



## NEW YORK CHAPTER CHATTER – JANUARY 2009

**Quiz:** Here are some tidbits about the names and attributes of some localities in New York. The answers are at the end of the newsletter. They are also all included in the STAR rebate tables (links below) as are many other interesting locality names.

1. Which of the following is not a name of a New York State locality (city or town):
  - a. Finland
  - b. Norway
  - c. Stockholm
  - d. Sweden
2. Which school district is in the most localities?
3. Which town has the most school districts?
4. How many combinations of counties, localities, and school districts are listed in the combined Downstate and Upstate STAR rebate tables?
5. Which combination of county/locality/school district has the highest STAR rebate, and what is the amount of the enhanced STAR rebate?
6. Which combination of county/locality/school district has the lowest STAR rebate, and what is the amount of the enhanced STAR rebate?

**STAR Rebate:** I have updated the STAR rebate tables to reflect the 2008 rebates your clients might not remember they received. ☺ They are on the NATP web site at:

<http://www.natptax.com/2008nystardownstate.xls> (Downstate)

<http://www.natptax.com/2008nystarupstate.xls> (Upstate).

I've changed the way the tables are sorted from last year. They are sorted by county, city/town, and then school district. You can sort an Excel spreadsheet any way you want, such as by county, school district, and then town as NY State does (mostly – there are exceptions for some

reason) on their web site. Send me an email or call me if you need help doing this. Also, contact me if you don't have Excel and would like to receive a PDF version of this data.

Only the enhanced STAR rebate amounts have changed; all the other amounts are the same as they were for 2007. Remember, the 2008 rebate amounts are based on 2006 income.

As a reminder, here are the rules regarding taxation (if any) of the STAR Rebate.

### **Will I have to report the rebate on my personal income tax return as income?**

For most taxpayers who receive their rebate check in 2008, one of the following will apply:

1. Except as provided in (3) below, if you claim the standard deduction on your 2008 income tax return, you do not have to report the rebate check as income.
2. If you itemize your deductions on your 2008 return and receive your rebate check in 2008, you have to reduce the amount of your school district taxes included in your itemized deduction by the amount of the check. Your itemized deductions for county, town or city real property taxes do not have to be reduced.
3. Whether you claim the standard deduction or you itemize your deductions, if your rebate check is larger than the amount you paid in school district taxes for the 2008/2009 school year, you must report the difference between the amount of your rebate check and the amount you paid in school taxes as income on your 2008 federal and state income tax returns.

So for the vast majority of people, there will be no taxable income due to the rebate. Only the school tax deduction, if any is taken, will have to be reduced by the amount of the rebate.

**Consumer Bill of Rights Regarding Tax Preparers:** Mel Wolfson has prepared a summary for both preparers in New York City and those in the rest of the state. It is right after President Kathryn Keane's message.

**Tax Preparer Provisions in the Budget Bill:** Mel has also provided an excellent summary of tax preparer provisions in the new budget bill. This expands on what we had in the December 2008 newsletter. I guarantee that you're not going to like some of them.

**New Tax Laws in New York for 2008:** I want to point out the change in filing fees for limited liability companies (LLC) and limited liability partnerships (LLP). It is now based on **gross income** instead of the number of people. **The filing fee is due January 30, 2009 for calendar year taxpayers.** See below for more information. Because of the length of this newsletter, I will include more changes in next month's newsletter.

**New York Tax Credits:** I've updated the list of tax credits that New York State, New York City, and Yonkers offer. There are no new credits for 2008.

**Welcome to New Members:** I've included a list of tax professionals who joined NATP in December 2008 in the table below.

**Breaking News:** Amazon loses its law suit against New York State regarding the collection of sales tax. See the article near the end of this newsletter, which is based on an article in the Wall Street Journal on January 13, 2009.

Mike Hayes, EA

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## **President's Message**

Happy New Year Friends!

This season has already proved to be the most challenging yet. As the federal government imposes new EITC requirements, NYS has Publication 135 that must be given to clients. While Enrolled Agents and CPAs are not subject to this requirement, I strongly advise you to get them printed and give them to your clients. The small expense in photocopying is so much less than the stress of having to explain why Pub 135 is not provided. I speak from experience. In NYC, we have had this requirement. Last March, the NYC Department of Consumer Affairs came into my office. After the 45 minutes of explaining, the inspector left. If I had the Bill of Rights in my packets, the inspector would have been on his way within minutes. Needless to say, the NYC publication is now in each client folder, and the NYS Publication 135 is in each folder of my non-NYC resident clients.

{Editor's comment: see the summary following this article.}

In addition to these disclosures, the EITC due diligence questions are required. Now that some clients have been in, these questions reflect those items requested in an EITC audit that are becoming more common each year.

Speaking of audits, I attended the Practitioner Liaison Committee for Brooklyn/Queens/Staten Island earlier this week. At the meeting, Appeals presented the processes. There is an interesting video at [www.irs.gov/appeals](http://www.irs.gov/appeals) that gives the latest information.

A couple of other things you may wish to do

IRS National Phone Forum on Practitioner Penalties

<http://www.irs.gov/businesses/small/article/0,,id=158856,00.html>

NATP Webinar "Are you ready?"

[http://www.natptax.com/webinars\\_on\\_demand.html#AreYouReady](http://www.natptax.com/webinars_on_demand.html#AreYouReady)

For Your Information:

New Jersey Tax News at <http://www.state.nj.us/treasury/taxation/itnews.shtml>

Pennsylvania Tax News at <http://www.revenue.state.pa.us/revenue/cwp/browse.asp?a=104>

Connecticut Tax News at  
[http://www.ct.gov/drs/taxonomy/drs\\_taxonomy.asp?DLN=40825&drsNav=|40825|](http://www.ct.gov/drs/taxonomy/drs_taxonomy.asp?DLN=40825&drsNav=|40825|)

Massachusetts Tax News at  
<http://www.mass.gov/?pageID=dorconstituent&L=2&L0=Home&L1=Tax+Professionals&sid=Ador>

Talk to you again in February!

Keep warm,

Kathryn

Kathryn M Keane, EA

President, NY NATP

<http://www.natptax.com/ny.html>

## **Consumer Bill of Rights Regarding Tax Preparers**

**By Mel Wolfson, EA**

Reminder: new preparer rules take effect starting January 1, 2009.

The law requires preparers, other than Attorneys, CPAs and EAs, to provide clients with a copy of the Consumer Bill of Rights Regarding Tax Preparers *prior to* any discussion about tax preparation. The document is available for download at:

[http://www.tax.state.ny.us/pdf/publications/income/pub135\\_1108.pdf](http://www.tax.state.ny.us/pdf/publications/income/pub135_1108.pdf)

In addition, un-enrolled preparers must provide clients with year round contact information.

*All preparers* must conform to the RAL disclosure provision which describes the language and format that the disclosure must take including language, font size. Taxpayers must sign a completed disclosure form prior to entering into a RAL. There are also restrictions with regard to how RALs are advertized.

Failure to comply with these requirements can result in civil penalties of not less than \$250, but not more than \$500 for the first violation and not less than \$500, but not more than \$750 for subsequent violations.

A more detailed summary of the new regulation was provided in last month's newsletter. The DTF notice implementing this law was issued on November 20, 2008 as TSB-M-08(7)I. The notice is available at: [http://www.tax.state.ny.us/pdf/memos/income/m08\\_7i.pdf](http://www.tax.state.ny.us/pdf/memos/income/m08_7i.pdf)

## **New York City**

The new legislation does not apply to returns prepared in New York City where the Department of Consumer Affairs regulates preparers and those offering bank products. However, the NYC law is almost identical to the new state regulation. The NYC law can be viewed on at:

[http://home2.nyc.gov/html/dca/downloads/pdf/tax\\_prep\\_law.pdf](http://home2.nyc.gov/html/dca/downloads/pdf/tax_prep_law.pdf)

The New York City version of the "Consumer Bill of Rights Regarding Tax Preparers" may be viewed and downloaded at:

<http://www.nyc.gov/html/dca/downloads/pdf/consumerbillofrights.pdf>

## **Tax Preparer Provisions in the Budget Bill**

### **By Mel Wolfson, EA**

On January 7, 2009 Governor Paterson submitted his Budget Bill to the Legislature. The 116 page Bill contains a number of provisions that are of interest to the preparer community. What follows is my understanding of these sections of the Bill. Note, in its current state, this is only a bill and the legislature may accept it as is, modify it or reject some or all of the following provisions entirely.

### **Preparer Registration**

As I read the Bill, *every* preparer who prepares more than ten returns would have to register with NYS Department of Taxation and Finance (DTF). That would include Attorneys, CPAs and EAs, not just unenrolled preparers. Annual registration, online of course, would cost \$100. Every registered preparer would have a NYS ID number which would be entered, along with his or her signature, on each return that is prepared by the preparer. Although preparers will be issued a registration certificate and a unique identification number, there is a prohibition against advertizing the registration as an endorsement by DTF. Unregistered preparers will not be permitted to represent clients before DTF.

The only exceptions to registration are for volunteer preparers, clerical staff, and those who only prepare the return of the company that employs them. No exception is made for those who are already regulated by NYS or the IRS.

There are several pages in the bill that are devoted to penalties for non-compliance. DTF will have the same collection powers with regard to these provisions that it does with regard to taxes. Each of the penalties outlined below may be waived by the Commissioner for "good cause".

<b>Offense</b>	<b>Penalty</b>
Failure to register	\$250.00 + \$500 for each additional month of non-compliance
Failure to pay the registration fee	\$50 per return filed up to a maximum of \$5,000
Failure to sign a return where required	\$250 per return with a maximum of \$10,000. If the preparer committed the same offense in a prior year, the penalty is \$500 per return with no cap.
Failure to enter NYS ID on the return	\$100 per return with a maximum of \$2,500. No cap in situations where the preparer was penalized in a prior year.
Employing an unregistered preparer	\$500 per occurrence.

The Commissioner of DTF shall also convene a task force which shall prepare a report addressing:

- The scope of the program for regulating the tax preparation industry.
- Setting appropriate qualifications including but not limited to education and continuing education requirements.
- “...*any other matters the task force determines to be necessary or appropriate.*” (Italics added)

The task force will be made up of representatives of DTF, other state departments and agencies plus representatives of the NYS bar, NYSSCPA and “other representatives of the tax return preparation industry.” The report must be submitted by March 31, 2012. *The Commissioner is empowered to promulgate regulations to implement recommendations made in the report.* (Comment: In other words, if it’s in the report, DTF is authorized to act.)

### **Prohibition against charging for e-filing by preparers and software vendors**

Both preparers and software providers would be prohibited from charging a fee for either electronic filing or for electronic filing software. Software vendors would not be allowed to sell a separate version of their software that does not contain e-file capability. The Bill prescribes penalties of \$500 for the first offense and \$1,000 for each subsequent offense.

### **Mandatory Electronic Filing**

Starting with 2009, the mandate will apply to any tax return preparer preparing 100 or more *tax documents* and who prepares one or more *tax documents* using software. (Note: in the past, the mandate was defined in terms of *tax returns*.)

### **Fee imposed for filing a paper return**

Taxpayers, other than low income, would have to pay a \$10 fee for the privilege of filing on paper. If a refund is due, it would be reduced by \$10. If there is a balance due with the return, it would be increased by \$10.

### **Fee imposed for bad check or failed electronic withdrawals**

A \$50 charge will be collected by DTF for bad checks and unsuccessful electronic withdrawals.

This information is being presented to inform the membership regarding pending legislation. NYNATP is prohibited by law from taking a position on any proposal. However, individual members who have an opinion are free to contact their representatives and express a point of view making it clear that they are expressing a personal opinion. Under no circumstances should a member claim to be speaking on behalf of NYNATP

## **What's New for 2008 in New York**

### **Filing fees for limited liability companies and limited liability partnerships**

Section 658(c)(3) of the Tax Law has been amended in relation to the filing fees for limited liability companies (LLCs) and limited liability partnerships (LLPs).

For tax years beginning after 2007, certain entities that have any income derived from New York sources are required to pay a filing fee. **The filing fee is due within 30 days of the last day of the tax year.** The entities affected by this requirement are:

- domestic and foreign LLCs that are treated as partnerships for federal income tax purposes;
- every LLC that is a disregarded entity for federal income tax purposes;
- LLPs subject to Article 8-B of the Partnership Law; and
- foreign LLPs.

In addition, for tax years beginning after 2007, the filing fee will be based on the New York source gross income of the LLC or LLP for the tax year immediately preceding the tax year for which the fee is due. Under previous law, the fee was based on the number of partners or members in the LLC or LLP. If the LLC or LLP does not have any New York source gross income for the tax year immediately preceding the tax year for which the fee is due, the LLC or LLP will pay the minimum filing fee of \$25.00. LLCs that are disregarded entities for federal income tax purposes will pay the minimum fee of \$25.00, regardless of income. Additionally, no income tax credits may be applied against the filing fee.

*New York source gross income* is the sum of the partner's or member's shares of federal gross income from the LLP or LLC derived from or connected with New York sources, determined in accordance with the provisions of section 631 of the Tax Law, as if those provisions and any related provisions expressly referred to a computation of federal gross income from New York sources. For purposes of this section, federal gross income is computed under section 61 of the Internal Revenue Code, but there will be no allowance or deduction for cost of goods sold.

The amount of the filing fee for tax years beginning after 2007 will be determined in accordance with the following table:

If the New York source gross income is:	The fee is:
not more than \$100,000	\$25
more than \$100,000 but not over \$250,000	\$50
more than \$250,000 but not over \$500,000	\$175
more than \$500,000 but not over \$1,000,000	\$500
more than \$1,000,000 but not over \$5,000,000	\$1,500
more than \$5,000,000 but not over \$25,000,000	\$3,500
more than \$25,000,000	\$4,500

New York City also has the authority to impose a filing fee on LLCs and LLPs. The filing fee would be similar to the state fee, except the amount of the fee would be based on New York City gross income. To date, the city has not acted to impose this fee.

(Tax Law section 658 and 1304-C)

## New York Credits

The New York IT-201 instruction booklet has a very good summary of all the credits available and the associated forms, which are shown below for your convenience.

<b>2008 NEW YORK CREDITS FOR INDIVIDUALS</b>				
	<b>Credit</b>	<b>Note</b>	<b>You may qualify for this credit if you:</b>	<b>Form</b>
1	<b>Accumulation distribution</b>	Δ	are a beneficiary of a trust who received an accumulation distribution	None
2	<b>Accumulation distribution (New York City)</b>	Δ	are a beneficiary of a trust who received an accumulation distribution during the period you were a New York City resident	None
3	<b>Alternative fuels</b>	Δ	have unused credit for purchasing a new alternative-fuel vehicle or converting a vehicle to use alternative fuel, or have unused credit or a new credit for investing in new clean-fuel vehicle refueling property.	IT-253
4	<b>Child and dependent care (New York State)</b>	□	are able to claim the federal child and dependent care credit	IT-216
5	<b>Child and dependent care (New York City)</b>	□	are a New York City resident and are qualified to claim the New York State child and dependent care credit	IT-216
6	<b>Claim of right (New York State)</b>	Δ □	had a claim of right credit on your federal return for income that was subject to New York State tax on a prior year's return	IT-257
7	<b>Claim of right (New York City)</b>	Δ □	had a claim of right credit on your federal return for income that was subject to New York City tax on a prior year's return	IT-257
8	<b>Claim of right (Yonkers)</b>	Δ □	had a claim of right credit on your federal return for income that was subject to Yonkers tax on a prior year's return	IT-257
9	<b>Clean heating fuel</b>	Δ □	purchased bioheat that is used for space heating or hot water production for residential purposes	IT-241
10	<b>College tuition</b>	□	are a full-year New York State resident paying college tuition expenses	IT-272
11	<b>Conservation easement</b>	Δ □	own land that is subject to a conservation easement held by a public or private conservation agency	IT-242

## 2008 NEW YORK CREDITS FOR INDIVIDUALS

	<b>Credit</b>	<b>Note</b>	<b>You may qualify for this credit if you:</b>	<b>Form</b>
12	<b>Defibrillator</b>	Δ	purchased an automated external defibrillator machine	IT-250
13	<b>Earned income (New York State)</b>	□	are allowed an earned income credit (EIC) on your federal income tax return or are a noncustodial parent and have paid child support through a support collection unit	IT-215 or IT-209
14	<b>Earned income (New York City)</b>	□	are a New York City resident allowed an EIC on your federal income tax return	IT-215
15	<b>Empire State child</b>	□	claimed the federal child tax credit or additional child tax credit, or you have a qualifying child	IT-213
16	<b>Fuel cell electric generating equipment</b>	Δ	purchased fuel cell electric generating equipment and installed it in New York State	IT-259
17	<b>Green building</b>	Δ	had expenses for a building meeting certain environmental and energy standards	DTF-630
18	<b>Historic home ownership rehabilitation</b>	Δ	had qualified rehabilitation expenditures made with respect to a qualified historic home located in New York State	IT-237
19	<b>Household (New York State)</b>		cannot be claimed as a dependent on another taxpayer's federal return <b>and</b> your federal Adjusted Gross Income (AGI) is not over \$32,000 (\$28,000 if filing as single).	None
20	<b>Household (New York City)</b>		cannot be claimed as a dependent on another taxpayer's federal return <b>and</b> your federal AGI is not over \$22,500 (\$12,500 if filing as single)	None
21	<b>Long-term care insurance</b>	Δ	paid premiums during the tax year for a long-term care insurance policy	IT-249
22	<b>Lump-sum distribution</b>	Δ	received a federal lump-sum distribution while a New York State resident that was taxed by a specified jurisdiction outside New York State	IT-112.1
23	<b>Nursing home assessment</b>	Δ □	paid an amount directly relating to the assessment imposed on a residential health care facility	IT-258
24	<b>Real property tax</b>	O □	are a full-year New York State resident paying real property taxes or rent	IT-214
25	<b>Residential fuel oil storage tank</b>	Δ	have unused credit for replacing or installing a residential fuel oil storage tank	None
26	<b>School Tax (New York City)</b>	O □	are a full- or part-year New York City resident and you cannot be claimed as a dependent on another taxpayer's federal return. You do not have to file Form NYC-210 if you are claiming this credit on Form IT-150 or IT-201.	NYC-210
27	<b>Solar energy system equipment</b>	Δ	purchased solar energy system equipment and installed it at your principal residence	IT-255
28	<b>Solar and wind energy</b>	Δ	have unused credit for purchasing and installing a solar or wind energy system.	None
29	<b>Taxes paid to another state or jurisdiction</b>	Δ	received income while a New York State resident from outside New York State that was taxed by a jurisdiction outside New York State	IT-112-R
30	<b>Taxes paid to Canada</b>	Δ	received income while a New York State resident from Canada that was taxed by a province of Canada	IT-112-C
31	<b>Volunteer firefighters and ambulance workers</b>	Δ □	are a volunteer firefighter or ambulance worker for the entire year.	IT-245

## 2008 NEW YORK CREDITS FOR BUSINESSES

	<b>Credit</b>	<b>Note</b>	<b>You may qualify for this credit if you:</b>	<b>Form</b>
1	<b>Alternative fuels</b>	Δ	have unused credit for purchasing a new alternative-fuel vehicle or converting a vehicle to use alternative fuel, or have unused credit or a new credit for investing in new clean-fuel vehicle refueling property.	IT-253
2	<b>Biofuel Production</b>	Δ □	produced biofuel at a biofuel plant located in New York State	IT-243
3	<b>Brownfield credits</b>	Δ □	was issued a certificate of completion by the New York State Department of Environmental Conservation (DEC) under the Brownfield Cleanup Program	IT-611 IT-612 IT-613
4	<b>Clean heating fuel</b>	Δ □	purchased bioheat that is used for space heating or hot water production for residential purposes	IT-241
5	<b>Conservation easement</b>	Δ □	own land that is subject to a conservation easement held by a public or private conservation agency	IT-242
6	<b>Defibrillator</b>	Δ	purchased an automated external defibrillator machine	IT-250
7	<b>Empire State commercial production</b>	Δ □	had expenses for the production of certain qualified commercials	IT-246
8	<b>Empire State film production</b>	Δ □	had expenses for the production of certain qualified film and television shows.	IT-248
9	<b>Empire zone (EZ) capital</b>	Δ	made investments or contributions to an EZ business or project, or have an unused EZ capital tax credit from a prior year	IT-602
10	<b>EZ employment incentive</b>	Δ □	acquired, built, or erected property for which an EZ investment credit is allowed	IT-603
11	<b>EZ investment</b>	Δ □	is EZ-certified and placed qualified property in service in an EZ	IT-603
12	<b>EZ wage</b>	Δ □	is EZ-certified and paid wages to employees within the EZ	IT-601
13	<b>Employment incentive</b>	Δ □	put property in service that qualified for the investment credit	IT-212- ATT
14	<b>Employment of persons with disabilities</b>	Δ	employed persons with disabilities	IT-251
15	<b>Farmers' school tax</b>	Δ □	is in the farming business and paid school taxes on agricultural property in New York State	IT-217
16	<b>Financial services industry (FSI) EZ employment incentive</b>	Δ □	is a financial services industry (FSI) business that was allowed an FSI EZ investment credit	IT-605
17	<b>FSI EZ investment</b>	Δ □	is an FSI business that placed qualified property in service in an EZ	IT-605
18	<b>FSI employment incentive</b>	Δ □	put property in service that qualified for the FSI investment tax credit	IT-252- ATT
19	<b>FSI investment</b>	Δ □	is an FSI business that placed qualified property in service in New York State	IT-252
20	<b>Fuel cell electric generating equipment</b>	Δ	purchased fuel cell electric generating equipment and installed it in New York State	IT-259
21	<b>Green building</b>	Δ	had expenses for a building meeting certain environmental and energy standards	DTF-630
22	<b>Historic barn rehabilitation</b>	Δ	paid or incurred expenses to restore a historic barn in New York State	IT-212- ATT

<b>2008 NEW YORK CREDITS FOR BUSINESSES</b>				
	<b>Credit</b>	<b>Note</b>	<b>You may qualify for this credit if you:</b>	<b>Form</b>
23	<b>Investment</b>	Δ □	placed qualified property in service in New York State	IT-212
24	<b>Long-term care insurance</b>	Δ	paid premiums during the tax year for a long-term care insurance policy	IT-249
25	<b>Low-income housing</b>	Δ	had construction or rehabilitation expenses for eligible rent-restricted housing	DTF-624
26	<b>QETC capital</b>	Δ	held investments in a qualified emerging technology company (QETC)	DTF-622
27	<b>QETC employment</b>	Δ □	is a qualified emerging technology company that paid wages to full-time employees	DTF-621
28	<b>QETC facilities, operations, and training</b>	Δ □	is a QETC that is an eligible taxpayer with qualified research and development property, research expenses, or high-technology training expenses.	DTF-619
29	<b>QEZE real property taxes</b>	Δ □	is a qualified empire zone enterprise (QEZE) that paid eligible real property taxes	IT-606
30	<b>QEZE tax reduction</b>	Δ	is a QEZE that meets the employment requirements	IT-604
31	<b>Rehabilitation of historic properties</b>	Δ	had qualified expenses related to the rehabilitation of a certified historic structure located in New York State	IT-238
32	<b>Security officer training</b>	Δ □	employed qualified security officers and received a certificate from the New York State Office of Homeland Security	IT-631
33	<b>Special additional mortgage recording tax</b>	Δ □	paid the special additional mortgage recording tax	IT-256
34	<b>Taxicabs &amp; livery service vehicles accessible to persons with disabilities</b>	Δ	Upgraded a vehicle so that it is accessible to persons with disabilities	IT-239
35	<b>Unincorporated business tax (UBT New York City)</b>	Δ	is a New York City business that filed Form NYC-202 and paid UBT; or was a partner in a New York City partnership that filed Form NYC-204 and paid UBT	IT-219
36	<b>Zone equivalent area (ZEA) wage</b>	Δ □	has an unused credit from a prior year for wages paid to employees within a ZEA	IT-601.1

**Notes to Individual and Business New York Tax Credit Tables:**

Δ You may **not** apply for this credit using short Form IT-150; **you must use Form IT-201.**

□ This credit may be refunded to you, even if you owe no tax.

○ You may apply for this credit even if you don't have to file a tax return.

**New members – December 2008**

I'd like to welcome the following new NATP members and thank you for joining.

Full Name	City	State
Edwin B Bustamante	Brooklyn	NY
Patrick M Capozzi, CPA	Blasdell	NY
Doreen Clark	Memphis	NY
Ann Cowley	Penfield	NY

Full Name	City	State
Claudy Dorestant	Brooklyn	NY
Michelle Galletti	Liverpool	NY
Seneka Johnson	Riverdale	NY
John J Laudico	Rochester	NY
Benjamin Lizardo	Brooklyn	NY
Paul J Nagel, CPA CFP	Glen Cove	NY
Moses Neuman, EA	Monroe	NY
Bob Orazem	Staten Island	NY
Jimmy Peters	Lindenhurst	NY
Gary Schwartz, EA	Fishkill	NY
Damien Sweeney, EA	Bronx	NY
Darlene Timmons	Brooklyn	NY
William H Wallace, CPA	Henrietta	NY

### **Amazon Loses Law Suit Against New York State**

A New York State judge has dismissed a lawsuit by Amazon.com Inc. challenging New York's law requiring some out-of-state Internet retailers to collect New York sales tax.

New York State Supreme Court Justice Eileen Bransten dismissed Amazon's complaint, saying the internet company failed to state a claim and "there is no basis upon which Amazon can prevail."

The judge said New York's law doesn't broadly tax "any and all internet sales," but instead requires companies to collect state and local sales taxes if the company generates \$10,000 or more in revenue as a result of commissions paid to persons in New York for sales referrals.

"The neutral statute simply obligates out-of-state sellers to shoulder their fair share of the tax-collection burden when using New Yorkers to earn profit from other New Yorkers," the judge wrote.

New York residents are required to pay sales and use taxes on internet purchases. However, the new law shifts the obligation to collect taxes to some out-of-state sellers.

The judge said New York's law is "carefully crafted" to ensure there is enough of a basis for requiring collection of New York taxes and out-of-state sellers can shield themselves from the tax-collection obligation by prohibiting in-state solicitation activities.

Amazon had argued that it has no physical presence in New York State and so-called associates who maintained links to Amazon's Web site had no role in sales transactions, which are completed out-of-state, according to the court order.

Under the associates program, participants who maintained links to Amazon.com on their Web sites were paid a percentage on the proceeds of sale and offered incentives for directly referring customers to the Amazon Prime program, according to court documents. Persons participating in the program had to apply to join it.

**The State Office of the New York Chapter of NATP**

Remember that we are here to help our membership. If you have a New York State tax question contact us. If we can answer your question we will or we will put you in touch with someone who can.

**NY Chapter NATP State Office**  
**1129 Front St., Binghamton, NY 13905**  
**Phone (800) 822-3260. Fax (607) 723-1022.**  
**Email [NYNATPstateoffice@att.net](mailto:NYNATPstateoffice@att.net)**

**Quiz Answers:**

1. Which of the following is not a name of a New York State locality (city or town):
  - a. Finland
  - b. Norway (Herkimer)
  - c. Stockholm (St. Lawrence)
  - d. Sweden (Monroe)

**Finland** is not the name of any New York State locality shown in the STAR rebate tables. The counties the other localities are in are shown above.

2. What school district is in the most localities? **Adirondack** (in 15 localities in three counties: Herkimer, Lewis, Oneida)
3. What town has the most school districts? **Hempstead** (Nassau County – 33 school districts)
4. How many combinations of counties, localities, and school districts are listed in the combined Downstate and Upstate STAR rebate tables? **2913** (one less than included in the 2007 STAR rebate tables)
5. Which combination of county/locality/school district has the highest STAR rebate, and what is the amount of the enhanced STAR rebate? **Westchester County, Town of Cortlandt, Lakeland School District. The enhanced STAR rebate is \$1730.24.**
6. Which combination of county/locality/school district has the lowest STAR rebate, and what is the amount of the enhanced STAR rebate? **Suffolk County, Town of Southampton, Sagaponack School District. The enhanced STAR rebate is \$21.65.**

Try out for Jeopardy if you knew the answers to all of these questions without looking anything up! 😊