Tax Insights
from State and Local Tax
Services

New York final budget includes OBBBA conformity revisions, sales tax reregistration and amnesty, “pied-à-terre tax”

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In brief

What happened?

New York has enacted budget revenue legislation extending the state’s temporary top corporate tax rate by three years and amending conformity to P.L. 119-21, or the One Big Beautiful Bill Act (OBBBA), particularly with respect to IRC Sections 168(n) and 174/174A (and for New York City, with respect to Section 163(j)). The legislation also includes a vendor sales tax reregistration program and limited amnesty, as well as a novel New York City tax on certain high-value residential property that does not serve as a primary residence.

The budget is also notable for what it did not include. The legislation did not increase tax rates for the personal income tax, unincorporated business tax, or corporate tax (other than extending the state top rate), reduce the state or city pass-through entity tax (PTET) credit, or impose a tax on home sales paid in cash. The bill also did not include an extension to the deadline for making the annual PTET election.

[S. 9009C, enacted 5/28/2026]

Why it is relevant

The budget’s federal conformity provisions for both state and city purposes will impact many taxpayers’ 2025 tax year compliance. The final budget notably included interest and penalty relief for taxpayers affected by this retroactive conformity legislation. Taxpayers subject to sales tax reregistration may be

able to take advantage of amnesty covering penalties and one-half interest for certain final liabilities. The "pied-a-terre tax" introduces uncertainty for New York property tax determinations, including what may be deemed a "primary residence" and valuation issues for covered properties.

Actions to consider

Businesses should consider the potential impact of New York's federal conformity changes and modeling the impact for 2025 tax year compliance and 2026 estimated tax payments. Vendors should review New York sales tax registrations, filing histories, and outstanding liabilities to determine whether the reregistration program or limited amnesty may apply. Owners and investors in high-value New York City residential property should analyze whether the pied-a-terre tax could apply and monitor forthcoming guidance on primary residence and valuation issues.

In detail

Corporate tax rate extension

New York's FY22 budget increased the state corporate franchise tax rate to 7.25% from 6.5% for tax years beginning on or after January 1, 2021 and before January 1, 2024, for taxpayers with a business income base greater than $5 million. The FY24 budget extended this 7.25% rate for another three years to tax years ending before January 1, 2027. This year's budget extends the rate for another three years, to tax years ending before January 1, 2030.

The legislation also extends the state's current 0.1875% capital base tax rate for three years, through tax years ending before January 1, 2030 (with the state's capital base tax rate decreasing to 0% starting in 2030).

New York State OBBBA conformity revisions

The legislation provides the following New York State modifications in computing corporate franchise, personal income, and insurance tax for tax years beginning on or after January 1, 2025:

- A deduction for the amount otherwise allowable under Section 167(a) for qualified production property as if an election had not been made under Section 168(n). The amount of the Section 168(n) deduction must be added back.
- A deduction for the amount of any foreign and domestic R&E expenditures, as defined in Sections 174 and 174A, as if the amortization election in Section 174A(c) applied to those R&E expenditures and as if the election were made for a 60-month period. Note that under Section 174A(c), the amortization deduction begins with the month in which the taxpayer first realizes benefits from those expenditures, which, depending on the facts, might not be the date on which the expense is incurred. Both federal deductions under Section 174 and immediate expensing and other deduction elections for domestic R&E under Section 174A must be added back.
- A deduction for the remaining amount of any foreign and domestic R&E expenditures, as defined above, paid or incurred prior to January 1, 2025, determined as if Section 174 as in effect on January 1, 2022 applied to those expenditures (e.g., five years for domestic R&E and 15 years for foreign R&E). The one-year and two-year deduction elections for 2022-2024 qualified domestic R&E must be added back.

Observation: The legislation has the effect of requiring five-year amortization for New York State purposes from 2025 onward for both domestic and foreign R&E irrespective of whether immediate expensing elections have been made for domestic R&E and also irrespective of the continuing federal 15-year amortization period for foreign R&E expenditures. Pre-2025 R&E expenditures remain under the pre-OBBBA regime (e.g., five years for domestic R&E and 15 years for foreign R&E).

New York City OBBBA conformity revisions

The legislation requires similar adjustments for New York City unincorporated business tax, general corporation tax (for S corporations), business corporation tax (for C corporations), and financial corporation tax purposes (but not for New York City personal income tax purposes). There are, however, numerous drafting differences between the city and state provisions, as well as clear departures in policy, such as:

- The five-year amortization period only applies to domestic R&E expenditures for 2025 forward (foreign R&E is still subject to a 15-year period).
- In addition, the legislation requires New York City businesses to add back the amount of increased interest deduction allowable under Section 163(j) that is attributable to depreciation, amortization, or depletion, effective for tax years beginning on or after January 1, 2025. While the legislation provides for an addition modification to taxable income, the legislation did not specifically provide for a subtraction modification for any disallowed amount.

The legislation also updates New York City's corporate tax references to GILTI in the apportionment factor. As amended, the legislation provides that the apportionment numerator excludes the amount included in income for federal purposes under Section 951A(a) less the amount of the deduction allowed under Section 250(a)(1)(B)(i), while the apportionment denominator includes this amount. This update reflects the apportionment of "net global intangible low-taxed income" under prior law.

The legislation provides that no interest or penalty will accrue on returns under a valid extension (within the extension period) or amended returns filed for tax years beginning after December 31, 2024, and before January 1, 2026, that solely report the modifications required above.

Observation: This relief is significant considering that New York's conformity amendments take effect immediately and apply retroactively to tax years beginning on or after January 1, 2025. Taxpayers should carefully evaluate the scope of any amended filings because this relief does not extend to unrelated adjustments.

IRC Section 962 subtraction for electing individuals

The legislation further provides a state personal income tax subtraction for the amount of any distribution included in federal adjusted gross income pursuant to Section 962(d), applicable to tax years beginning on or after January 1, 2026. Under Section 962, an individual US shareholder of a CFC may elect to be taxed on certain deemed CFC inclusions as though the individual were a domestic C corporation. Subsection (d) subjects later actual distributions to tax to the extent the distributed earnings and profits exceed the US tax previously paid.

Sales and use tax reregistration program and limited amnesty

The legislation directs the Department of Taxation and Finance to institute a sales and use tax "reregistration program," which is the first mass reregistration of vendors since the prior program

concluded in 2012. Like the prior program, this reregistration will occur in stages, with the Department issuing notices of expiration to holders of a current certificate of authority by certified mail at least 180 days prior to the expiration date indicated in the notice. A properly completed certificate of registration for a new certificate of authority must be filed by the vendor at least 90 days prior to the expiration date of the vendor's current certificate of authority. There will be no charge for the reregistration. The legislation outlines appeal rights in the event of a proposed refusal to issue a new certificate of authority, including expedited hearings at the division of tax appeals. The program is to be completed by December 31, 2030.

Observation: According to the Executive Budget memorandum in support, the purpose of this program is to "add flexibility to the Commissioner's current re-registration authority by allowing the Tax Department to determine the order in which current sales tax vendors must re-register... [and] will allow the Tax Department to stagger re-registrations in order to ensure proper oversight and efficient administration of the program."

The legislation provides a corresponding "penalty and interest discount program" for holders of a current certificates of authority subject to the reregistration program that have an eligible tax liability and otherwise meet the conditions of the program. The program provides for a penalty waiver (with certain exceptions) and a 50% reduction of the interest accrued through December 31, 2026 and paid in full by December 31, 2026. Refunds of amounts paid under the program are disallowed. Eligible taxpayers will be notified by the Department, which will compute the amount of relief to be applied.

Eligible liabilities are those for state and local sales and use tax that are "fixed and final" as of September 1, 2026, such that the taxpayer no longer has any right to an administrative or judicial review. Eligible liabilities do not include any assessment that was reduced under a written agreement, a liability that was compromised, or a liability reduced under the voluntary disclosure and compliance program.

Observation: The memorandum in support indicates that the purpose of this limited amnesty is "to incentivize current sales tax debtors to resolve their outstanding sales tax liabilities before the re-registration program begins."

Pied-à-terre tax

The legislation creates a New York City surcharge (also known as the "pied-à-terre tax") at tiered rates imposed on certain high-value residential property that does not serve as a primary residence, beginning July 1, 2026 and expiring on June 30, 2031. A primary residence means the use of a covered property or residential cooperative dwelling unit as a primary residence by one or more of the covered owners (who are natural persons), their immediate family members, or a natural person lessee or sub-lessee under a bona fide lease agreement of not less than one year as of January 5 immediately preceding the fiscal year in which the surcharge is imposed. The New York City Department of Finance is tasked with making an annual determination of primary residence under factors to be established by rule, including (but not limited to) whether the covered property or residential cooperative dwelling unit was occupied in aggregate for a majority of days during a calendar year by a covered owner.

Observation: The New York City Department of Finance is expected to provide notice of its initial "primary residence" determination to property owners no later than August 30, 2026. The legislation, however, notes that failure to provide this notice will not affect the validity of the imposition of the surcharge. If the property owner disagrees with the Department's determination they will have an opportunity to provide documentation demonstrating that the property served as a primary residence.

Covered property means real property classified as class one property (one to three unit residential properties, other than vacant land) with a market value of at least $5 million and class two property that is either a residential condominium dwelling unit or a residential cooperative property in which at least one residential cooperative dwelling unit has a “phase one” (July 1, 2026 to June 30, 2028) market value of at least $1 million or a “phase two” (July 1, 2028 to June 30, 2031) market value of at least $5 million. Excluded are properties for which a temporary or permanent certificate of occupancy is required but not yet issued or a residential condominium dwelling unit or residential cooperative dwelling unit that is subject to an offering plan but has not been sold, or an economic interest in that unit has not been transferred, by the person or entity that filed that plan.

For class one properties, the surcharge will be assessed at a rate between 0.8% and 1.3% based on the property’s assessed value as determined by the Department of Finance. The tax rate structure and valuation methodologies for class two properties will roll out in phases. During phase one (July 1, 2026 to June 30, 2028), the surcharge will be assessed at a rate between 4% and 6.5%, and during phase two (July 1, 2028 to June 30, 2031), the surcharge will be assessed at a rate between 0.8% and 1.3% (the same rates that apply to class one properties). The actual tax rate brackets for class one and class two properties are summarized below.

Class One Properties (1, 2, and 3 Unit Residential Homes)

Value Range	Tax Rate
$5,000,000 - $15,000,000	0.8%
$15,000,001 - $25,000,000	1.05%
$25,00,0001+	1.3%

Class Two Properties (Residential Cooperatives and Condominiums)

Phase One (7/1/2026 – 6/30/2028)		Phase Two (7/1/2028 – 6/30/2031)	
Value Range	**Tax Rate**	**Value Range**	**Tax Rate**
$1,000,000 - $3,000,000	4%	$5,000,000 - $15,000,000	0.8%
$3,000,001 - $5,000,000	5.25%	$15,000,001 - $25,000,000	1.05%
$5,00,0001+	6.5%	$25,00,0001+	1.3%

Observation: The surcharge applies to class two properties at higher rates and lower value thresholds during phase one versus phase two. This result appears to be informed by the different valuation methodologies that apply during each phase. During phase one, residential condominiums will be valued using the Department of Finance’s assessed property tax value, while the value of residential cooperatives will be equal to the “imputed” value of the unit. These valuation methods could assign a value to a class two property that is lower than the property’s true fair market value. The lower value

thresholds, paired with the higher tax rates, are intended to operate so that the surcharge captures the appropriate properties during the initial rollout. The value thresholds increase and the tax rates decrease during phase two because the value of class two properties will then be determined by reference to comparable sales data.

Let's talk

To discuss the potential tax impact of the New York budget revenue legislation, please contact:

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