



BOUSQUET HOLSTEIN PLLC

Proposed Tax-Free NY

Summary of Provisions in Gov.
Cuomo's June 7, 2013 Draft
Legislation





TaFNY Tax Benefits

- Credit to **eliminate income tax** (personal/partnership)
- Credit to **eliminate corporate franchise tax**
- **Real property tax exemption** (treated as exempt educational institution property). Limited to property with educational exemption as of June 1, 2013.
- **Credit/refund of sales and use tax** for 120 month period
- Lease is exempt from real estate transfer taxes
- For a period of up to 10 years, **eligible employees working at the site are exempt from state/NYC/Yonkers income taxes**
- Also an exemption for MCTD payroll tax



Eligible Sites – SUNY/Community Colleges

- **SUNY campuses**, with the exception of Empire State College (except Saratoga), any property of Downstate Medical Center (except incubator property), the College of Optometry and the Maritime College
- **Community colleges**, except a community college whose main campus is in NYC
- Sites allowed consists of:
 - vacant space and vacant land on campus
 - Up to 200,000sf of vacant land owned or leased by the SUNY located within one mile of campus
 - Potential certification by Commissioner of ESD of land located more than one mile from campus



Eligible Sites – CUNY

- Five CUNY campuses (one in each borough)
- Limitations on selecting campus located in area with high poverty
- Up to 200,000sf of land adjacent to the campus that is owned or leased by the CUNY



Eligible Sites – Private Colleges/Universities

- Up to 3 million sf of vacant space or vacant land on a campus of a private university or college located outside Nassau, Suffolk, Westchester, or NYC
- However, each of Nassau, Suffolk, Westchester, Brooklyn, Bronx, Queens and Staten Island will have 30,000 sf in high poverty areas
- The locations for the 30,000sf sites must be owned or leased by one of the following:
 - Private college or university whose campus is in Nassau, Suffolk, Westchester or NYC
 - One of the SUNY institutions excluded from the SUNY category
 - A community college whose main campus in is NYC
 - A CUNY excluded from the five sites



Eligible Sites – Educational Institutions

- All of the educational institutions are prohibited relocating academic, administrative, housing, dining athletics or any other facilities serving students in order to create vacant space



Eligible Sites – Strategic State Assets

- The TaFNY approval board may designate up to **20 strategic state assets** as designated sites
- Each site must be affiliated with and supported by an educational institution
- **No limit on the size** of the designated site
- A strategic state asset **does not include land or buildings located in NYC**
- Includes only land and buildings which are, as of June 15, 2013, closed, vacant or for which notice of closure has been authorized by law



Eligible Businesses

- **Businesses that align with university mission**
- Create and maintain net new jobs (including first year of operation)
- If a business has current operations in NYS or had operations in the last 5 years, **it must apply for permission** from the Commissioner of ESD to participate in TaFNY
- Excluded businesses:
 - businesses providing utilities
 - businesses engaged in generation or distribution of electricity, the distribution of natural gas, or the production of steam
 - Retail/wholesale, restaurants, hotels
 - Medical or dental practices
 - Real estate brokers, accountants, attorneys
 - Personal service businesses
 - Finance and financial services



Approval Procedures

- The draft bill would provide for a process by which an educational institution would apply to have some of its property designated as a TaFNY area
- The application requires a plan for the types of businesses and how these businesses align with the educational mission of the institution
- A business desiring to participate in the program will apply first to the academic institution, which application, if approved, must be approved by the Commissioner of ESD