. Outreach will be determined based on NYSDEC priorities.

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Agency: Empire State Development (ESD)

Program: Empire Zones Tax Credits

2008-09 Appropriation (or Tax/Fee Level if applicable): NA

2009-10 Appropriation (or Tax/Fee Level if applicable): NA

Summary: New York State’s Empire Zone program was created to stimulate economic growth through a variety of State tax incentives designed to attract new businesses to New York State and to enable existing businesses to expand and create more jobs.

The 2009-10 Enacted budget reins in long-documented abuses in the Empire Zone program to ensure that taxpayer funds are being used wisely to create jobs. These reforms balance the concerns of the business community with the need to ensure that tax incentives provided under the program are effectively targeted to maximize the state’s investment. The reforms decertify “shirt-changers”, as well as firms producing less than \$1 in actual investment and wages for every \$1 in State tax incentives. Furthermore, to accelerate future reforms, the Empire Zone program will sunset on June 30, 2010 – one year earlier than in current law.

Empire State Development (ESD) recently issued Empire Zone Retention Certificates (EZRCs) to over 6,600 businesses participating in the program which meet the 2009-10 reform criteria. ESD also sent notices of decertification to 544 businesses that do not qualify for an EZRC along with information on the appeals process.

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Agency: Empire State Development

Program: Motion Picture and TV Development Tax Credit Program

2008-09 Authorization: \$65 million

2009-10 Authorization: \$350 million

Summary: The New York State Film Production Tax Credit program can provide qualifying film and television productions a fully-refundable tax credit equal to up to 30% of production expenditures. The State of New York has increased its allocation to the program from \$65 million in 2008, to \$350 million for calendar year 2009. These credits will be offered on a first come, first serve basis.

The number of film production companies which can benefit from the 30% production expenditure tax credit will be significantly increased during 2009.

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Agency: New York Lottery Division

Program: Traditional Lottery

2008-09 Appropriation (or Tax/Fee Level if applicable): \$106,464,759

2009-10 Appropriation (or Tax/Fee Level if applicable): \$106,142,013

Summary: 1) During Fiscal Year 2009-10, the Lottery began implementation of a new full-service gaming contract. One of the provisions of the new contract pertains to data-line communications charges. Under the new contract we are no longer required to charge our new retailers a \$515 data-line installation fee.

2) With the spending restrictions on elimination of all non-mission critical spending placed upon the Lottery, the Division no longer purchases as much from small businesses. Examples of items with decreased spending include new office signs, printing, and gasoline purchases.

3) Nearly all Lottery retailers are small businesses. With the elimination of the \$515 data-line installation fee, it is now easier and more immediately profitable to become a Lottery retailer. Our retailers earned on average nearly \$25,000 in Fiscal Year 2008-09.

4) Although not readily quantifiable, all of the recent restrictions on printing, travel, etc. are sure to have a negative impact on our small businesses partners.

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Agency: Department of Agriculture and Markets

Program: Food Safety and Inspection

2008-09 Appropriation (or Tax/Fee Level if applicable):

Feed Tonnage fee: 5 cents per ton

Food Processing Establishment License Fee: \$200 biennially

Retail Food Store License Fee: \$100 biennially

Food Warehouse Fee: \$100 biennially

2009-10 Appropriation (or Tax/Fee Level if applicable):

Feed Tonnage fee: 10 cents per ton

Food Processing Establishment License Fee: \$400 biennially, or \$900 biennially for food processing establishments that require intensive regulatory oversight.

Retail Food Store License Fee: \$250 biennially

Food Warehouse Fee: \$400 biennially

Summary: License fees have been increased to partially offset the costs of the Department's food safety and inspection program.

Commercial feed distributors (450 businesses), retail food establishments such as grocery stores (4,578 businesses), food processors (21,402 businesses), and food warehouses (1,303 businesses) will experience increased fees as a result of this action.

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Agency: Department of Agriculture and Markets

Program: Regulatory Programs, including Food Safety and Inspection

2008-09 Appropriation (or Tax/Fee Level if applicable):

Penalties authorized of up to \$300 for the first violation of the Agriculture and Markets Law and up to \$600 for each subsequent violation.

Penalties authorized for each violation of rule or order of up to \$200 for first offense and up to \$400 for each subsequent violation.

2009-10 Appropriation (or Tax/Fee Level if applicable):

Penalties authorized of up to \$600 for the first violation of the Agriculture and Markets Law and up to \$1,200 for each subsequent violation.

Penalties authorized for each violation of rule or order of up to \$400 for first offense and up to \$800 for each subsequent violation.

Summary: Penalties have been increased in order to keep the punitive and preventive value of fines consistent with the nature of the violations.

Organizations in compliance with the Agriculture and Markets Law and rules and regulations will not be negatively impacted.

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Agency: New York State Department of Environmental Conservation (DEC)

2008-09 Appropriation (or Tax/Fee Level if applicable):

None.

2009-10 Appropriation (or Tax/Fee Level if applicable):

- State Pollutant Discharge Elimination System (SPEDES) permit fees were increased; see chart below.
- Pesticide fees were doubled across the board; see below.
- Title V operating permit program fees were increased.
- Mined land reclamation/regulatory fees were increased for larger mines.

Summary:

SPDES fee increases

Type of Permit	2008-09 Fee	2009-10 Fee	Last Increase	
CAFO General Permits (Medium or Large)	\$50	\$50 (No change)	1999	
Construction General Permits-one time authorization fee	\$50 per disturbed acre + \$300	\$100 per disturbed acre + \$600	2004	
All Other General Permits (except Municipal Separate Storm Sewer Systems)	\$50	\$100	1988	
Type of Permit	Capacity (GALLONS DISCHARGED PER DAY)	2008-09 Fee	2009-10 Fee	Last Increase
Industrial	Less than 10,000	\$475	\$600	2003
	10,000 - 99,999	\$1,575	\$2,000	2003
	100,000 - 499,999	\$4,750	\$6,000	2003
	500,000 - 999,999	\$15,750	\$20,000	2003
	1,000,000 - 9,999,999	\$23,500	\$30,000	2003
	10,000,000 or more	\$47,500	\$50,000	2003
Private/Commercial/Institutional (PCI)	Less than 100,000 gpd	\$100	\$300	1989
	100,000 or more	\$200	\$600	1989

Pesticide fee increases

License	2008-09 Fee	2009-10 Fee
Product Registration (33-0705 (a), (b))	\$300 or \$310 (depending on company size)	\$600/\$620
Certification Exam fee (33-0911(1))	\$50	\$100

Commercial applicator first category (33-0911(2))	\$225	\$450
Commercial Applicator each category after first (33-0911(2))	\$75	\$150
Commercial applicator, only single category 3A ornamental; or 3B turf (33-0911(2)(b))	\$100	\$200
Private applicator (ag) first category	\$25	\$25
Private applicator (ag) each category after first	\$5	\$5
Business Registration (33-0911(3))	\$450	\$900
Commercial Permit (33-0901)	\$300	\$600
Aquatic Permit (15-0313(4)(b))	\$50	\$100

Title V Fees

Effective June 1, 2009, the per ton fee were increased on a sliding scale (based on total emissions) for emissions of regulated contaminants from Title V facilities. The cap is raised from 6,000 to 7,000 tons of each regulated contaminant and the fees are modified as follows:

Fee	Total Annual Emissions of All Regulated Contaminants
\$45/ton	Up to 1,000 tons
\$50/ton	1,000 up to 2,000
\$55/ton	2,000 up to 5,000
\$65/ton	5,000+

Mined Land Reclamation Fees

Effective April 1, 2009, the mined land reclamation fees were doubled for affected land of 20-30 acres from \$2,000 to \$4,000 and for larger than 30 acres from \$4,000 to \$8,000.

Impact

- Any small business with a SPDES permit will see increased fees. It's not clear how many small businesses have SPDES permits but are likely to be small dischargers and therefore pay the lower end of the fee scale.
- Pesticide businesses have to register with the department; there are 4,192 registered pesticides businesses in the state and 208 pesticide commercial permits for businesses in New York; the vast majority (likely 90%) of which are small businesses. In addition, all applicators and technicians must also be certified individually; there are 51 aquatic antifouling paint applicators, 13,153 certified applicators and 6,653 certified technicians in the state. Often, the employer will pay the certification fee for the worker and therefore would be paying the increased certification fee on top of the increase business registration fees.
- Most small businesses would not be impacted by the increased fees as fees were maintained for "small" emitters. Any small business which has a Title V air permit would be in the program because they emit volatile organic compound, some of which would be classified as a Hazardous Air Pollutant (HAP). In either event, they tend to have low emissions and therefore low fees.

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