

STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE
SUBSTANCE OF THE PROPOSED RULE

This proposal amends the Business Corporation Franchise Tax regulations, the Franchise Tax on Banking Corporations regulations, the Franchise Taxes on Insurance Corporations regulations and the New York State Personal Income Tax regulations, as published in Title 20 NYCRR, relating to the empire zone (EZ) wage tax credit.

The following is a list of the Subparts and section of Title 20 which are affected by this proposal.

1. Subpart 5-9 of the Business Corporation Franchise Tax regulations.

Subpart 5-9, relating to the empire zone wage tax credit for business corporations, is repealed and a new Subpart 5-9 is added. New Subpart 5-9 reflects the following list of policies of the Department.

(a) A taxpayer is considered to be certified for the Empire Zones Program on the first day of the taxpayer's taxable year during which the taxpayer applies for certification.

(b) A taxpayer which obtains certification for the Empire Zones Program, under special limiting certification requirements contained in section 959 (a) of the General Municipal Law, can include shifted employees in determining eligibility for the credit and in computing the credit. Section 959(a) permits a business to be certified for the Program where it has shifted operations from an area within New York State that is not an

empire zone, to an area that is an empire zone, in limited circumstances.

(c) Empire zone wages are wages paid by a certified taxpayer.

(d) The definition of "employee" found elsewhere in the regulations is used for the definition of "individuals employed" for purposes of the credit.

(e) The New York State Department of Labor is required to provide a certificate, Form ES 450, verifying the targeted status of an individual, for use by an employer seeking the credit.

The Subpart also provides a transition rule with respect to Chapter 407, Laws of 1999, which made the empire zone equivalent area wage tax credit allowable for up to five years.

2. Subpart 20-4 of the Franchise Tax on Banking Corporations regulations.

Subpart 20-4, relating to the empire zone wage tax credit for banking corporations, is repealed and a new Subpart 20-4 is added. The new Subpart provides a brief explanation of the credit for Article 32 of the Tax Law, but refers users to the provisions contained within Subpart 5-9 of the Business Corporation Franchise Tax regulations and to section 1456(e) of the Tax Law.

3. Subpart 32-2 of the Franchise Taxes on Insurance Corporations regulations.

Subpart 32-2, relating to the empire zone wage tax credit for insurance corporations, is repealed and a new Subpart 32-2 is added. The

new Subpart provides a brief explanation of the credit for Article 33 of the Tax Law, but refers users to the provisions contained within Subpart 5-9 of the Business Corporation Franchise Tax regulations and to section 1511(g) of the Tax Law.

4. Section 106.8 of the New York State Personal Income Tax regulations.

Section 106.8, relating to the empire zone wage tax credit for individual taxpayers, is repealed and a new section 106.8 is added. The new section provides a brief explanation of the credit for Article 22 of the Tax Law, but refers users to the provisions contained within Subpart 5-9 of the Business Corporation Franchise Tax regulations and to section 606(k) of the Tax Law.