

Key Budgetary Changes Affecting Small Businesses – FY09-10 to FY10-11

Agency: Department of Agriculture and Markets

Program: Farm Products Inspection

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

Examples:

Seed Potato Field Inspection: \$27.00 per hour.

State Processing Contract: \$664.00 per 40 hour week, overtime \$24.90/hour.

Shipping Point Inspection Contract: \$840.00 per 40 hour week, overtime \$31.50/hour.

2010-11 Appropriation (or Tax/Fee Level if applicable):

Effective July 1, 2010:

Seed Potato Field Inspection: \$34.00 per hour.

State Processing Contract: \$840.00 per 40 hour week, overtime \$31.50/hour.

Shipping Point Inspection Contract: \$1,060.00 per 40 hour week, overtime \$39.75/hour.

Summary: Fees were increased to reduce the subsidy provided by the State for the Farm Products Inspection program. The complete fee schedule is below. Local farmers and growers, processors and processing plants will experience increased fees as a result of this action.

Agency Contact:

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New York State Department of Agriculture & Markets
 Division of Food Safety & Inspection
 Farm Products Inspection
 Shipping Point Fee Schedule

Effective JULY 1, 2010

Service	New York Shipping Point Fees 2002 to July 1, 2010	New York Shipping Point Fee Effective July 1, 2010
Quality and condition inspections of products each in quantities of 51 or more packages or when in tote containers		
<ul style="list-style-type: none"> • Over a half carlot equivalent of each product 	\$86.00	\$110.00
<ul style="list-style-type: none"> • Half carlot equivalent or less of each product • Or Inspections performed on submitted samples 	\$72.00	\$90.00
<ul style="list-style-type: none"> • For each additional lot of the same product 	\$14.00	\$20.00
<ul style="list-style-type: none"> • For each ½ hour over 2 ½ hours caused by waiting time 	\$21.00	\$30.00
<ul style="list-style-type: none"> • Lots in excess of carlot equivalents will be charged carlot plus proportionally by the quarter carlot 	\$21.00/10,000 pounds in excess of 1 carlot	\$30.00
Condition only inspections of products each in quantities of 51 or more packages		
<ul style="list-style-type: none"> • Over a half carlot equivalent of each product 	\$72.00	\$90.00
<ul style="list-style-type: none"> • Half carlot equivalent or less of each product 	\$66.00	\$80.00
<ul style="list-style-type: none"> • For each additional lot of the same product 	\$14.00	\$20.00
Quality and condition and condition only inspections of products each in quantities of 50 or less packages		
<ul style="list-style-type: none"> • For each product 	\$43.00	\$60.00
<ul style="list-style-type: none"> • For each additional lot of any of the same product 	\$14.00	\$20.00

Other Inspections:		
<ul style="list-style-type: none"> Inspections performed on bulk loads of Juice Apples 	\$72.00	\$75.00
<ul style="list-style-type: none"> FV-294 	\$4.00	\$5.00
<ul style="list-style-type: none"> Rate for Billable mileage – To/From – residence or nearest location, (Chazy, Malone, Peru, Albany, Walden, Hauppauge, Syracuse, Rochester or Buffalo) – whichever is less; and to include mileage and expenses due to more than 1 inspection point. 	Current rate – only charged if overtime involved or for more than 1 inspection point	\$1.32
<ul style="list-style-type: none"> Hourly rate for inspections performed for other purposes during the grader's regularly scheduled work week – or for carlot inspections exceeding 2.5 hours in time due to applicant or circumstances not caused by inspection service. Hourly rate for non-carlot equivalent inspections such as count, size, temperature, container, etc. or work associated with inspections such as digital image services will be charged at a rate that reflects the cost of providing the service 	\$42.50	\$54.00
<ul style="list-style-type: none"> Overtime rate (per hour additional) for all inspections performed outside the grader's regularly scheduled work week 	\$21.00	\$30.00
<ul style="list-style-type: none"> Saturday/Sunday/Holiday rate-regular Fee plus (minimum 4 hours per applicant, ½ hour increments) 	\$21.00	\$30.00 Including travel – portal to portal
<ul style="list-style-type: none"> Hourly rate for inspections performed under 40 hour contracts during the grader's regularly scheduled work week 	\$21.00 (\$840.00/40 hr. week)	\$26.50 (\$1060/40 hour week) Plus mileage and/or expenses - if incurred
<ul style="list-style-type: none"> PLI (for Dept supplied tape or stickers) tape charge \$.50per pallet/ Sticker charge \$.05 each 	As stated	Unchanged

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

2010-11 Appropriation (of Tax/Fee Level if applicable):

- Established an Electronics waste recycling program
- Hazardous waste regulatory fees were revamped; small generators of hazardous waste saw fee reductions while large generators will face increases.
- Hazardous waste billing will now be done based on actual hazardous waste generated (law previously used estimates)
- Penalties for violating several provisions of the Environmental Conservation Law were increased
- Established waivers for compliance with DERA

Summary:

E-waste

A budget bill established the electronic equipment recycling and reuse act. Starting April 1, 2011, electronics manufacturers will be required to accept for recycling or reuse electronic waste from all consumers in the state. A one-time registration fee of \$5,000 per manufacturer or \$10,000 for groups of manufacturers (called collectives) is required (by Jan. 1, 2011 or prior to selling electronics subject to the law in NYS), as well as a \$3,000 annual reporting fee per manufacturer. Businesses which operate as e-waste collection, consolidation or recycling facilities will be required to register with DEC and pay a one-time fee of \$250.

The law provides for free collection from all consumers, including individuals, schools, government and businesses with 50 or fewer employees and not-for-profits with fewer than 75 employees.

Hazardous Waste Regulatory Fees

Existing hazardous waste generation fees and surcharge fees are replaced by a single fee of \$130/ton, which is capped at:

\$300,000 for $\leq 4,000$ ton/year

\$400,000 for $>4,000 \leq 10,000$ ton/year

\$800,000 for $> 10,000$ ton/year

(Note: there continues to be no hazardous waste generation fees for < 15 ton/year.)

For the new fees described above, it is estimated that about 60 generators will pay higher fees, about 375 will be the same or less, and the remaining HW generators will continue to owe nothing as they are below the 15 ton/year threshold. There are no changes to the hazardous wastewater generation fees (including surcharge fees) and the treatment, storage and disposal facility (TSDF) fees.

DERA waivers

DEC shall issue useful life waivers to state agencies, authorities and their contractors subject to the diesel emissions reduction act (DERA) provided that the vehicle engine is taken out of service in the state by December 31, 2013.

Increased Penalties

Minerals Violations (71-1307)

- Increases maximum civil penalty from \$5,000 to \$8,000
- Increases additional per day penalty from \$1,000 to \$2,000
- Increases maximum criminal fine from \$5,000 to \$8,000

Freshwater Wetlands Violations (71-2103)

- Increases maximum civil penalty from \$3,000 to \$11,000
- Increases minimal criminal fine from \$500 to \$2,000
- Increases maximum criminal fine from \$1,000 to \$4,000
- Increases minimum criminal fine for second and subsequent violations from \$1,000 to \$4,000
- Increases maximum criminal fine for second and subsequent violations from \$2,000 to \$7,000

Water Resources Records Violations (71-1105)

- Increases maximum criminal fine from \$500 to \$1,800
- Increases maximum additional civil penalty from \$500 to \$1,800

Air violations (71-2103, 71-2105)

- Increases minimum civil penalty from \$375 to \$500
- Increases maximum civil penalty from \$15,000 to \$18,000
- Increases maximum penalty for second or subsequent violations from \$22,500 to \$26,000
- Increases minimum criminal fine from \$375 to \$500
- Increases maximum criminal fine from \$15,000 to \$18,000
- Increases maximum criminal fine for second or subsequent violations from \$22,500 to \$26,000

General penalties (71-4001, 71-4003)

- Increases maximum general criminal penalty from \$250 to \$900
- Increases maximum general civil penalty from \$500 to \$1,000
- Increases maximum additional per day civil penalty from \$500 to \$1,000

Agency Contact:

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Agency: New York State Environmental Facilities Corporation (EFC)

Program: Small Business Environmental Assistance Program (SBEAP)

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

2010-11 Appropriation (New Contract w/NYSDEC needed – Special Air Funds):
\$446,400

Summary: The NYSEFC 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 to help small businesses understand available compliance options.

The SBEAP provides technical assistance and information regarding control technologies, pollution prevention, material substitution, process modification and help with permitting. The SBEAP assists New York's smaller 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 2010-11, the SBEAP funding includes a 40 percent decrease to \$446,400 as a result of statewide fiscal constraints. NYSEFC's contract was revised with the NYSDEC to reflect this reduced level of funding for SFY 2010-11.

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) graphic arts, autobody refinishing, stationary combustion sources (boilers, generators), gasoline dispensing sites and dry cleaning operations. Outreach and technical assistance will be severely limited as a result of these cuts.

Agency Contact:

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Agency: Empire State Development (ESD)

Program: Excelsior Jobs Program

2009-10 Authorization: \$0

2010-11 Authorization: \$250 million

Summary: The new Excelsior Jobs Program will provide job creation and investment incentives to firms in such targeted industries as biotechnology, pharmaceutical, high-tech, clean-technology, green technology, financial services, agriculture and manufacturing. Firms in these strategic industries that create and maintain new jobs or make significant financial investment will be eligible for up to four new, fully refundable tax credits over a five year period. Details of the four new tax credits are as follows:

- **Excelsior Jobs Tax Credit:** A credit of up to \$5,000 per new job to cover a portion of the associated payroll cost.
- **Excelsior Investment Tax Credit:** Valued at two percent of qualified investments.
- **Excelsior Research and Development Tax Credit:** A ten percent credit for new investments based on the Federal Research and Development credit.
- **Excelsior Real Property Tax Credit:** Available to firms locating in certain distressed areas and to firms in targeted industries that meet higher employment and investment thresholds.

The Program is limited to firms making a substantial commitment to growth – either in employment or through investing significant capital in a New York facility. The Job Growth Track makes-up 75% of the Program and includes all firms in targeted industries creating new jobs in New York. Twenty-five percent is set aside for the Investment Track firms who have at least 50 employees and make significant new capital investments in a New York facility and which meet a benefit-cost threshold of at least \$10 of investment and new wages for every \$1 of tax credit.

Agency Contact: Randal Coburn

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Excelsior Jobs Program
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<http://www.empire.state.ny.us/BusinessPrograms/Excelsior.html>

Agency: Empire State Development

Program: Motion Picture and TV Development Tax Credit Program

2009-10 Authorization: \$350 million

2010-11 Authorization: \$420 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. In addition, a new incentive has been created to encourage projects not shot in the state, or that don't qualify for the production credit, to do their post production in New York. Eligible productions that complete 75 percent of their post production in New York can now apply for a 10% credit for the post production work done in NY.

The State of New York has increased its allocation to the program from \$350 million in 2009, to \$420 million for calendar year 2010. These credits will be offered on a first come, first serve basis.

Impact: The number of film production companies which can benefit from the 30% production expenditure tax credit and 10% post production credit will be significantly increased during 2010.

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Agency: Empire State Development (ESD)

Program: Small Business Revolving Loan Fund

2009-10 Appropriation: \$0

2010-11 Appropriation: \$25 million

Summary: The Small Business Revolving Loan Fund is a new \$50 million fund designed to create economic activity by providing greater access to capital for main street everyday small businesses. The program is targeted to minorities, women and other New Yorkers who have difficulty accessing regular credit markets. The 2010-11 Budget provided \$25 million in State funds and will leverage at least \$25 million in private matching funds.

ESD will initiate an RFP process to award low interest -loans to community development financial institutions (CDFIs) and other local community-based lending organizations in order to provide capital loans to small businesses throughout New York State.

Program loans from these local lenders to small businesses are to be used for the creation and retention of jobs. Funding may be used for working capital, acquisition and or improvement of real property, the acquisition of machinery and equipment, property improvement, or the refinancing of debt obligations. Organizations not eligible for funding include newspapers, broadcasting or other news media, medical facilities, libraries, community or civic centers.

Program funds used to finance an applicant loan will not be more than 50% of the principal amount and no greater than \$125,000. There will be two categories of loans:

- Micro-Loans - principal amount that is less than \$25,000; and
- Regular Loans - principal amount greater than \$25,000.

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Agency: New York Lottery Division

Program: Administration of the Lottery and Video Lottery Programs

2009-10 Appropriation (of Tax/Fee Level if applicable): \$117,552,101

2010-11 Appropriation (or Tax/Fee Level if applicable): \$95,310,700

Summary:

Nearly all of our retailers that sell Lottery tickets are small businesses:

- Enacted legislation allowed for expanded gaming hours at Quick Draw retailer locations. Quick Draw sales are up about 10% or \$40 million annually – that’s an extra \$2.4 million in retailer commissions.
- The addition of two on-line games, Sweet Million and Powerball during FY 09/10 have increased retailer commissions. Sweet Million and Powerball are projected to generate sales of \$46 million and \$253 million respectively in FY 10/11, creating nearly \$18 million in retailer commissions.

Most recently the execution of the Aqueduct MOU will have an impact beginning later in FY 10/11:

- NY small businesses will have opportunity to become part of a multi-million dollar construction phase, from construction jobs to the supplying of materials.
- The construction phase will have an immediate effect on local area businesses in the form of jobs, hotel stays and an increased need for food, beverage and supplies.
- Small business in the surrounding area should profit from increased traffic.
- Indirectly lead to the creation of small business.

Aqueduct will continue to have an impact on small business well into in the future.

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Agency: Insurance Department

Program: Local Assistance - Elimination of Timothy's Law Insurance Subsidy

2009-10 Appropriation (or Tax/Fee Level if applicable): \$79,743,000

2010-11 Appropriation (of Tax/Fee Level if applicable): \$0

Summary: The 2010-11 Enacted Budget eliminates the state subsidy for small businesses that provide mandated coverage for mental health treatment services pursuant to the requirements of Chapter 748 of the Laws of 2006 ("Timothy's Law"). Although the subsidies will be eliminated, businesses will still be required to continue the coverage in accordance with the law.

Impact: While not easily measurable, generally speaking, it is expected that health insurance premiums related to small employer small group plans will sustain moderate increases.

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Agency: Office of General Services

Program: Procurement Services Group

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

2010-11 Appropriation (of Tax/Fee Level if applicable): Not Applicable

Summary: In 2010, an amendment was made to §163 of the State Finance Law (Chapter 173 of the Laws of 2010). The amendment was intended to assist small businesses participation in public procurement. The amendment:

- Increased the discretionary purchasing threshold from one hundred to two hundred thousand dollars for commodities, services and technology; procurements under the threshold may be made without formal competition.

This amendment would result in increased participation by more small businesses in the State's procurement of commodities, services and technology.

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Agency: Office of General Services

Program: Procurement Services Group

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

2010-11 Appropriation (of 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. 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 applied to bids issued after January 1, 2009. **In 2010, §163-c was repealed (Part P of Chapter 56 of the Laws of 2010).** Small businesses will no longer face an increase in recordkeeping and reporting requirements. They will also avoid the cost of the procurement fee.

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Agency: Department of Taxation and Finance

Program: Chapter 134 of the Laws of 2010 increased the State taxes on cigarettes and other tobacco products, and provided for an enhanced tax enforcement mechanism to address the sale of these products on reservations to non-Natives.

2009-10 Appropriation (or Tax/Fee Level if applicable): \$2.75 per pack of 20 cigarettes, and 46 percent of the wholesale price of other taxable tobacco products.

2010-11 Appropriation (of Tax/Fee Level if applicable): \$4.35 per pack of 20 cigarettes, and 75 percent of the wholesale price of other taxable tobacco products.

Summary:

- Effective July 1, 2010, the State tax on cigarettes was increased from \$2.75 per pack to \$4.35.
- The State tax on certain tobacco products was increased from 46 percent of the wholesale price to 75 percent of the wholesale price effective August 1, 2010.
- Additional statutory changes were made dealing with the enforcement of State cigarette tax collections on Native American reservations.

Small retailers will experience a decline in sales of cigarettes and other tobacco products as a result of the tax increase. Some of this decline will be mitigated as the new enforcement provisions drive sales from Native American reservations to convenience stores.

State revenues are estimated to increase by \$290 million in 2010-11 and \$318 million in 2011-12.

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Agency: Department of Taxation and Finance

Program: From October 1, 2010 to March 31, 2012, there will be no state and Metropolitan Commuter Transportation District (MCTD) sales and use tax exemption for clothing and footwear. From April 1, 2011 to March 31, 2012, clothing and footwear sold for less than \$55 will be exempt from the state and the MCTD sales and use tax. On April 1, 2012, the original clothing and footwear exemption (\$110 per item) is restored.

2009-10 Appropriation (or Tax/Fee Level if applicable): \$110 State sales and use tax exemption on clothing and footwear.

2010-11 Appropriation (of Tax/Fee Level if applicable): No State exemption (\$0) from October 1, 2010 to March 31, 2011.

Summary:

This provision amends the current \$110 exemption on clothing and footwear.

- From October 1, 2010 to March 31, 2012, there will be no state and MCTD sales and use tax exemption for clothing and footwear.
- From April 1, 2011 to March 31, 2012, clothing and footwear sold for less than \$55 will be exempt from the state and the MCTD sales and use tax.
- On April 1, 2012, the original clothing and footwear exemption is restored.

This program will likely impact the sales of clothing items Statewide, and potentially more predominantly so in parts of the State where consumers can easily travel to a jurisdiction (e.g. Massachusetts) that does not tax clothing. As a result, small businesses in New York State could experience a decline in sales. Further, small businesses could experience an increased administrative burden due to required cash register reprogramming and increased tax compliance complexity.

State revenues are estimated to increase by \$330 million in 2010-11 and \$210 million in 2011-12.

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Agency: Department of Taxation and Finance

Program: Chapter 147 of the Laws of 2010 made permanent the authorization to provide Quick Draw (a form of video lottery) terminals at qualifying establishments (mainly bars and restaurants) throughout the State and removed the previous restrictions on the number of hours Quick Draw can be operated.

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

2010-11 Appropriation (of Tax/Fee Level if applicable): Not applicable.

Summary:

- Make the authorization to operate the Quick Draw game permanent. Previously, Quick Draw was restricted to no more than 13 total hours of daily operation, with no more than 8 hours of consecutive operation.
- Eliminate restrictions on the hours of operation for Quick Draw.

This program will aid small businesses that provide Quick Draw gaming by providing additional hours of entertainment, which help increase sales of other products.

State revenues are estimated to increase by \$20 million in 2010-11 and \$31 million in 2011-12.

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