

1891

2011-2012 Regular Sessions

I N S E N A T E

January 14, 2011

Introduced by Sen. ALESI -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the tax law, in relation to the creation of the New York jobs tax credit (Part A); to amend the tax law, in relation to the personal income tax rates and benefit recapture (Part B); to amend the tax law, in relation to entire net income base (Part C); and creating a commission on regulatory reform and economic competitiveness; and providing for the repeal of such provisions upon expiration thereof (Part D)

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. This act enacts into law major components of legislation relating to taxes and regulatory reform and economic competitiveness. Each component is wholly contained within a Part identified as Parts A through D. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a part, including the effective date of the Part, which makes referenced to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. The tax law is amended by adding a new section 31-a to read as follows:

S 31-A. NEW YORK JOBS TAX CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER, WHICH IS SUBJECT TO TAX UNDER ARTICLE NINE-A OR TWENTY-TWO OF THIS CHAPTER AND WHICH CREATES A NEW JOB, SHALL BE ALLOWED A CREDIT AGAINST SUCH TAX. THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SECTION SHALL BE EQUAL

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

1 TO THE AMOUNT OF WITHHOLDING, REQUIRED BY ARTICLE TWENTY-TWO OF THIS
2 CHAPTER, REMITTED TO THE STATE FOR EACH NEW EMPLOYEE. THE CREDIT SHALL
3 NOT BE MORE THAN FIVE THOUSAND DOLLARS FOR ANY NEW EMPLOYEE FOR ONE FULL
4 YEAR OF EMPLOYMENT; IF A NEW EMPLOYEE HAS BEEN HIRED FOR LESS THAN A
5 FULL TAX YEAR THIS AMOUNT SHALL BE PRORATED AND APPORTIONED TO EACH TAX
6 YEAR BUT SHALL IN NO WAY DECREASE THE FULL THREE YEARS OF CREDIT ELIGI-
7 BILITY. THE TAXPAYER MAY CLAIM THIS CREDIT FOR EACH NEW EMPLOYEE FOR A
8 PERIOD OF THREE YEARS OF EMPLOYMENT. THE TAXPAYER MAY OFFSET QUARTERLY
9 ESTIMATED RETURNS WITH THE AMOUNT OF THIS CREDIT EARNED IN ANY PREVIOUS
10 QUARTER.

11 (B) FOR CALENDAR YEARS TWO THOUSAND ELEVEN AND TWO THOUSAND TWELVE IF
12 A NEW EMPLOYEE WAS RECEIVING UNEMPLOYMENT INSURANCE BENEFITS AT THE TIME
13 OF HIRE, AN ADDITIONAL THREE THOUSAND DOLLAR CREDIT WILL BE ALLOWED FOR
14 THE FIRST FULL YEAR OF EMPLOYMENT.

15 (C) DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL
16 HAVE THE FOLLOWING MEANINGS:

17 (1) "NEW EMPLOYEE" SHALL MEAN ANY FULL TIME EMPLOYEE THAT CAUSES THE
18 TOTAL NUMBER OF EMPLOYEES TO INCREASE ABOVE BASE EMPLOYMENT OR CREDIT
19 EMPLOYMENT, WHICHEVER IS HIGHER.

20 (2) "BASE YEAR" SHALL MEAN CALENDAR YEAR TWO THOUSAND TEN.

21 (3) "BASE EMPLOYMENT" SHALL MEAN THE AVERAGE NUMBER OF FULL TIME
22 EMPLOYEES OR FULL TIME EQUIVALENT EMPLOYEES DURING THE BASE YEAR. FOR A
23 NEW BUSINESS, BASE EMPLOYMENT SHALL BEGIN AT ZERO.

24 (4) "CREDIT EMPLOYMENT" SHALL MEAN BASE EMPLOYMENT PLUS THE NUMBER OF
25 NEW EMPLOYEES FOR WHICH A CREDIT IS EARNED.

26 (5) "WITHHOLDING" FOR THE PURPOSES OF THIS SECTION SHALL BE THE WITH-
27 HOLDING REQUIRED BY ARTICLE TWENTY-TWO OF THIS CHAPTER CALCULATED USING
28 THE EMPLOYEES APPLICABLE WAGE AND FILING STATUS WITH ONE EXEMPTION.

29 (D) REPLACEMENT EMPLOYEES. IF A NEW EMPLOYEE FOR WHICH A CREDIT WAS
30 EARNED LEAVES THE PAYROLL AND AN EMPLOYEE IS HIRED WHICH BRINGS TOTAL
31 EMPLOYMENT ABOVE BASE EMPLOYMENT BUT AT OR BELOW CREDIT EMPLOYMENT
32 LEVEL, THE CREDIT ELIGIBILITY PERIOD FOR SUCH EMPLOYEE SHALL BE THREE
33 YEARS MINUS THE AMOUNT OF TIME (ROUNDED TO THE NEXT FULL MONTH) THE
34 DEPARTING EMPLOYEE RECEIVED THE CREDIT.

35 (E) FEDERAL ARRA (AMERICAN RECOVERY AND REINVESTMENT ACT) FUNDS SUFFI-
36 CIENT TO COVER THE TOTAL AMOUNT OF THE ADDITIONAL THREE THOUSAND DOLLAR
37 CREDIT CLAIMED FOR HIRING OFF THE UNEMPLOYMENT ROLLS FOUND IN SUBDIVI-
38 SION (B) OF THIS SECTION SHALL BE TRANSFERRED FROM THE SPECIAL FUND
39 ESTABLISHED IN SECTION FIVE HUNDRED FIFTY-TWO OF THE LABOR LAW TO THE
40 GENERAL FUND.

41 S 2. Section 210 of the tax law is amended by adding a new subdivision
42 43 to read as follows:

43 43. NEW YORK JOBS TAX CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER WILL
44 BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-ONE-A
45 OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

46 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
47 FOR ANY TAXABLE YEAR MAY NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
48 THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF
49 SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDIT
50 ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO
51 SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE
52 YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED
53 IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF
54 THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF
55 SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO
56 INTEREST WILL BE PAID THEREON.

1 S 3. Section 606 of the tax law is amended by adding a new subsection
2 (ss) to read as follows:

3 (SS) NEW YORK JOBS TAX CREDIT. (1) A TAXPAYER WILL BE ALLOWED A CRED-
4 IT, TO THE EXTENT ALLOWED UNDER SECTION THIRTY-ONE-A OF THIS CHAPTER,
5 AGAINST THE TAX IMPOSED BY THIS ARTICLE.

6 (2) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER
7 THIS SUBSECTION FOR ANY TAXABLE YEAR EXCEEDS THE TAXPAYER'S TAX FOR SUCH
8 YEAR, THE EXCESS WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED
9 OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED
10 EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST WILL BE
11 PAID THEREON.

12 S 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
13 of the tax law is amended by adding a new clause (xxxii) to read as
14 follows:

15 (XXXII) NEW YORK JOBS TAX AMOUNT OF CREDIT UNDER SUBDIVISION
16 CREDIT UNDER SUBSECTION (SS) FORTY-THREE OF SECTION TWO HUNDRED TEN

17 S 5. This act shall take effect immediately and shall apply to taxable
18 years beginning on and after January 1, 2011.

19 PART B

20 Section 1. The opening paragraph of subsection (a), the opening para-
21 graph of subsection (b) and the opening paragraph of subsection (c) of
22 section 601 of the tax law, as amended by section 1 of part Z-1 of chap-
23 ter 57 of the laws of 2009, are amended to read as follows:

24 Resident married individuals filing joint returns and resident surviv-
25 ing spouses. There is hereby imposed for each taxable year on the New
26 York taxable income of every resident married individual who makes a
27 single return jointly with his spouse under subsection (b) of section
28 six hundred fifty-one OF THIS ARTICLE and on the New York taxable income
29 of every resident surviving spouse a tax determined in accordance with
30 the following tables. PROVIDED HOWEVER, FOR THE TAXABLE YEAR BEGINNING
31 IN TWO THOUSAND ELEVEN, IF THE TAXPAYER HAS SMALL BUSINESS TAXABLE
32 INCOME, AS CALCULATED IN SECTION SIX HUNDRED ELEVEN OF THIS ARTICLE,
33 THEN THE TAX DETERMINED BY THIS SUBSECTION SHALL BE THE COMBINATION OF
34 THE TAX ON SMALL BUSINESS TAXABLE INCOME DETERMINED BY USING THE TABLE
35 IN PARAGRAPH TWO OF THIS SUBSECTION AND THE TAX ON THE AMOUNT RESULTING
36 WHEN SMALL BUSINESS TAXABLE INCOME IS SUBTRACTED FROM NEW YORK TAXABLE
37 INCOME, DETERMINED BY USING THE TABLE IN PARAGRAPH ONE OF THIS
38 SUBSECTION:

39 Resident heads of households. There is hereby imposed for each taxable
40 year on the New York taxable income of every resident head of a house-
41 hold a tax determined in accordance with the following tables. PROVIDED
42 HOWEVER, FOR THE TAXABLE YEAR BEGINNING IN TWO THOUSAND ELEVEN, IF THE
43 TAXPAYER HAS SMALL BUSINESS TAXABLE INCOME, AS CALCULATED IN SECTION SIX
44 HUNDRED ELEVEN OF THIS ARTICLE, THEN THE TAX DETERMINED BY THIS
45 SUBSECTION SHALL BE THE COMBINATION OF THE TAX ON SMALL BUSINESS TAXABLE
46 INCOME DETERMINED BY USING THE TABLE IN PARAGRAPH TWO OF THIS SUBSECTION
47 AND THE TAX ON THE AMOUNT RESULTING WHEN SMALL BUSINESS TAXABLE INCOME
48 IS SUBTRACTED FROM NEW YORK TAXABLE INCOME, DETERMINED BY USING THE
49 TABLE IN PARAGRAPH ONE OF THIS SUBSECTION:

50 Resident unmarried individuals, resident married individuals filing
51 separate returns and resident estates and trusts. There is hereby
52 imposed for each taxable year on the New York taxable income of every
53 resident individual who is not a married individual who makes a single

1 return jointly with his spouse under subsection (b) of section six
2 hundred fifty-one OF THIS ARTICLE or a resident head of a household or a
3 resident surviving spouse, and on the New York taxable income of every
4 resident estate and trust a tax determined in accordance with the
5 following tables. PROVIDED HOWEVER, FOR THE TAXABLE YEAR BEGINNING IN
6 TWO THOUSAND ELEVEN, IF THE TAXPAYER HAS SMALL BUSINESS TAXABLE INCOME,
7 AS CALCULATED IN SECTION SIX HUNDRED ELEVEN OF THIS ARTICLE, THEN THE
8 TAX DETERMINED BY THIS SUBSECTION SHALL BE THE COMBINATION OF THE TAX ON
9 SMALL BUSINESS TAXABLE INCOME DETERMINED BY USING THE TABLE IN PARAGRAPH
10 TWO OF THIS SUBSECTION AND THE TAX ON THE AMOUNT RESULTING WHEN SMALL
11 BUSINESS TAXABLE INCOME IS SUBTRACTED FROM NEW YORK TAXABLE INCOME,
12 DETERMINED BY USING THE TABLE IN PARAGRAPH ONE OF THIS SUBSECTION:

13 S 2. Subparagraph (B) of paragraph 2 and subparagraph (B) of paragraph
14 3 of subsection (d) of section 601 of the tax law, subparagraph (B) of
15 paragraph 2 as amended by section 2 and subparagraph (B) of paragraph 3
16 as amended by section 3 of part Z-1 of chapter 57 of the laws of 2009,
17 are amended to read as follows:

18 (B) For taxable years beginning after two thousand two and before two
19 thousand six, the fraction is computed as follows: the numerator is the
20 lesser of fifty thousand dollars or the excess of New York adjusted
21 gross income for the taxable year over one hundred fifty thousand
22 dollars and the denominator is fifty thousand dollars. For taxable years
23 beginning after two thousand eight and before two thousand twelve, the
24 fraction is computed as follows: the numerator is the lesser of fifty
25 thousand dollars or the excess of New York adjusted gross income for the
26 taxable year over three hundred thousand dollars and the denominator is
27 fifty thousand dollars. FOR THE PURPOSES OF THIS SUBPARAGRAPH, FOR THE
28 TAXABLE YEAR BEGINNING IN TWO THOUSAND ELEVEN, INCOME DERIVED AS A SOLE
29 PROPRIETOR, MEMBER OF A PARTNERSHIP OR A SHAREHOLDER OF A BUSINESS THAT
30 EMPLOYS FIFTY OR LESS EMPLOYEES OR THE ENTIRE NET INCOME BASE OF THE
31 BUSINESS ENTITY IS LESS THAN TWO MILLION DOLLARS SHALL NOT BE INCLUDED
32 IN ADJUSTED GROSS INCOME.

33 (B) For such taxpayers with adjusted gross income over five hundred
34 thousand dollars, for taxable years beginning after two thousand eight
35 and before two thousand twelve, the fraction is computed as follows: the
36 numerator is the lesser of fifty thousand dollars or the excess of New
37 York adjusted gross income for the taxable year over five hundred thou-
38 sand dollars and the denominator is fifty thousand dollars. Provided,
39 however, that the total tax prior to the application of any tax credits
40 shall not exceed the highest rate of tax set forth in the tax table in
41 subsection (a) of this section multiplied by the taxpayer's taxable
42 income. FOR THE PURPOSES OF THIS SUBPARAGRAPH, FOR THE TAXABLE YEAR
43 BEGINNING IN TWO THOUSAND ELEVEN, INCOME DERIVED AS A SOLE PROPRIETOR,
44 MEMBER OF A PARTNERSHIP OR A SHAREHOLDER OF A BUSINESS THAT EMPLOYS
45 FIFTY OR LESS EMPLOYEES OR THE ENTIRE NET INCOME BASE OF THE BUSINESS
46 ENTITY IS LESS THAN TWO MILLION DOLLARS SHALL NOT BE INCLUDED IN
47 ADJUSTED GROSS INCOME.

48 S 3. Section 611 of the tax law is amended by adding a new subsection
49 (c) to read as follows:

50 (C) FOR THE TAXABLE YEAR BEGINNING IN TWO THOUSAND ELEVEN, TAXABLE
51 INCOME DERIVED AS A SOLE PROPRIETOR, MEMBER OF A PARTNERSHIP OR SHARE-
52 HOLDER OF A BUSINESS THAT EMPLOYS FIFTY OR LESS EMPLOYEES OR THE ENTIRE
53 NET INCOME BASE OF THE BUSINESS ENTITY IS LESS THAN TWO MILLION DOLLARS
54 SHALL BE REFERRED TO AS "SMALL BUSINESS TAXABLE INCOME" CALCULATED AS
55 FOLLOWS: TOTAL TAXABLE INCOME OF THE TAXPAYER SHALL BE MULTIPLIED BY A
56 FRACTION, THE NUMERATOR BEING THE AMOUNT OF ADJUSTED GROSS INCOME

DERIVED AS A SOLE PROPRIETOR, MEMBER OF A PARTNERSHIP OR SHAREHOLDER OF A BUSINESS THAT EMPLOYS FIFTY OR LESS EMPLOYEES OR THE ENTIRE NET INCOME BASE OF THE BUSINESS ENTITY IS LESS THAN TWO MILLION DOLLARS AND THE DENOMINATOR BEING THE TOTAL ADJUSTED GROSS INCOME OF THE TAXPAYER.

S 4. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2011.

PART C

Section 1. Paragraph (a) of subdivision 1 of section 210 of the tax law, as amended by section 2 of part N of chapter 60 of the laws of 2007, is amended to read as follows:

(a) Entire net income base. For taxable years beginning before July first, nineteen hundred ninety-nine, the amount prescribed by this paragraph shall be computed at the rate of nine percent of the taxpayer's entire net income base. For taxable years beginning after June thirtieth, nineteen hundred ninety-nine and before July first, two thousand, the amount prescribed by this paragraph shall be computed at the rate of eight and one-half percent of the taxpayer's entire net income base. For taxable years beginning after June thirtieth, two thousand and before July first, two thousand one, the amount prescribed by this paragraph shall be computed at the rate of eight percent of the taxpayer's entire net income base. For taxable years beginning after June thirtieth, two thousand one and before January first, two thousand seven, the amount prescribed by this paragraph shall be computed at the rate of seven and one-half percent of the taxpayer's entire net income base. For taxable years beginning on or after January first, two thousand seven, the amount prescribed by this paragraph shall be computed at the rate of seven and one-tenth percent of the taxpayer's entire net income base. The taxpayer's entire net income base shall mean the portion of the taxpayer's entire net income allocated within the state as hereinafter provided, subject to any modification required by paragraphs (d) and (e) of subdivision three of this section. However, in the case of a small business taxpayer, as defined in paragraph (f) of this subdivision, the amount prescribed by this paragraph shall be computed pursuant to subparagraph (iv) of this paragraph and in the case of a manufacturer, as defined in subparagraph [(vi)] (VIII) of this paragraph, the amount prescribed by this paragraph shall be computed pursuant to subparagraph [(vi)] (VIII) of this paragraph.

(i) if the entire net income base is not more than two hundred thousand dollars, (1) for taxable years beginning before July first, nineteen hundred ninety-nine, the amount shall be eight percent of the entire net income base; (2) for taxable years beginning after June thirtieth, nineteen hundred ninety-nine and before July first, two thousand three, the amount shall be seven and one-half percent of the entire net income base; and (3) for taxable years beginning after June thirtieth, two thousand three and before January first, two thousand five, the amount shall be 6.85 percent of the entire net income base;

(ii) if the entire net income base is more than two hundred thousand dollars but not over two hundred ninety thousand dollars, (1) for taxable years beginning before July first, nineteen hundred ninety-nine, the amount shall be the sum of (a) sixteen thousand dollars, (b) nine percent of the excess of the entire net income base over two hundred thousand dollars and (c) five percent of the excess of the entire net income base over two hundred fifty thousand dollars; (2) for taxable years beginning after June thirtieth, nineteen hundred ninety-nine and

1 before July first, two thousand, the amount shall be the sum of (a)
2 fifteen thousand dollars, (b) eight and one-half percent of the excess
3 of the entire net income base over two hundred thousand dollars and (c)
4 five percent of the excess of the entire net income base over two
5 hundred fifty thousand dollars; (3) for taxable years beginning after
6 June thirtieth, two thousand and before July first, two thousand one,
7 the amount shall be the sum of (a) fifteen thousand dollars, (b) eight
8 percent of the excess of the entire net income base over two hundred
9 thousand dollars and (c) two and one-half percent of the excess of the
10 entire net income base over two hundred fifty thousand dollars; (4) for
11 taxable years beginning after June thirtieth, two thousand one and
12 before July first, two thousand three, the amount shall be seven and
13 one-half percent of the entire net income base; and (5) for taxable
14 years beginning after June thirtieth, two thousand three and before
15 January first, two thousand five, the amount shall be the sum of (a)
16 thirteen thousand seven hundred dollars, (b) 7.5 percent of the excess
17 of the entire net income base over two hundred thousand dollars and (c)
18 3.25 percent of the excess of the entire net income base over two
19 hundred fifty thousand dollars;

20 (iii) for taxable years beginning on or after January first, two thou-
21 sand five and ending before January first, two thousand seven, if the
22 entire net income base is not more than two hundred ninety thousand
23 dollars the amount shall be six and one-half percent of the entire net
24 income base; if the entire net income base is more than two hundred
25 ninety thousand dollars but not over three hundred ninety thousand
26 dollars the amount shall be the sum of (1) eighteen thousand eight
27 hundred fifty dollars, (2) seven and one-half percent of the excess of
28 the entire net income base over two hundred ninety thousand dollars but
29 not over three hundred ninety thousand dollars and (3) seven and one-
30 quarter percent of the excess of the entire net income base over three
31 hundred fifty thousand dollars but not over three hundred ninety thou-
32 sand dollars;

33 (iv) for taxable years beginning on or after January first, two thou-
34 sand seven, if the entire net income base is not more than two hundred
35 ninety thousand dollars the amount shall be six and one-half percent of
36 the entire net income base; if the entire net income base is more than
37 two hundred ninety thousand dollars but not over three hundred ninety
38 thousand dollars the amount shall be the sum of (1) eighteen thousand
39 eight hundred fifty dollars, (2) seven and one-tenth percent of the
40 excess of the entire net income base over two hundred ninety thousand
41 dollars but not over three hundred ninety thousand dollars and (3) four
42 and thirty-five hundredths percent of the excess of the entire net
43 income base over three hundred fifty thousand dollars but not over three
44 hundred ninety thousand dollars;

45 (v) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-
46 SAND ELEVEN, IF A TAXPAYER, OR ITS AFFILIATES, WHETHER DOMICILED IN THIS
47 STATE OR NOT, AT ANY TIME IN THE TAXPAYER'S TAXABLE YEAR, EMPLOYS NO
48 MORE THAN FIFTY PERSONS, OR IF THE TAXPAYER'S ENTIRE NET INCOME BASE IS
49 LESS THAN TWO MILLION DOLLARS, THE AMOUNT SHALL BE THREE AND ONE-QUARTER
50 PERCENT OF THE ENTIRE INCOME BASE;

51 (VI) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-
52 SAND TWELVE, IF A TAXPAYER, OR ITS AFFILIATES, WHETHER DOMICILED IN THIS
53 STATE OR NOT, AT ANY TIME IN THE TAXPAYER'S TAXABLE YEAR, EMPLOYS NO
54 MORE THAN FIFTY PERSONS, OR IF THE TAXPAYER'S ENTIRE NET INCOME BASE IS
55 LESS THAN TWO MILLION DOLLARS, THE AMOUNT SHALL BE ZERO;

(VII) if the taxable period to which subparagraphs (i), (ii), (iii), [and] (iv) AND (V) of this paragraph apply is less than twelve months, the amount prescribed by this paragraph shall be computed as follows:

(A) Multiply the entire net income base for such taxpayer by twelve;

(B) Divide the result obtained in (A) by the number of months in the taxable year;

(C) Compute an amount pursuant to subparagraphs (i) and (ii) OF THIS PARAGRAPH as if the result obtained in (B) were the taxpayer's entire net income base;

(D) Multiply the result obtained in (C) by the number of months in the taxpayer's taxable year;

(E) Divide the result obtained in (D) by twelve.

[(vi)] (VIII) for taxable years beginning on or after January thirty-first, two thousand seven, the amount prescribed by this paragraph for a taxpayer which is a qualified New York manufacturer, shall be computed at the rate of six and one-half (6.5) percent of the taxpayer's entire net income base. The term "manufacturer" shall mean a taxpayer which during the taxable year is principally engaged in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture or commercial fishing. However, the generation and distribution of electricity, the distribution of natural gas, and the production of steam associated with the generation of electricity shall not be qualifying activities for a manufacturer under this subparagraph. Moreover, the combined group shall be considered a "manufacturer" for purposes of this subparagraph only if the combined group during the taxable year is principally engaged in the activities set forth in this paragraph, or any combination thereof. A taxpayer or a combined group shall be "principally engaged" in activities described above if, during the taxable year, more than fifty percent of the gross receipts of the taxpayer or combined group, respectively, are derived from receipts from the sale of goods produced by such activities. In computing a combined group's gross receipts, intercorporate receipts shall be eliminated. A "qualified New York manufacturer" is a manufacturer which has property in New York which is described in clause (A) of subparagraph (i) of paragraph (b) of subdivision twelve of this section and either (I) the adjusted basis of such property for federal income tax purposes at the close of the taxable year is at least one million dollars or (II) all of its real and personal property is located in New York. In addition, a "qualified New York manufacturer" means a taxpayer which is defined as a qualified emerging technology company under paragraph (c) of subdivision one of section thirty-one hundred two-e of the public authorities law regardless of the ten million dollar limitation expressed in subparagraph one of such paragraph (c).

(IX) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND ELEVEN, A TAXPAYER OR ITS AFFILIATES, WHETHER DOMICILED IN THIS STATE OR NOT, THAT IS A "SMALL MANUFACTURER", THE AMOUNT SHALL BE THREE AND ONE-QUARTER PERCENT OF THE ENTIRE INCOME BASE. A SMALL MANUFACTURER IS A TAXPAYER, THAT AT ANY TIME IN THE TAXPAYER'S TAXABLE YEAR EMPLOYS NO MORE THAN FIFTY PERSONS, OR THE TAXPAYER'S ENTIRE NET INCOME BASE IS LESS THAN TWO MILLION DOLLARS, AND THE TAXPAYER MEETS THE DEFINITION OF "MANUFACTURER" IN SUBPARAGRAPH (VIII) OF THIS PARAGRAPH;

(X) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE, A TAXPAYER OR ITS AFFILIATES, WHETHER DOMICILED IN THIS STATE OR NOT, THAT IS A "SMALL MANUFACTURER", THE AMOUNT SHALL BE ZERO. A SMALL MANUFACTURER IS A TAXPAYER, THAT AT ANY TIME IN THE TAXPAYER'S

1 TAXABLE YEAR EMPLOYS NO MORE THAN FIFTY PERSONS, OR THE TAXPAYER'S
2 ENTIRE NET INCOME BASE IS LESS THAN TWO MILLION DOLLARS, AND THE TAXPAY-
3 ER MEETS THE DEFINITION OF "MANUFACTURER" IN SUBPARAGRAPH (VIII) OF THIS
4 PARAGRAPH.

5 S 2. Subparagraph 1 of paragraph (b) of subdivision 1 of section 210
6 of the tax law, as amended by section 1 of part GG-1 of chapter 57 of
7 the laws of 2008, is amended to read as follows:

8 (1) The amount prescribed by this paragraph for taxable years begin-
9 ning before January first, two thousand eight shall be computed at .178
10 percent for each dollar of the taxpayer's total business and investment
11 capital, or the portion thereof allocated within the state as hereinaft-
12 er provided. For taxable years beginning on or after January first, two
13 thousand eight, the amount prescribed by this paragraph shall be
14 computed at .15 percent for each dollar of the taxpayer's total business
15 and investment capital, or the portion thereof allocated within the
16 state as hereinafter provided. However, in the case of a cooperative
17 housing corporation as defined in the internal revenue code, the appli-
18 cable rate shall be .04 percent. IF A TAXPAYER EMPLOYS NO MORE THAN
19 FIFTY EMPLOYEES AND HAS ENTIRE NET INCOME BASE LESS THAN TWO MILLION
20 DOLLARS THEN THE AMOUNT PRESCRIBED BY THIS PARAGRAPH SHALL BE ZERO
21 DOLLARS. In no event shall the amount prescribed by this paragraph
22 exceed three hundred fifty thousand dollars for qualified New York
23 manufacturers and for all other taxpayers ten million dollars for taxa-
24 ble years beginning on or after January first, two thousand eight but
25 before January first, two thousand eleven and one million dollars for
26 taxable years beginning on or after January first, two thousand eleven.

27 S 3. Subparagraph (ii) of paragraph (c) of subdivision 1 of section
28 210 of the tax law, as amended by section 5 of part N of chapter 60 of
29 the laws of 2007, is amended to read as follows:

30 (ii) For taxable years beginning in nineteen hundred ninety, nineteen
31 hundred ninety-one, nineteen hundred ninety-two, nineteen hundred nine-
32 ty-three and nineteen hundred ninety-four the amount prescribed by this
33 paragraph shall be computed at the rate of five percent of the taxpay-
34 er's minimum taxable income base. For taxable years beginning after
35 nineteen hundred ninety-four and before July first, nineteen hundred
36 ninety-eight, the amount prescribed by this paragraph shall be computed
37 at the rate of three and one-half percent of the taxpayer's minimum
38 taxable income base. For taxable years beginning after June thirtieth,
39 nineteen hundred ninety-eight and before July first, nineteen hundred
40 ninety-nine, the amount prescribed by this paragraph shall be computed
41 at the rate of three and one-quarter percent of the taxpayer's minimum
42 taxable income base. For taxable years beginning after June thirtieth,
43 nineteen hundred ninety-nine and before July first, two thousand, the
44 amount prescribed by this paragraph shall be computed at the rate of
45 three percent of the taxpayer's minimum taxable income base. For taxa-
46 ble years beginning after June thirtieth, two thousand, the amount
47 prescribed by this paragraph shall be computed at the rate of two and
48 one-half percent of the taxpayer's minimum taxable income base. For
49 taxable years beginning on or after January first, two thousand seven,
50 amount prescribed by this paragraph shall be computed at the rate of one
51 and one-half percent of the taxpayer's minimum taxable income base. The
52 "taxpayer's minimum taxable income base" shall mean the portion of the
53 taxpayer's minimum taxable income allocated within the state as herein-
54 after provided, subject to any modifications required by paragraphs (d)
55 and (e) of subdivision three of this section. HOWEVER, IF A TAXPAYER
56 EMPLOYS NO MORE THAN FIFTY EMPLOYEES AND HAS ENTIRE NET INCOME BASE LESS

1 THAN TWO MILLION DOLLARS THE AMOUNT PRESCRIBED BY THIS PARAGRAPH SHALL
2 BE COMPUTED AT THE RATE OF ZERO.

3 S 4. Clause (F) of subparagraph 1 of paragraph (d) of subdivision 1 of
4 section 210 of the tax law, as amended by section 12 of part A of chap-
5 ter 56 of the laws of 1998, is amended and a new clause (G) is added to
6 read as follows:

7 (F) a gross payroll of one thousand dollars or less, with total
8 receipts within and without this state of one thousand dollars or less,
9 and the average value of the assets of which are one thousand dollars or
10 less, eight hundred dollars[.];

11 (G) A TAXPAYER WHICH EMPLOYS NO MORE THAN FIFTY EMPLOYEES AND HAS
12 ENTIRE NET INCOME BASE LESS THAN TWO MILLION DOLLARS, REGARDLESS OF
13 GROSS PAYROLL, ZERO DOLLARS.

14 S 5. This act shall take effect immediately and shall apply to taxable
15 years beginning on and after January 1, 2011.

16 PART D

17 Section 1. Legislative findings. The legislature hereby finds and
18 declares that the current regulatory environment in New York state has a
19 significant impact on the state's businesses, economy and global econom-
20 ic competitiveness. In order to provide New York businesses the opportu-
21 nity for growth and the ability to compete, along with providing the
22 citizens of this state the ability to find gainful employment and the
23 benefits of a strong economy, New York state must provide a regulatory
24 environment that reduces the cost of doing business in the state,
25 promotes business growth and encourages job creation.

26 The legislature further finds that it is in the interest of the state
27 to undertake at this time a rational, independent review of all regu-
28 lations that impact the business environment of this state which stifles
29 the potential of New York's workers and businesses. In order to under-
30 take such review rationally and equitably, the legislature determines
31 that it is necessary to establish a commission separate and apart from
32 existing bodies responsible for promulgating rules and regulations which
33 affect the business environment, to review all existing rules and regu-
34 lations and to provide continued oversight on future proposed rules and
35 regulations in an effort to cut waste, reduce paperwork and create an
36 efficient and cost effective environment for doing business in New York.

37 S 2. Commission established. (a) There is hereby created in the execu-
38 tive department a commission to be known as the "Commission on Regulator-
39 y Reform and Economic Competitiveness," hereafter referred to as the
40 "commission," which shall be charged with examining all current rules
41 and regulations affecting the business community in New York state and
42 recommending changes to that system in light of factors submitted pursu-
43 ant to section five of this act and additional factors established by
44 the commission. It shall be further charged to review the economic
45 impact and cost of any new proposed rules or regulations and make recom-
46 mendations pursuant to section nine of this act.

47 (b) The commission shall consist of seventeen members. The seventeen
48 members shall be appointed as follows: (i) two members shall be
49 appointed by the temporary president of the senate; (ii) two members
50 shall be appointed by the speaker of the assembly; (iii) one member
51 shall be appointed by the minority leader of the senate; (iv) one member
52 shall be appointed by the minority leader of the assembly; and (v) elev-
53 en members shall be appointed by the governor to consist of the follow-
54 ing: (1) two members of the business community; (2) one member of the

1 small business community; (3) two members from the labor community; (4)
2 one member from the agricultural community; (5) one member of the local
3 government community; and (6) four at large members. The governor shall
4 designate the chair from among the members of the commission.

5 (c) The members of the commission shall receive no compensation for
6 their services as members, but shall be allowed their actual and neces-
7 sary expenses incurred in the performance of their duties. Members of
8 the commission shall be considered public officers for purposes of
9 section 17 of the public officers law.

10 (d) The commission shall begin to act forty-five days after this act
11 shall have become a law. A quorum shall consist of a majority of the
12 members of the commission entitled to vote on the matter under consider-
13 ation. Approval of any matter shall require the affirmative vote of a
14 majority of the members voting thereon.

15 (e) The commission shall adopt by-laws for the management and regu-
16 lation of its affairs.

17 S 3. Appointments to commission. The legislative leaders shall submit
18 their appointments to the governor, and the governor shall make his or
19 her appointments, no later than forty-five days after this act becomes a
20 law. If any such appointment is not made by such date, the appointing
21 officer may make the appointment after that date, but the vacant
22 appointment shall not count for calculation of a quorum until it is
23 filled. Vacancies in the commission shall be filled in the same manner
24 as the member whose vacancy is being filled was appointed.

25 S 4. Commission staff. The commission, acting by the chair of the
26 commission, may employ staff and consultants, who shall be paid from
27 amounts available to the commission for that purpose.

28 S 5. Factors and information for consideration. The commissioner of
29 each agency or department which promulgates rules and regulations shall
30 submit to the commission, no later than one hundred eighty days after
31 this act becomes a law, a list of factors to be considered in its deliber-
32 ations, which shall include:

33 (a) the need for each rule or regulation currently in force;

34 (b) a list of rules and regulations which may be rescinded;

35 (c) the economic impact of the rules and regulations on the business
36 environment and job market of the state;

37 (d) a list of the rules and regulations which generate funds for the
38 state and the amount of funds generated by that rule or regulation;

39 (e) a list of rules or regulations which may be amended that will
40 result in reduced paperwork and create efficiencies in the agency or
41 department;

42 (f) a summary of how the department or agency's rules and regulations
43 compare to other states and other nations; and

44 (g) a summary of the agency or department's plans to create efficien-
45 cies, reduce paperwork and promote the business environment in the
46 state.

47 The agency or department may submit additional relevant factors to be
48 considered in the deliberations of the commission. The commission may
49 also adopt additional factors to be considered in its deliberations.

50 S 6. Deliberations of commission. The deliberations, meetings and
51 other proceedings of the commission and any committee thereof shall be
52 governed by article 7 of the public officers law, provided that,
53 notwithstanding section 105 of the public officers law, the commission
54 and any committee thereof shall conduct business in executive session
55 anytime it is addressing in detail the medical, financial, or credit
56 history of a particular general hospital or nursing home. Any one or

1 more members of a committee may participate in a meeting of such commit-
2 tee by means of a conference telephone, conference video or similar
3 communications equipment allowing all persons participating in the meet-
4 ing to hear each other at the same time. Participation by such means
5 shall constitute presence in person at a meeting. At any meetings of the
6 commission conducted by means of a conference telephone, conference
7 video or similar communications equipment, other than executive
8 sessions, the public shall be given an opportunity to listen. If a meet-
9 ing other than an executive session is to be conducted by means of a
10 conference telephone, conference video or similar communications equip-
11 ment, the public notice for the meeting shall inform the public that
12 such equipment will be used, and identify the means by which the public
13 may listen to such meeting.

14 S 7. Commission recommendations. (a) The commission shall develop
15 recommendations to (i) eliminate wasteful regulations which increase
16 business costs, stunt business growth and discourage job creation with
17 no clear or significant benefit to the state; and (ii) reduce paperwork,
18 create efficiencies, and increase the competitiveness of the state's
19 business environment.

20 (b) Such recommendations shall include: (i) recommended dates by which
21 such actions should occur; (ii) necessary investments, if any, that
22 should be made in each case to carry out the commission's recommenda-
23 tions, including any necessary workforce, training, or other invest-
24 ments; and (iii) the commission's justification for its recommendations,
25 including the use of the factors pursuant to section five of this act.

26 (c) In addition, the commission may include in its report: (i) recom-
27 mended areas of further improvement in agencies or departments outside
28 their rules and regulations; (ii) recommendations for the elimination of
29 duplicative oversight or functions shared by more than one agency or
30 department; (iii) recommendations on the consolidation of agencies or
31 departments which may have concurrent areas of jurisdiction.

32 (d) On or before December 1, 2012, the commission shall transmit to
33 the governor and the legislature a report containing its recommenda-
34 tions, which shall include specific recommendations regarding the elimi-
35 nation of rules and regulations, elimination of overlapping oversight
36 and functions, proposed rules or regulations, proposed initiatives to
37 reduce paperwork and create efficiencies and other proposals to decrease
38 the cost of doing business in the state.

39 S 8. Implementation of recommendations. (a) Notwithstanding any
40 contrary provision of law, rule or regulation, the commissioner or head
41 of any rule or regulation making agency or department shall take all
42 actions necessary to implement, in a reasonable, cost-efficient manner,
43 the recommendations of the commission pursuant to subdivisions (b) and
44 (c) of section seven of this act, including, but not limited to coordi-
45 nating with state or local government officials and other parties as the
46 commissioner deems appropriate.

47 (b) The provisions of subdivision (a) of this section shall not apply:
48 (i) unless the governor has transmitted the commission's report under
49 section seven of this act with his or her written approval of the recom-
50 mendations of the commission pursuant to subdivisions (b) and (c) of
51 section seven of this act to the head of each agency or department
52 affected by these recommendations and transmitted a message to the
53 legislature stating his or her approval of the report on or before
54 December 5, 2012; and (ii) if a majority of the members of each house of
55 the legislature vote to adopt a concurrent resolution rejecting the
56 recommendations of the commission pursuant to subdivisions (b) and (c)

1 of section seven of this act in their entirety by December 31, 2012,
2 after receiving a message from the governor under this subdivision.

3 S 9. Continuing responsibility to review proposed rules and regu-
4 lations. After submission of the commission's report to the governor
5 and the legislature, the commission shall be responsible for the contin-
6 ued review of any agency or department's proposed rules or regulations
7 which may impact the business environment of this state.

8 (a) The commission shall within thirty days of the receipt of the
9 proposed rule or regulation and the accompanied report outlined in
10 section ten of this act, vote on whether such rule or regulation shall
11 be implemented;

12 (b) no rule shall be approved unless a vote of a majority of the
13 commission's members present shall so vote;

14 (c) upon a vote disapproving a rule or regulation the commission shall
15 give notice to the agency or department that such rule or regulation has
16 been disapproved, the reason for its disapproval and any recommendations
17 the commission shall deem appropriate to improve the proposed rule or
18 regulation;

19 (d) if the commission shall fail to act upon any proposed rule or
20 regulation within the thirty day period, that rule or regulation shall
21 have been deemed to have been approved and may be implemented; and

22 (e) any rule or regulation that has been disapproved by the commission
23 may be appealed provided that (i) the department or agency appeals with-
24 in thirty days of the disapproval; (ii) the agency or department details
25 why the disapproval may be detrimental to the health, safety or welfare
26 of the state or its residents; and (iii) if applicable explain why the
27 commission's recommended improvements are not able to be enacted.

28 S 10. Department and agency's responsibility to submit proposed rules
29 and regulations. Notwithstanding any contrary provision of law, rule or
30 regulation any agency or department proposing a new rule or regulation
31 may not implement that rule or regulation without the approval of the
32 commission. The department or agency when seeking to gain the approval
33 of a new rule or regulation must:

34 (a) provide the commission with a copy of the new rule or regulation;

35 (b) provide a summary of the rule or regulation and the reasoning for
36 implementing it; and

37 (c) provide an economic impact statement of the proposed rule or regu-
38 lation to include but not be limited to (i) cost or benefit to the
39 state; (ii) business sector or industry affected by the rule or regu-
40 lation; (iii) number of jobs affected by the rule or regulation; and
41 (iv) any other information which will assist the commission in under-
42 standing the economic impact of the rule or regulation.

43 S 11. Moratorium on rate of tax. Notwithstanding any other law to the
44 contrary, there is hereby imposed a moratorium on any increase in the
45 rate of any tax or fee imposed by any agency, public benefit corporation
46 or authority that is paid directly by any business.

47 S 12. Severability clause. If any clause, sentence, paragraph, subdi-
48 vision, section or part of this act shall be adjudged by any court of
49 competent jurisdiction to be invalid, such judgment shall not affect,
50 impair, or invalidate the remainder thereof, but shall be confined in
51 its operation to the clause, sentence, paragraph, subdivision, section
52 or part thereof directly involved in the controversy in which such judg-
53 ment shall have been rendered. It is hereby declared to be the intent of
54 the legislature that this act would have been enacted even if such
55 invalid provisions had not been included herein.

1 S 13. This act shall take effect immediately and shall expire June 30,
2 2015 when upon such date the provisions of this act shall be deemed
3 repealed.

4 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
5 sion, section or part of this act shall be adjudged by any court of
6 competent jurisdiction to be invalid, such judgment shall not affect,
7 impair, or invalidate the remainder thereof, but shall be confined in
8 its operation to the clause, sentence, paragraph, subdivision, section
9 or part thereof directly involved in the controversy in which the judg-
10 ment shall have been rendered. It is hereby declared to be the intent
11 of the legislature that this act would have been enacted even if such
12 invalid provisions had not been included herein.

13 S 3. This act shall take effect immediately provided, however, that
14 the applicable effective date of Parts A through D of this act shall be
15 as specifically set forth in the last section of such Parts.