

SUNY Tax-Free Areas to Revitalize and Transform Upstate NY (START-UP NY) Program

Overview. The START-UP NY Program is designed to attract businesses to New York and to create and retain jobs in the state. The START-UP NY Program offers significant tax benefits to eligible businesses that start up, move to or significantly expand in New York, generally on or around a campus of a participating public or private New York college or university (the “Institution”).

Tax Benefits. A taxpayer qualifying under the START-UP NY Program may avoid New York State income or franchise, sales, Metropolitan Commuter Transportation Mobility, real estate transfer, organization, and property taxes applicable to its eligible business for 10 years, beginning in 2014. In addition, employees hired by an eligible business for new jobs in New York will not be subject to New York State, New York City or Yonkers income tax for five years and will not pay income tax on income from the eligible business up to \$200,000 a year (\$250,000 for a head of household and \$300,000 for married filing jointly) for an additional five years. Although the program does not require that businesses create a minimum number of net new jobs to participate, the Commissioner of Economic Development (the “Commissioner”) will allocate to each participating business a maximum number of net new jobs that are eligible for the employee income tax benefits, with an aggregate statewide cap of 10,000 new jobs per year (with any unused amount carrying over to the next year).

Eligibility Requirements. A business may participate in the START-UP NY Program if (among other things):

- its mission and activities align with or support the academic mission of an Institution that received

approval to participate in the START-UP NY Program, its participation in the program has positive community and economic benefits and it is approved by the Institution;

- it creates net new jobs in its first year of operation and maintains net new jobs after the first year of operation;
- it is a start-up business, a business new to New York or a business expanding its current operations in New York;
- it does not owe past-due federal or state taxes or local property taxes; and
- it is in the formative stages of development or it is a high-tech company if it is locating in New York City or Nassau, Suffolk or Westchester county.

Ineligible Businesses. The following types of businesses cannot participate in the START-UP NY Program:

- retail and wholesale businesses;
- restaurants;
- real estate brokers or real estate management companies;
- law firms, medical or dental practices, or accounting firms;
- hospitality businesses;
- finance and financial services businesses;
- businesses providing personal services;

This publication may constitute “Attorney Advertising” under the New York Rules of Professional Conduct and under the law of other jurisdictions.

- businesses providing business administrative or support services (unless the business will create at least 100 new jobs and the business obtains the Commissioner's permission);
- businesses providing utilities and energy production and distribution businesses; and
- businesses that would compete unfairly with other local businesses outside of the tax-free area.

Compliance and Disclosure. Participating businesses must submit an annual report to the Commissioner and agree that if the business fails to meet certain performance benchmarks, including the creation of net new jobs, New York may suspend or terminate the business's participation in the START-UP NY Program and/or recover some of the tax benefits awarded under the program. The Commissioner may publicly disclose certain information about participating businesses related to the program.

If you have any questions or would like more information about the START-UP NY Program, please contact [Alan J. Tarr](#) (at 212-407-4900 or atarr@loeb.com) or [Megan A. Stombock](#) (at 212-407-4226 or mstombock@loeb.com).

This alert is a publication of Loeb & Loeb and is intended to provide information on recent legal developments. This alert does not create or continue an attorney-client relationship nor should it be construed as legal advice or an opinion on specific situations.

Circular 230 Disclosure: To ensure compliance with Treasury Department rules governing tax practice, we inform you that any advice contained herein (including any attachments) (1) was not written and is not intended to be used, and cannot be used, for the purpose of avoiding any federal tax penalty that may be imposed on the taxpayer; and (2) may not be used in connection with promoting, marketing or recommending to another person any transaction or matter addressed herein.

© 2013 Loeb & Loeb LLP. All rights reserved.

Tax Group

MICHELLE W. ALBRECHT	MALBRECHT@LOEB.COM	212.407.4181	JEFFREY M. LOEB	JLOEB@LOEB.COM	310.282.2266
JOHN ARAO	JARAO@LOEB.COM	310.282.2231	MARY ANN MANCINI	MMANCINI@LOEB.COM	202.618.5006
MARLA ASPINWALL	MASPINWALL@LOEB.COM	310.282.2377	ANNETTE MEYERSON	AMEYERSON@LOEB.COM	310.282.2156
RYAN M. AUSTIN	RAUSTIN@LOEB.COM	310.282.2268	DAVID C. NELSON	DNELSON@LOEB.COM	310.282.2346
AMY BELL	ABELL@LOEB.COM	310.282.2170	LANNY A. OPPENHEIM	LOPPENHEIM@LOEB.COM	212.407.4115
LAURA B. BERGER	LBERGER@LOEB.COM	310.282.2274	CAITLIN M. ORR	CORR@LOEB.COM	202.618.5026
LEAH M. BISHOP	LBISHOP@LOEB.COM	310.282.2353	RONALD C. PEARSON	RPEARSON@LOEB.COM	310.282.2230
SUSAN G. BLUMENTHAL	SBLUMENTHAL@LOEB.COM	202.618.5009	ALYSE N. PELAVIN	APELAVIN@LOEB.COM	310.282.2298
LIORA BRENER	LBRENER@LOEB.COM	212.407.4108	JONATHAN J. RIKOON	JRIKOON@LOEB.COM	212.407.4844
DEBORAH J. BROSS	DBROSS@LOEB.COM	310.282.2245	STANFORD K. RUBIN	SRUBIN@LOEB.COM	310.282.2090
TARIN G. BROSS	TBROSS@LOEB.COM	310.282.2267	LAURIE S. RUCKEL	LRUCKEL@LOEB.COM	212.407.4836
CHRISTOPHER W. CAMPBELL	CWCAMPBELL@LOEB.COM	310.282.2321	CRISTINE M. SAPERS	CSAPERS@LOEB.COM	212.407.4262
THERESA R. CLARDY	TCLARDY@LOEB.COM	310.282.2058	JOHN F. SETTINERI	JSETTINERI@LOEB.COM	212.407.4851
REGINA I. COVITT	RCOVITT@LOEB.COM	310.282.2344	ANDREW K. STEENBOCK	ASTEENBOCK@LOEB.COM	310.282.2242
TERENCE F. CUFF	TCUFF@LOEB.COM	310.282.2181	REBECCA M. STERLING	RSTERLING@LOEB.COM	310.282.2301
LINDA N. DEITCH	LDEITCH@LOEB.COM	310.282.2296	MEGAN A. STOMBOCK	MSTOMBOCK@LOEB.COM	212.407.4226
RACHEL R. DEMENY	RDEMENY@LOEB.COM	212.407.4135	ADAM F. STREISAND	ASTREISAND@LOEB.COM	310.282.2354
PAUL N. FRIMMER	PFRIMMER@LOEB.COM	310.282.2383	ALAN J. TARR	ATARR@LOEB.COM	212.407.4900
ANDREW S. GARB	AGARB@LOEB.COM	310.282.2302	STUART P. TOBISMAN	STOBISMAN@LOEB.COM	310.282.2323
ELIOT P. GREEN	EGREEN@LOEB.COM	212.407.4908	JESSICA C. VAIL	JVAIL@LOEB.COM	310.282.2132
RACHEL J. HARRIS	RHARRIS@LOEB.COM	310.282.2175	NICHOLAS J. VAN BRUNT	NVANBRUNT@LOEB.COM	310.282.2109
TANYA A. HARVEY	THARVEY@LOEB.COM	202.618.5024	GABRIELLE A. VIDAL	GVIDAL@LOEB.COM	310.282.2362
DAVID M. HODGE	DHODGE@LOEB.COM	310.282.2224	JOHN S. WARREN (Ret.)	JWARREN@LOEB.COM	310.282.2208
KAREN L. KUSHKIN	KKUSHKIN@LOEB.COM	212.407.4984	BRUCE J. WEXLER	BWEXLER@LOEB.COM	212.407.4081
THOMAS N. LAWSON	TLAWSON@LOEB.COM	310.282.2289	DANIEL M. YARMISH	DYARMISH@LOEB.COM	212.407.4116
JEROME L. LEVINE	JLEVINE@LOEB.COM	212.407.4950			