

## EXECUTIVE TAX REVENUE PROPOSALS

### *Extend Rules and Tax Rates Regarding Simulcasting Out-of-State Races – Part A*

This part would extend provisions authorizing certain types of simulcasting, certain purse dedications, certain binding arbitration agreements and certain lower pari-mutuel tax rates for one year. This part would also provide technical corrections.

### *Extend Quick Draw for One Year – Part B*

This part would extend authorization for the Division of Lottery to operate the game Quick Draw for one additional year, from May 31, 2007 to May 31, 2008.

### *Make Permanent Authorization to Collect Unpaid Child Support – Part C*

Provides permanent authorization to the Department of Taxation and Finance to collect unpaid child support. Fiscal: None

### *Close Loophole Regarding Booking of Hotel Rooms On-Line – Part D*

This proposal would close a current loophole regarding the booking of hotel rooms by internet travel companies. Under current law, the internet travel companies pay sales tax to the hotel when they reserve the room, but are not required to pay sales tax on the room rent charged to its customer. Therefore, the mark-up or service fee is not taxed and results in lost sales tax revenue. This proposal would charge sales tax on the room rate paid by the internet travel

company to the hotel plus 120 percent, thereby seeking to capture the sales tax on the service fee charged by the internet travel company to its customer. Fiscal Impact: \$15 million in SFY 2007-08.

### *Extend Enhanced Enforcement Provisions for Alcoholic Beverage Tax – Part E*

The Executive Budget includes a proposal to extend the sunset date of enhanced enforcement provisions relating to liquor. Under current law, these enhanced enforcement provisions will expire October 31, 2007. The proposal is to extend the sunset date two years, to October 31, 2009. This proposal will preserve \$2 million in revenue.

### *Reallocate Distribution of Dedicated Tax Revenues – Part F*

Provides that, on and after April 21, 2007, 20 percent of revenues from Tax Law sections 183 and 184 shall be deposited to the Dedicated Highway and Bridge Trust Fund (current deposit is 20 percent) with the remainder deposited in the Mass Transportation Operating Assistance Fund with 53 percent to the credit of Metropolitan Mass Transportation Operating Assistance Account (current deposit is 80 percent) and 27 percent to the credit of the Public Transportation Systems Operating Assistance account (no current deposit). Fiscal: None

### *Highway Use Certificate of Registration – Part G*

Replaces the highway use tax permit requirements with a certificate of

registration requirement to comply with federal law. Fiscal: None.

*Elimination of Real Estate Investment Trust (REIT) & Regulated Investment Company (RIC) Subsidiary Dividend Deduction Loophole – Part H*

This proposal would close a loophole and conform to Federal rules by eliminating the deduction for certain subsidiary dividends received by a parent company from a real estate investment trust (REIT) or regulated investment company (RIC). This measure is to ensure that the shareholders of the REIT or RIC pay tax on the income earned by the REIT or RIC by requiring subsidiary REITs and RICs to file a combine report in NYS and NYC. The combined report will disallow certain deductions and exemptions used to avoid taxation in New York State. Fiscal Impact: \$104 million in 2007-08, \$83 million annually.

*Elimination of Bank Subsidiary Tax Shelter - Part I*

This proposal would require certain corporations that elected to be taxable under the corporate franchise tax and the New York City general corporation tax to be taxed under the bank tax. An investment subsidiary of a bank or bank holding company shall be included in the definition of a banking corporation if the corporation is principally engaged in holding and managing investment assets and has 65 percent of its assets owned by a banking corporation. These measures are being taken to prevent banking corporations from shifting income to avoid taxation. Fiscal Impact: \$22 million in 2007-08, \$18 million annually.

*Require Banks to Use "Direct Write-off Method" When Deducting for Bad Debt – Part J*

This proposal contains provisions aligning the method of calculating the bad debt deduction to Federal standards by allowing the application of the "direct write-off method" as opposed to the "current reserve method" in calculating such deduction for certain banks under the bank tax. Allowing the "direct write-off method" for bad debts in the bank tax will provide the advantage of Federal conformity for commercial banks and thrift institutions. Fiscal Impact: \$15 million in 2007-08, \$12 million annually.

*Extension of Transitional Provisions of the Federal Gramm-Leach-Bliley Act of 1999 – Part K*

This proposal extends for two additional years, the provisions of the New York State and New York City bank taxes dealing with the taxation of commercial banks and the transitional provisions concerning the enactment and implementation of the Federal Gramm-Leach-Bliley Act (GLBA). Transitional provisions relating to the Federal GLBA, removed the prohibition against the affiliation of banks, securities firms and insurance companies, were added to both the Tax Law and the New York City Administrative Code. Fiscal Impact: None.

*Require Banks to Add Back Expenses Related to Subsidiary Capital and Eliminates Special Provisions Related in the Wage Factor Portion of the Apportionment Formula – Part L*

This proposal requires that banks treat certain income normally exempt from tax in a manner similar to those taxed under the corporate franchise tax. It also eliminates the discounted (20 percent reduction) wage factor used in calculating the allocation formula. This is done to ensure the bank tax appropriately reflects a bank's presence in New York. Fiscal Impact: \$40 million in 2007-08, \$32 million annually.

*Limits Certain Exemptions for Cooperative Insurance Corporations – Part M*

This proposal would limit the exemption under the insurance tax for town or county cooperative insurance corporations. This measure promotes equity through increased competition by limiting the exemption from the franchise tax on insurance corporations for certain town or county cooperative insurance corporations direct written premiums over \$25 million annually. Some of the corporations which come within the language of this exemption have significantly expanded their business beyond what was originally contemplated when the exemption was enacted. These companies are competing with other property/casualty companies doing business in New York State, but they have an unfair advantage because they pay no State franchise tax. Fiscal Impact: \$23 million in 2007-08, \$18 million annually.

*Renew and Enhance Tax Shelter Legislation – Part N*

This proposal deters the use of tax shelters by making disclosure and penalty provisions relating to transactions that present the potential for tax avoidance permanent. These new reporting requirements are similar to the tax shelter disclosure requirements for Federal income tax purposes. Separate reporting requirements are imposed on those who utilize tax shelters and those who promote the use of tax shelters. The authority for the Tax Department to require the reporting and disclosure of Federal and New York reportable and listed transactions expires on July 1, 2007. Fiscal Impact: \$17 million in 2007-08 annually.

*Combined Reporting for Corporations – Part O*

This proposal requires corporations with substantial inter-corporate transactions to file a combined report under the New York State and New York City franchise taxes on general business corporations and the New York State franchise tax on insurance corporations. Combined reports will be required regardless of the transfer price of inter-corporate transactions.

The Commissioner of Taxation and Finance is given the discretion to determine if there are substantial inter-corporate transactions by evaluating like activities such as manufacturing, the acquisition of goods or property, the performance of services, selling goods from related corporations, financing sales of related corporations, performing related customer services, using common

facilities and employees, and transferring assets.

This proposal also requires royalty payments made to a related member be added back in the calculation of the corporate franchise, bank franchise, and insurance franchise tax. Fiscal Impact: \$215 million annually.

*Provide a New Personal Income Tax Deduction for Tuition Costs – Part P*

This part provides a new tax deduction for the costs associated with public or private school tuition for children in grades K-12. The deduction is equal to tuition paid but shall not exceed \$1,000 per child. The \$1,000 cap is allowed for taxpayers whose income does not exceed \$116,000. The deduction cap is reduced in \$100 increments for every \$1,000 income exceeds \$116,000. Taxpayers whose income is greater than \$125,000 are not eligible for the deduction. Fiscal: No impact in 2007-08, will decrease revenue by \$25 million annually beginning in 2008-09.

*Grants Commissioner of Tax and Finance Authority to End Practices Used by New York Corporations to Avoid New York Personal Income Tax – Part Q*

This bill would allow the Commissioner of Tax and Finance to disregard a personal service corporation or an S corporation if it is determined that such an entity was formed for the purpose of avoiding New York State personal income tax. These entities are used to move income away from an individual partner or owner(s) (typically nonresidents) and into a corporate entity that will generally

pay a smaller franchise tax than the owner would personal income tax. The new section being created would allow the Commissioner to reallocate all assets from a personal service or S corporation to the owner(s) of the corporation thereby forcing them to pay income tax on their partnership allocation. Fiscal: No impact in 2007-08, will increase revenue by \$15.0 million annually beginning in 2008-09.

*Require Federal S Corporations to File as New York S Corporations – Part R*

This bill would require that Federal S corporations file as a New York S corporation if 25 percent of the corporations income is derived from investment income. Under current law Federal S corporations are not required to file as New York S corporations. Instead they file as New York C corporations which provide more favorable tax treatment of investment income. This bill would close that loophole. Fiscal: No impact in 2007-08, will increase revenue by \$100.0 million annually beginning in 2008-09.

*Conform Treatment of Taxpayers that Itemize State and Local Sales Tax to Taxpayers who Itemize State and Local Income Taxes – Part S*

This bill would require that taxpayers who itemize State and local sales tax on their federal return add that amount back to total income when calculating New York State Adjusted Gross Income. This would provide the same treatment to taxpayers who elect to itemize State and local sales taxes as to taxpayers who itemize State and local income taxes.

Fiscal: No impact in 2007-08, will increase revenue by \$30.0 million annually beginning in 2008-09.

*Amend the Calculation of LLC Filing Fees to More Accurately Reflect New York Activity – Part T*

This part would change the way LLC filing fees are calculated. Currently the fees are based on the number of members within the LLC. The amended calculation will be based on New York source income so to better reflect the Level of New York Activity. The minimum fee is \$100 dollars and applies to Limited Liability Companies whose New York Source income is below \$135,000. The maximum fee is \$25,000 million and will be paid by Limited Liability Companies with New York source income that exceeds \$10.0 million. The new computation method is expected to retain the same aggregate level of revenue as the method that was in place in 2006. In 2012 the fees are reduced so that the minimum fee is \$60 and the maximum is \$14,500. Fiscal: This part will increase revenue by \$30.0 million annually beginning in 2007-08.

*Increase the Aggregate Amount of Low Income Housing Tax Credit – Part U*

This bill increases the aggregate amount of low income housing tax credits the Commissioner of Housing and Community Renewal may allocate by \$4 million. Currently the total allocation is \$12 million. The bill also makes the \$4 million annual increase permanent. Fiscal: will reduce revenue by an additional \$4 million annually beginning in 2007-08.

*Decouple from the Federal American Jobs Creation Act of 2004 – Part V*

This proposal disallows the federal qualified production activities deduction claimed under the Federal American Jobs Creation Act of 2004 by taxpayers in the calculation of income subject to tax under the State corporate franchise tax, tax on unrelated business income, personal income tax, bank tax, and insurance tax and the New York City general corporation, financial corporation, and personal income taxes. Corporations will be required to add back the qualified production activities deduction when calculating entire net income. Fiscal Impact: \$29 million in 2007-08, \$35 million annually.

*Enhance STAR for Low and Middle Income Homeowners - Part D of Education, Labor and Family Assistance Article VII Legislation*

This proposal would repeal the STAR Rebate and increase the basic STAR exemption according to an income-based sliding scale. The maximum increase of 80 percent would be enjoyed by taxpayers with incomes of less than \$80,000 in the New York City Metropolitan Area and by 80 percent for taxpayers with incomes of less than \$60,000 in the rest of the state. For taxpayers with incomes less than the aforementioned income standards, the basic exemptions in SFY 2008-09 will be 90 percent more than the exemption from SFY 2006-07 and in SFY 2009-10 the basic exemption will be twice the SFY 2006-07 exemption.

This part would also increase the SFY 2007-08 senior exemption by 30 percent over the SFY 2006-07 exemption amount and by another 10 percent in SFY 2008-09. In future years, the enhanced exemption would increase based on inflation. This part would also increase the New York City Personal Income Tax Credit for married filing jointly taxpayers from \$230 to \$300 in 2007, \$320 in 2008 and \$340 thereafter. The credit for single filers would increase at commensurate levels. Taxpayers with incomes greater than \$235,000 would not receive an increase in the basic exemption or an increase in the New York City PIT credit. Fiscal: The Executive estimates this proposal will cost \$1.5 billion in SFY 2007-08.

Table 25  
**RECOMMENDED ALL FUNDS LEGISLATION**  
(\$ in Millions)

**REVENUE ENHANCEMENTS**

	<u>2006-07</u>	<u>2007-08</u>	<u>2008-09</u>
<b>PERSONAL INCOME TAX</b>	<b>36</b>	<b>181</b>	<b>151</b>
Extend/Restructure Higher LLC Fees	30	30	30
Make Reporting of Tax Shelters Permanent	6	6	6
S Corporation Election	-	100	100
Sales Tax Itemized Deduction	-	30	-
Partnership Tax Abuse	-	15	15
<b>USER TAXES AND FEES</b>	<b>15</b>	<b>20</b>	<b>20</b>
Tax Full Cost of Hotel Sales Sold by Internet Travel Companies	-	-	-
Alcohol Tax Enforcement Extenders	15	20	20
<b>BUSINESS TAXES</b>	<b>398</b>	<b>366</b>	<b>366</b>
Make Reporting of Tax Shelters Permanent	10	10	10
Corporate Franchise Tax Combined Filing	185	185	185
Decouple from Federal Deduction for Qualified Production Activities	25	30	30
Real Estate Investment Trusts	88	70	70
Grandfathered Corporations	19	15	15
Conform to Federal Bad Debt Deduction	13	10	10
Require Add Back of Expenses of Subsidiary Capital & Eliminate Discount	35	28	28
Extend Gramm-Leach Bliley/Bank Tax Provision (2 years)	-	-	-
Cooperative Insurance Companies	23	18	18
<b>OTHER TAXES &amp; MISCELLANEOUS RECEIPTS</b>	<b>-</b>	<b>-</b>	<b>-</b>
Pari-Mutuel Extender	-	-	-
Quick Draw Extender	-	-	-
Child Support Enforcement Extender	-	-	-
<b>TOTAL REVENUE ENHANCEMENTS</b>	<b>449</b>	<b>567</b>	<b>537</b>
<b>NET FINANCIAL PLAN TOTAL</b>			

Table 26

**RECOMMENDED ALL FUNDS LEGISLATION**  
**(\$ in Millions)**

**TAX REDUCTIONS**

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	<u>2007-08</u>	<u>2008-09</u>	<u>2009-10</u>
<b>TAX</b>	<b>(1,215)</b>	<b>(1,046)</b>	<b>(1,400)</b>
Expanded STAR Program	(1,211)	(1,688)	(2,038)
Eliminating the School Property Tax Credit	--	675	675
Non-public School Deduction	--	(25)	(25)
Low Income Housing - Permanent	(4)	(8)	(12)
<b>TOTAL TAX REDUCTIONS</b>	<b>(1,215)</b>	<b>(1,046)</b>	<b>(1,400)</b>

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Table 27

<b>Fee And Revenue Actions List</b>			
Agency	Description Effective Date	New Annual Revenue SFY 2007-08 (000's)	New Full Annual Revenue SFY 2009-10 (000's)
<b>Administrative</b>			
CFS	Sale of vacant surplus building in Brooklyn that was to become Youth Opportunity Center - 4/1/07	2,665	-
CFS	Youth facility per diem revenue prior years reconciliation - 4/1/07	16,200	26,700
CFS	Use of anticipated new interim rates charged to counties for youth in OCFS youth facilities - 4/1/07	7,100	8,600
DPS	DPS Increase Article 18-A assessment to support various State Agency operations related to utilities - 4/1/07	5,054	5,054
ERDA	Increase assessment to support spending for Article 18-A Utility costs - 4/1/07	1,400	1,400
ESDC	Increased cost recovery billings for public authorities deposited into Revenue Arrearage account - upon enactment	7,000	7,000
<b>Administrative Actions - Subtotal</b>		<b>39,419</b>	<b>48,754</b>
<b>Statutory</b>			
HLTH OTH	HCRA - increase covered lives assessments -4/1/2007	75,000	75,000
HLTH OTH	HCRA - additional insurance conversion - 4/1/07	-	300,000
HLTH OTH	Early Intervention (EI) provider fees - 4/1/07	400	400
HLTH OTH	Increase physician registration fee - 7/1/07	11,250	15,000
HLTH OTH	Appropriates existing training contract fees revenue in DOH - 4/1/07	1,000	1,000
DOH/CMS	Federal State Health Reform Partnership Program - annual funding - 10/1/06 - 9/30/11	300,000	300,000
DMNA	Implement a new security assessment on nuclear power plant operators - 4/1/07	9,750	13,000
ENCON	EPF bottle bill - 1/1/08	25,000	100,000
ENCON	Increase well drilling registration fees - 4/1/07	4	48
ENCON	Increase Title V Federal air regulatory fees - 4/1/07	6,400	6,400
ENCON	Increase water monitoring fees (State Pollution Discharge Elimination System) - 4/1/07	612	1,838
ENCON	Increase general permit fees for concentrated animal feeding operations (CAFOS) - 4/1/07	40	110
ENCON	Increase industrial streamwater discharge permits - 4/1/07	83	417
NYSP	Deploy cameras to enforce speed limit and safety in work zones - 4/1/07	18,800	37,500
SED	VLT expansion proposal upon enactment	-	357,000
Medicaid	Continues 6 percent nursing home assessment beyond statutory expiration date of March 31, 2009 - 3/31/09	-	453,000
Medicaid	Continues 0.35 percent Hospital Cash Assessment beyond statutory expiration date of March 31, 2007 - 4/1/07	136,900	149,500
OCA	Increase criminal history search fee - 4/1/07	6,600	8,000
<b>Statutory Actions - Subtotal</b>		<b>591,839</b>	<b>1,818,213</b>
<b>Total Administrative and Statutory Fees and Revenue Actions</b>		<b>631,258</b>	<b>1,866,967</b>