

S T A T E   O F   N E W   Y O R K

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S. 6359--D

A. 8559--D

S E N A T E - A S S E M B L Y

January 21, 2014

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IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, the general municipal law, the urban development corporation act, the business corporation law, and the general associations law, in relation to reforming taxation of business corporations; and to repeal various provisions of the tax law relating thereto (Part A); to amend the real property tax law, in relation to the STAR registration program (Part B); to amend chapter 540 of the laws of 1992, amending the real property tax law relating to oil and gas charges, in relation to the effective date of such chapter (Part C); intentionally omitted (Part D); to amend the tax law, in relation to modifying the signature requirement on e-filed returns prepared by tax professionals (Part E); intentionally omitted (Part F); to amend part I of chapter 58 of the laws of 2006, amending the tax law relating to providing an enhanced earned income tax credit, in relation to the effectiveness thereof (Part G); intentionally omitted (Part H); to amend the tax law and the administrative code of the city of New York, in relation to taxing residents who are grantors of exempt resident trusts that qualify as non-grantor incomplete gift trusts on the

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

LBD12674-07-4

income from such trusts and taxing residents who are beneficiaries of all other exempt resident trusts or nonresident trusts on the distributions of accumulated income that they receive from such trusts (Part I); to amend the tax law and the administrative code of the city of New York, in relation to eliminating the personal income tax add-on minimum tax; and to repeal certain provisions of such laws relating thereto (Part J); to amend the tax law, in relation to establishing an enhanced real property tax circuit breaker; and providing for the repeal of such provisions upon expiration thereof (Part K); intentionally omitted (Part L); to amend the tax law, in relation to the prepayment element of the family tax relief credit (Part M); intentionally omitted (Part N); to amend the tax law, in relation to extending the empire state commercial production tax credit (Part O); to amend the public housing law, in relation to extending the credit against income tax for persons or entities investing in low-income housing (Part P); intentionally omitted (Part Q); to amend the tax law, in relation to providing a tax credit for real property taxes to New York manufacturers; and providing for the repeal of certain provisions upon expiration thereof (Part R); to amend the economic development law, the tax law, the transportation law, the administrative code of the city of New York and the New York state urban development corporation act, in relation to repealing the franchise tax on farmers', fruit growers', and other like agricultural corporations organized and operated on a co-operative basis; and to repeal section 185 of the tax law relating to franchise tax on farmers', fruit growers', and other like agricultural corporations organized and operated on a co-operative basis; to repeal sections 187-j, 187-k, 187-l, 187-m, 187-q, 187-r and 187-s of the tax law relating to certain tax credits; to repeal paragraph 1 of subdivision (h) of section 15, paragraph 1 of subdivision (g) of section 31, and certain other provisions of the tax law, in relation to making conforming changes (Part S); to amend the tax law, in relation to providing a credit for excise tax on telecommunication services for businesses located in tax-free NY areas and providing for the repeal of certain provisions upon expiration thereof (Part T); to amend the tax law, in relation to reducing the number of hours of part-time work needed by employees for employer qualification for the New York youth works tax credit; and to amend the labor law, in relation to the New York youth works tax credit (Part U); to amend chapter 109 of the laws of 2006 amending the tax law and other laws relating to providing exemptions, reimbursements and credits from various taxes for certain alternative fuels, in relation to extending the alternative fuels tax exemptions for two years (Part V); to amend chapter 63 of the laws of 2000, amending the tax law and other laws relating to modifying the distribution of funds from the motor vehicle fuel excise tax and the vehicle and traffic law, in relation to simplifying the methodology for distribution of motor vehicle receipts (Part W); to amend the tax law, in relation to the estate tax; to repeal section 2 of chapter 1013 of the laws of 1962, amending the tax law relating to imposing a tax on the transfer of estates of decedents dying on or after April first, nineteen hundred sixty-three, relating to an appendix of applicable internal revenue code provisions, and to repeal article 26-B of the tax law, relating to the generation skipping transfer tax (Part X); intentionally omitted (Part Y); to amend the tax law, in relation to vendor fees paid to vendor tracks (Part Z); to amend the racing, pari-mutuel wagering and breeding law, in relation to licenses for simulcast

facilities, sums relating to track simulcast, simulcast of out-of-state thoroughbred races, simulcasting of races run by out-of-state harness tracks and distributions of wagers; to amend chapter 281 of the laws of 1994 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and chapter 346 of the laws of 1990 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and the imposition of certain taxes, in relation to extending certain provisions thereof; and to amend the racing, pari-mutuel wagering and breeding law, in relation to extending certain provisions thereof (Part AA); to amend the tax law, in relation to capital awards to vendor tracks (Part BB); intentionally omitted (Part CC); to amend the tax law, in relation to conforming the due dates for the metropolitan commuter transportation mobility tax for taxpayers with income from self-employment with the due dates for the personal income tax (Part DD); to amend the state finance law, the upstate New York gaming economic development act of 2013 and the tax law, in relation to moneys appropriated or transferred from the commercial gaming revenue fund (Part EE); to amend the tax law, the education law, the general municipal law, and the real property tax law, in relation to a real property tax freeze (Part FF); to amend the tax law, in relation to the temporary exemption from sales and use taxes for premises used for commercial office space in lower Manhattan; and to amend part C of chapter 2 of the laws of 2005 amending the tax law relating to exemptions from sales and use taxes, in relation to the effectiveness thereof (Subpart A); to amend the real property tax law and the administrative code of the city of New York, in relation to extending a real property tax abatement program for certain commercial properties in cities having a population of one million or more and in relation to extending a special reduction under the commercial rent tax in the city of New York (Subpart B); to amend the real property tax law and the administrative code of the city of New York, in relation to applications for tax abatements for industrial and commercial construction work on properties in a city of one million or more persons (Subpart C); to amend the general city law and the administrative code of the city of New York, in relation to extending the relocation and employment assistance program and the Lower Manhattan relocation and employment assistance program (Subpart D); to amend the general city law and the administrative code of the city of New York, in relation to extending the special rebates and discounts provided pursuant to the energy cost savings program and the Lower Manhattan energy program (Subpart E); to amend the administrative code of the city of New York, in relation to the amount of special reduction allowed (Subpart F); and to amend the real property tax law and the administrative code of the city of New York, in relation to a real estate tax abatement program for certain commercial, industrial and manufacturing properties in a city of one million or more persons (Subpart G) (Part GG); to amend the tax law, in relation to a musical and theatrical production credit; and providing for the repeal of such provisions upon expiration thereof (Part HH); to amend the tax law, in relation to the sale of food and beverages through vending machines (Part II); to amend the tax law, in relation to requiring that services eligible for the empire state film production tax credit take place in certain counties (Part JJ); to amend the tax law and the administrative code of the city of New York, in relation to exempting the proceeds from service award programs for volunteer firefighters and ambulance workers from personal income

taxes (Part KK); to amend the tax law, in relation to the regions and rate of the prepaid sales tax on fuels (Part LL); to amend the labor law and the tax law, in relation to the creation of the workers with disabilities tax credit program; and providing for the repeal of such provisions upon expiration thereof (Part MM); to amend the real property tax law, in relation to permitting senior citizens whose spouses are deceased to substitute a more recent year's income for purposes of determining eligibility for the enhanced exemption for school tax relief (Part NN); and to amend the tax law and the racing, pari-mutuel wagering and breeding law, in relation to health insurance for jockeys (Part OO)

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

1 Section 1. This act enacts into law major components of legislation  
2 which are necessary to implement the state fiscal plan for the 2014-2015  
3 state fiscal year. Each component is wholly contained within a Part  
4 identified as Parts A through OO. The effective date for each particular  
5 provision contained within such Part is set forth in the last section of  
6 such Part. Any provision in any section contained within a Part, including  
7 the effective date of the Part, which makes a reference to a section  
8 "of this act", when used in connection with that particular component,  
9 shall be deemed to mean and refer to the corresponding section of the  
10 Part in which it is found. Section three of this act sets forth the  
11 general effective date of this act.

12 PART A

13 Section 1. Article 32 of the tax law is REPEALED.

14 S 2. Section 180 of the tax law is REPEALED.

15 S 3. Section 181 of the tax law is REPEALED.

16 S 4. Section 208 of the tax law, as added by chapter 415 of the laws  
17 of 1944, subdivision 1 as amended by chapter 576 of the laws of 1994,  
18 subdivision 1-A as amended by chapter 166 of the laws of 1991, subdivision  
19 1-B as added by section 45 of part A and paragraph (k) of subdivision  
20 9 as added by section 46 of part A of chapter 389 of the laws of  
21 1997, subdivision 3, the opening paragraph, subparagraphs 6 and 11 of  
22 paragraph (b), and the opening paragraph of paragraph (g) of subdivision  
23 9 as amended and subdivision 8-B and subparagraph 3-a of paragraph (b)  
24 of subdivision 9 as added by chapter 817 of the laws of 1987, subdivision  
25 4 as amended by section 1, subdivision 6 as amended by section 2  
26 and subparagraph 2 of paragraph (a) of subdivision 9 as amended by  
27 section 7 of part M of chapter 407 of the laws of 1999, subdivisions 5  
28 and 7, paragraph (a) of subdivision 8-B, subparagraph 10 of paragraph  
29 (b) and paragraph (j) of subdivision 9 as amended, paragraph (d) of  
30 subdivision 8-B and paragraph (c-1) of subdivision 9 as added and paragraphs  
31 (e) and (f) of subdivision 8-B as relettered by chapter 170 of  
32 the laws of 1994, subdivisions 8 and 10 as amended by chapter 133 of the  
33 laws of 1945, subdivision 8-A as added and subparagraph 1 of paragraph  
34 (a) of subdivision 9 as amended by chapter 778 of the laws of 1972,  
35 paragraph (b) of subdivision 8-A and paragraph (i) of subdivision 9 as  
36 amended by chapter 779 of the laws of 1972, subdivision 9 as amended by  
37 chapter 713 of the laws of 1961, paragraph (a) of subdivision 9 as  
38 amended by chapter 203 of the laws of 1962, subparagraphs 5, 9 and 10 of

1 paragraph (a) and subparagraphs 8 and 9 of paragraph (b) of subdivision  
2 9 as amended by chapter 61 of the laws of 1989 and paragraph (f) of  
3 subdivision 9 as separately amended by sections 278 and 347 of chapter  
4 61 of the laws of 1989, clause (i) of subparagraph 5 of paragraph (a) of  
5 subdivision 9 as amended by section 2 and subparagraph 20 of paragraph  
6 (b) of subdivision 9 as added by section 3 of part C of chapter 25 of  
7 the laws of 2009, subparagraph 6 of paragraph (a) of subdivision 9 as  
8 added by chapter 895 of the laws of 1975 and as renumbered by chapter  
9 613 of the laws of 1976, subparagraph 7 of paragraph (a) of subdivision  
10 9 as added by chapter 33 of the laws of 1978, subparagraph 8 of para-  
11 graph (a) and subparagraph 7 of paragraph (b) of subdivision 9 as  
12 amended by chapter 639 of the laws of 1986, subparagraph 11 of paragraph  
13 (a) of subdivision 9 as added by chapter 15 of the laws of 1983, subpara-  
14 graph 12 of paragraph (a), subparagraph 4-a of paragraph (b) and  
15 subparagraph 2 of paragraph (h) of subdivision 9 as amended and subpara-  
16 graph 13 of paragraph (a) of subdivision 9 as added by chapter 760 of  
17 the laws of 1992, subparagraph 14 of paragraph (a) of subdivision 9 as  
18 added by section 101 and paragraphs (l) and (m) of subdivision 9 as  
19 added by section 102 of part A of chapter 56 of the laws of 1998,  
20 subparagraph 15 of paragraph (a) of subdivision 9 as amended by section  
21 1 of part ZZ of chapter 63 of the laws of 2003, subparagraph 16 of para-  
22 graph (a) of subdivision 9 as added by section 1 of part K3, subpara-  
23 graph 16 of paragraph (b) of subdivision 9 as added by section 2 of part  
24 K3, subparagraph 17 of paragraph (b) of subdivision 9 as added by  
25 section 2 of part O3, and paragraphs (o), (p) and (q) of subdivision 9  
26 as added by section 3 of part O3 of chapter 62 of the laws of 2003,  
27 subparagraph 18 of paragraph (a) of subdivision 9 as added by section 3  
28 of part C and paragraph (o) of subdivision 9 as amended by section 2 of  
29 part E of chapter 59 of the laws of 2013, subparagraph 3 of paragraph  
30 (b) of subdivision 9 as amended by chapter 895 of the laws of 1975,  
31 subparagraph 4 of paragraph (b) and subparagraph 4 of paragraph (f) of  
32 subdivision 9 as amended by chapter 190 of the laws of 1990, subpara-  
33 graph 15 of paragraph (b) of subdivision 9 as added by chapter 309 of  
34 the laws of 1996, subparagraph 18 of paragraph (b) of subdivision 9 as  
35 added by section 21 of part H of chapter 1 of the laws of 2003, subpara-  
36 graph 19 of paragraph (b) of subdivision 9 as added by section 1 of part  
37 HH1 of chapter 57 of the laws of 2008, paragraphs (c-2) and (c-3) of  
38 subdivision 9 as added by section 10 of part Y of chapter 63 of the laws  
39 of 2000, paragraph (g) of subdivision 9 as added by chapter 178 of the  
40 laws of 1965, subparagraph 1 and clauses (B) and (C) of subparagraph 3  
41 of paragraph (g) of subdivision 9 as amended by chapter 613 of the laws  
42 of 1976, clause (A) of subparagraph 1 of paragraph (g) of subdivision 9  
43 as separately amended by chapters 675 and 836 of the laws of 1977,  
44 clause (B) of subparagraph 1, clause (A) of subparagraph 2 and clause  
45 (A) of subparagraph 3 of paragraph (g) of subdivision 9 as amended by  
46 chapter 675 of the laws of 1977, item 1 of clause (B) of subparagraph 1  
47 of paragraph (g) of subdivision 9 as amended by chapter 972 of the laws  
48 of 1984, clause (B) of subparagraph 2 of paragraph (g) of subdivision 9  
49 as amended by chapter 365 of the laws of 1979, clause (C) of subpara-  
50 graph 2 of paragraph (g) of subdivision 9 as amended by chapter 1005 of  
51 the laws of 1970, paragraph (h) of subdivision 9 as amended by chapter  
52 606 of the laws of 1984, paragraph (n) of subdivision 9 as added by  
53 section 1 of part O of chapter 85 of the laws of 2002, subdivision 12 as  
54 added by chapter 828 of the laws of 1977, subdivision 19 as added by  
55 chapter 681 of the laws of 1997, is amended to read as follows:

56 S 208. Definitions. As used in this article:

1 1. The term "corporation" includes (a) an association within the mean-  
2 ing of paragraph three of subsection (a) of section seventy-seven  
3 hundred one of the internal revenue code (including a limited liability  
4 company), (b) a joint-stock company or association, (c) a publicly trad-  
5 ed partnership treated as a corporation for purposes of the internal  
6 revenue code pursuant to section seventy-seven hundred four thereof and  
7 (d) any business conducted by a trustee or trustees wherein interest or  
8 ownership is evidenced by certificate or other written instrument.  
9 "DISC" and "former DISC" mean any corporation which meets the require-  
10 ments of subsection (a) of section nine hundred ninety-two of the inter-  
11 nal revenue code[;].

12 1-A. The term "New York S corporation" means, with respect to any  
13 taxable year, a corporation subject to tax under this article for which  
14 an election is in effect pursuant to subsection (a) of section six  
15 hundred sixty of this chapter for such year, any such year shall be  
16 denominated a "New York S year", and such election shall be denominated  
17 a "New York S election". The term "New York C corporation" means, with  
18 respect to any taxable year, a corporation subject to tax under this  
19 article which is not a New York S corporation, and any such year shall  
20 be denominated a "New York C year". The term "termination year" means  
21 any taxable year of a corporation during which the New York S election  
22 terminates on a day other than the first day of such year. The portion  
23 of the taxable year ending before the first day for which such termi-  
24 nation is effective shall be denominated the "S short year", and the  
25 portion of such year beginning on such first day shall be denominated  
26 the "C short year". The term "New York S termination year" means any  
27 termination year which is not also an S termination year for federal  
28 purposes.

29 1-B. The term "QSSS" means a corporation which is a qualified subchap-  
30 ter S subsidiary as defined in subparagraph (B) of paragraph three of  
31 subsection (b) of section thirteen hundred sixty-one of the internal  
32 revenue code. The term "exempt QSSS" means a QSSS exempt from tax under  
33 this article as provided in paragraph (k) of subdivision nine of this  
34 section, or a QSSS described in subclause (i) of clause (B) of subpara-  
35 graph two of paragraph (k) of subdivision nine of this section, wherein  
36 the parent corporation of the QSSS is subject to tax under this article,  
37 and the assets, liabilities, income and deductions of the QSSS are  
38 treated as the assets, liabilities, income and deductions of the parent  
39 corporation. Where a QSSS is an exempt QSSS, then for all purposes under  
40 this article:

41 (a) the assets, liabilities, income, deductions, property, payroll,  
42 receipts, capital, credits, and all other tax attributes and elements of  
43 economic activity of the QSSS shall be deemed to be those of the parent  
44 corporation,

45 (b) the stocks, bonds and other securities issued by, and any indebt-  
46 edness from, the QSSS shall not be [subsidiary,] investment or business  
47 capital of the parent corporation,

48 (c) transactions between the parent corporation and the QSSS, includ-  
49 ing the payment of interest and dividends, shall not be taken into  
50 account, and

51 (d) general executive officers of the QSSS shall be deemed to be  
52 general executive officers of the parent corporation.

53 2. The term "taxpayer" means any corporation subject to tax under this  
54 article[;].

55 3. The term "subsidiary" means a corporation of which over fifty  
56 percent of the number of shares of stock entitling the holders thereof

1 to vote for the election of directors or trustees is owned by the  
2 taxpayer[;].

3 4. The term ["subsidiary capital" means investments in the stock of  
4 subsidiaries and any indebtedness from subsidiaries, exclusive of  
5 accounts receivable acquired in the ordinary course of trade or business  
6 for services rendered or for sales of property held primarily for sale  
7 to customers, whether or not evidenced by written instrument, on which  
8 interest is not claimed and deducted by the subsidiary for purposes of  
9 taxation under article nine-A, thirty-two or thirty-three of this chap-  
10 ter, provided, however, that, in the discretion of the commissioner,  
11 there shall be deducted from subsidiary capital any liabilities which  
12 are directly or indirectly attributable to subsidiary capital] "STOCK"  
13 MEANS AN INTEREST IN A CORPORATION THAT IS TREATED AS EQUITY FOR FEDERAL  
14 INCOME TAX PURPOSES.

15 5. (A) The term "investment capital" means investments in stocks[,  
16 bonds and other securities, corporate and governmental,] THAT ARE HELD  
17 BY THE TAXPAYER FOR MORE THAN SIX CONSECUTIVE MONTHS BUT ARE not held  
18 for sale to customers in the regular course of business, [exclusive of  
19 subsidiary capital] OR, IF THE TAXPAYER MAKES THE ELECTION PROVIDED FOR  
20 IN SUBPARAGRAPH ONE OF PARAGRAPH (A) OF SUBDIVISION FIVE OF SECTION TWO  
21 HUNDRED TEN-A OF THIS ARTICLE, ARE NOT QUALIFIED FINANCIAL INSTRUMENTS  
22 AS DESCRIBED IN SUBDIVISION FIVE OF SECTION TWO HUNDRED TEN-A OF THIS  
23 ARTICLE. STOCK IN A CORPORATION THAT IS CONDUCTING A UNITARY BUSINESS  
24 WITH THE TAXPAYER, STOCK IN A CORPORATION THAT IS INCLUDED IN A COMBINED  
25 REPORT WITH THE TAXPAYER PURSUANT TO THE COMMONLY OWNED GROUP ELECTION  
26 IN SUBDIVISION THREE OF SECTION TWO HUNDRED TEN-C OF THIS ARTICLE, and  
27 stock issued by the taxpayer[, provided, however, that, in the  
28 discretion of the commissioner, there] SHALL NOT CONSTITUTE INVESTMENT  
29 CAPITAL. FOR PURPOSES OF THIS SUBDIVISION, IF THE TAXPAYER OWNS OR  
30 CONTROLS, DIRECTLY OR INDIRECTLY, LESS THAN TWENTY PERCENT OF THE VOTING  
31 POWER OF THE STOCK OF A CORPORATION, THAT CORPORATION WILL BE PRESUMED  
32 TO BE CONDUCTING A BUSINESS THAT IS NOT UNITARY WITH THE BUSINESS OF THE  
33 TAXPAYER.

34 (B) THERE shall be deducted from investment capital any liabilities  
35 which are directly or indirectly attributable to investment capital[;  
36 and provided, further, that investment]. IF THE AMOUNT OF THOSE LIABIL-  
37 ITIES EXCEEDS THE AMOUNT OF INVESTMENT CAPITAL, THE AMOUNT OF INVESTMENT  
38 CAPITAL WILL BE ZERO.

39 (C) INVESTMENT capital shall not include any such investments the  
40 income from which is excluded from entire net income pursuant to the  
41 provisions of paragraph (c-1) of subdivision nine of this section, and  
42 that investment capital shall be computed without regard to liabilities  
43 directly or indirectly attributable to such investments, but only if air  
44 carriers organized in the United States and operating in the foreign  
45 country or countries in which the taxpayer has its major base of oper-  
46 ations and in which it is organized, resident or headquartered (if not  
47 in the same country as its major base of operations) are not subject to  
48 any tax based on or measured by capital imposed by such foreign country  
49 or countries or any political subdivision thereof, or if taxed, are  
50 provided an exemption, equivalent to that provided for herein, from any  
51 tax based on or measured by capital imposed by such foreign country or  
52 countries and from any such tax imposed by any political subdivision  
53 thereof[;].

54 (D) IF A TAXPAYER ACQUIRES STOCK DURING THE SECOND HALF OF ITS TAXABLE  
55 YEAR AND OWNS THAT STOCK ON THE LAST DAY OF THE TAXABLE YEAR, IT WILL BE  
56 PRESUMED THAT THE TAXPAYER HELD THAT STOCK FOR MORE THAN SIX CONSECUTIVE

1 MONTHS DURING THE TAXABLE YEAR. HOWEVER, IF THE TAXPAYER DOES NOT IN  
2 FACT HOLD THAT STOCK FOR MORE THAN SIX CONSECUTIVE MONTHS, THE TAXPAYER  
3 MUST INCREASE ITS TOTAL BUSINESS CAPITAL IN THE IMMEDIATELY SUCCEEDING  
4 TAXABLE YEAR BY THE AMOUNT INCLUDED IN INVESTMENT CAPITAL FOR THAT  
5 STOCK, NET OF ANY LIABILITIES ATTRIBUTABLE TO THAT STOCK COMPUTED AS  
6 PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION AND MUST INCREASE ITS  
7 BUSINESS INCOME IN THE IMMEDIATELY SUCCEEDING TAXABLE YEAR BY THE AMOUNT  
8 OF INCOME AND NET GAINS (BUT NOT LESS THAN ZERO) FROM THAT STOCK  
9 INCLUDED IN INVESTMENT INCOME, LESS ANY INTEREST DEDUCTIONS DIRECTLY OR  
10 INDIRECTLY ATTRIBUTABLE TO THAT STOCK, AS PROVIDED IN SUBDIVISION SIX OF  
11 THIS SECTION.

12 (E) WHEN INCOME OR GAIN FROM A DEBT OBLIGATION OR OTHER SECURITY  
13 CANNOT BE APPORTIONED TO THE STATE USING THE BUSINESS ALLOCATION  
14 PERCENTAGE AS A RESULT OF UNITED STATES CONSTITUTIONAL PRINCIPLES, THE  
15 DEBT OBLIGATION OR OTHER SECURITY WILL BE INCLUDED IN INVESTMENT CAPI-  
16 TAL.

17 (F) FOR PURPOSES OF DETERMINING WHETHER A TAXPAYER HAS HELD A SECURITY  
18 FOR MORE THAN SIX CONSECUTIVE MONTHS, THE COMMISSIONER SHALL TAKE INTO  
19 ACCOUNT OFFSETTING POSITIONS THE TAXPAYER TAKES IN SUCH OR SIMILAR SECU-  
20 RITIES.

21 6. (A) The term "investment income" means income, including capital  
22 gains in excess of capital losses, from investment capital, to the  
23 extent included in computing entire net income, less, [(a)] (I) in the  
24 discretion of the commissioner, any INTEREST deductions allowable in  
25 computing entire net income which are directly or indirectly attribut-  
26 able to investment capital or investment income, and [(b)] such portion  
27 of any net operating loss deduction allowable in computing entire net  
28 income, as the investment income, before such deduction, bears to entire  
29 net income, before such deduction,] (II) THE TAXPAYER'S LOSS, DEDUCTION  
30 AND/OR EXPENSE ATTRIBUTABLE TO ANY TRANSACTION, OR SERIES OF TRANS-  
31 ACTIONS, ENTERED INTO TO MANAGE THE RISK OF PRICE CHANGES OR CURRENCY  
32 FLUCTUATIONS WITH RESPECT TO ANY ITEM OF INVESTMENT CAPITAL THAT IS HELD  
33 OR TO BE HELD BY THE TAXPAYER, OR THE AGGREGATE INVESTMENT CAPITAL THAT  
34 IS HELD OR TO BE HELD BY THE TAXPAYER, IF ALL OF THE RISK, OR ALL BUT A  
35 DE MINIMIS AMOUNT OF THE RISK, IS WITH RESPECT TO INVESTMENT CAPITAL,  
36 provided, however, that in no case shall investment income exceed entire  
37 net income[;]. IF THE AMOUNT SUBTRACTED UNDER SUBPARAGRAPH (I) OR  
38 SUBPARAGRAPH (II) OF THIS PARAGRAPH OR UNDER BOTH OF THOSE SUBPARAGRAPHS  
39 EXCEEDS INVESTMENT INCOME, THE EXCESS OF SUCH AMOUNT OVER INVESTMENT  
40 INCOME MUST BE ADDED BACK TO ENTIRE NET INCOME.

41 (B) IN LIEU OF SUBTRACTING FROM INVESTMENT INCOME THE AMOUNT OF THOSE  
42 INTEREST DEDUCTIONS, THE TAXPAYER MAY ELECT TO REDUCE ITS TOTAL INVEST-  
43 MENT INCOME BY FORTY PERCENT. IF THE TAXPAYER MAKES THIS ELECTION, THE  
44 TAXPAYER MUST ALSO MAKE THE ELECTIONS PROVIDED FOR IN PARAGRAPHS (B) AND  
45 (C) OF SUBDIVISION SIX-A OF THIS SECTION. A TAXPAYER WHICH DOES NOT MAKE  
46 THIS ELECTION BECAUSE IT HAS NO INVESTMENT CAPITAL WILL NOT BE PRECLUDED  
47 FROM MAKING THOSE OTHER ELECTIONS.

48 (C) INVESTMENT INCOME SHALL NOT INCLUDE ANY AMOUNT TREATED AS DIVI-  
49 DENDS PURSUANT TO SECTION SEVENTY-EIGHT OF THE INTERNAL REVENUE CODE.

50 6-A. (A) THE TERM "OTHER EXEMPT INCOME" MEANS THE SUM OF EXEMPT CFC  
51 INCOME AND EXEMPT UNITARY CORPORATION DIVIDENDS.

52 (B) "EXEMPT CFC INCOME" MEANS THE INCOME REQUIRED TO BE INCLUDED IN  
53 THE TAXPAYER'S FEDERAL GROSS INCOME PURSUANT TO SUBSECTION (A) OF  
54 SECTION 951 OF THE INTERNAL REVENUE CODE, RECEIVED FROM A CORPORATION  
55 THAT IS CONDUCTING A UNITARY BUSINESS WITH THE TAXPAYER BUT IS NOT  
56 INCLUDED IN A COMBINED REPORT WITH THE TAXPAYER, LESS, IN THE DISCRETION



1 OF THE COMMISSIONER, ANY INTEREST DEDUCTIONS DIRECTLY OR INDIRECTLY  
2 ATTRIBUTABLE TO THAT INCOME. IN LIEU OF SUBTRACTING FROM ITS EXEMPT CFC  
3 INCOME THE AMOUNT OF THOSE INTEREST DEDUCTIONS, THE TAXPAYER MAY ELECT  
4 TO REDUCE ITS TOTAL EXEMPT CFC INCOME BY FORTY PERCENT. IF THE TAXPAYER  
5 MAKES THIS ELECTION, THE TAXPAYER MUST ALSO MAKE THE ELECTIONS PROVIDED  
6 FOR IN PARAGRAPH (B) OF SUBDIVISION SIX OF THIS SECTION AND PARAGRAPH  
7 (C) OF THIS SUBDIVISION. A TAXPAYER WHICH DOES NOT MAKE THIS ELECTION  
8 BECAUSE IT HAS NO EXEMPT CFC INCOME WILL NOT BE PRECLUDED FROM MAKING  
9 THOSE OTHER ELECTIONS.

10 (C) "EXEMPT UNITARY CORPORATION DIVIDENDS" MEANS THOSE DIVIDENDS FROM  
11 A CORPORATION THAT IS CONDUCTING A UNITARY BUSINESS WITH THE TAXPAYER  
12 BUT IS NOT INCLUDED IN A COMBINED REPORT WITH THE TAXPAYER, LESS, IN THE  
13 DISCRETION OF THE COMMISSIONER, ANY INTEREST DEDUCTIONS DIRECTLY OR  
14 INDIRECTLY ATTRIBUTABLE TO SUCH INCOME. OTHER THAN DIVIDEND INCOME  
15 RECEIVED FROM CORPORATIONS THAT ARE TAXABLE UNDER A FRANCHISE TAX  
16 IMPOSED BY ARTICLE NINE OR ARTICLE THIRTY-THREE OF THIS CHAPTER OR WOULD  
17 BE TAXABLE UNDER A FRANCHISE TAX IMPOSED BY ARTICLE NINE OR ARTICLE  
18 THIRTY-THREE OF THIS CHAPTER IF SUBJECT TO TAX, IN LIEU OF SUBTRACTING  
19 FROM THIS DIVIDEND INCOME THOSE INTEREST DEDUCTIONS, THE TAXPAYER MAY  
20 ELECT TO REDUCE THE TOTAL AMOUNT OF THIS DIVIDEND INCOME BY FORTY  
21 PERCENT. IF THE TAXPAYER MAKES THIS ELECTION, THE TAXPAYER MUST ALSO  
22 MAKE THE ELECTIONS PROVIDED FOR IN PARAGRAPH (B) OF SUBDIVISION SIX OF  
23 THIS SECTION AND PARAGRAPH (B) OF THIS SUBDIVISION. A TAXPAYER WHICH  
24 DOES NOT MAKE THIS ELECTION BECAUSE IT HAS NOT RECEIVED ANY EXEMPT  
25 UNITARY CORPORATION DIVIDENDS OR IS PRECLUDED FROM MAKING THIS ELECTION  
26 FOR DIVIDENDS RECEIVED FROM CORPORATIONS TAXABLE UNDER A FRANCHISE TAX  
27 IMPOSED BY ARTICLE NINE OR ARTICLE THIRTY-THREE OF THIS CHAPTER OR WOULD  
28 BE TAXABLE UNDER A FRANCHISE TAX IMPOSED BY ARTICLE NINE OR ARTICLE  
29 THIRTY-THREE OF THIS CHAPTER IF SUBJECT TO TAX WILL NOT BE PRECLUDED  
30 FROM MAKING THOSE OTHER ELECTIONS.

31 (D) IF THE TAXPAYER ATTRIBUTES INTEREST DEDUCTIONS TO OTHER EXEMPT  
32 INCOME AND THE AMOUNT SUBTRACTED EXCEEDS OTHER EXEMPT INCOME, THE EXCESS  
33 OF THE INTEREST DEDUCTIONS OVER OTHER EXEMPT INCOME MUST BE ADDED BACK  
34 TO ENTIRE NET INCOME. IN NO CASE SHALL OTHER EXEMPT INCOME EXCEED ENTIRE  
35 NET INCOME.

36 (E) OTHER EXEMPT INCOME SHALL NOT INCLUDE ANY AMOUNT TREATED AS DIVI-  
37 DENDS PURSUANT TO SECTION SEVENTY-EIGHT OF THE INTERNAL REVENUE CODE.

38 7. (a) The term "business capital" means all assets, other than  
39 [subsidiary capital,] investment capital and stock issued by the taxpay-  
40 er, less liabilities not deducted from [subsidiary or] investment capi-  
41 tal [except that cash on hand and on deposit shall be treated as invest-  
42 ment capital or as business capital as the taxpayer may elect].  
43 BUSINESS CAPITAL SHALL INCLUDE ONLY THOSE ASSETS THE INCOME, LOSS OR  
44 EXPENSE OF WHICH ARE PROPERLY REFLECTED (OR WOULD HAVE BEEN PROPERLY  
45 REFLECTED IF NOT FULLY DEPRECIATED OR EXPENSED OR DEPRECIATED OR  
46 EXPENSED TO A NOMINAL AMOUNT) IN THE COMPUTATION OF ENTIRE NET INCOME  
47 FOR THE TAXABLE YEAR.

48 (b) Provided, however, "business capital" shall not include assets to  
49 the extent employed for the purpose of generating income which is  
50 excluded from entire net income pursuant to the provisions of paragraph  
51 (c-1) of subdivision nine of this section and shall be computed without  
52 regard to liabilities directly or indirectly attributable to such  
53 assets, but only if air carriers organized in the United States and  
54 operating in the foreign country or countries in which the taxpayer has  
55 its major base of operations and in which it is organized, resident or  
56 headquartered (if not in the same country as its major base of oper-

ations) are not subject to any tax based on or measured by capital imposed by such foreign country or countries or any political subdivision thereof, or if taxed, are provided an exemption, equivalent to that provided for herein, from any tax based on or measured by capital imposed by such foreign country or countries and from any such tax imposed by any political subdivision thereof[;].

8. The term "business income" means entire net income minus investment income[;] AND OTHER EXEMPT INCOME. IN NO EVENT SHALL THE SUM OF INVESTMENT INCOME AND OTHER EXEMPT INCOME EXCEED ENTIRE NET INCOME. IF THE TAXPAYER MAKES THE ELECTION PROVIDED FOR IN SUBPARAGRAPH ONE OF PARAGRAPH (A) OF SUBDIVISION FIVE OF SECTION TWO HUNDRED TEN-A OF THIS ARTICLE, THEN ALL INCOME FROM QUALIFIED FINANCIAL INSTRUMENTS SHALL CONSTITUTE BUSINESS INCOME.

8-A. Provided, however, that with respect to a DISC or a former DISC, the following provisions shall apply:

(a) investments in the stocks, bonds or other securities of a DISC or any indebtedness from a DISC shall not be treated as [either subsidiary capital or] investment capital under [subdivisions four or] SUBDIVISION five of this section,

(b) any amounts deemed distributed from a DISC or a former DISC which are taxable as dividends pursuant to subsection (b) of section nine hundred ninety-five of the internal revenue code of nineteen hundred twenty-four shall be treated as business income, except any such amounts from a former DISC attributable to amounts includible in a taxpayer's entire net income for a prior taxable year under subparagraph (B) of paragraph (i) of subdivision nine of this section shall be excluded from entire net income,

(c) any gain recognized for federal income tax purposes on the disposition of stock in a DISC, and any gain recognized on the disposition of stock in a former DISC, includible in gross income as a dividend pursuant to subsection (c) of section nine hundred ninety-five of the internal revenue code of nineteen hundred twenty-four, shall be treated as business income, and

(d) except as provided in paragraph (i) of subdivision nine of this section, any actual distribution from a DISC or a former DISC shall be treated as business income except an actual distribution which for federal income tax purposes is treated as made out of "other earnings and profits" under section nine hundred ninety-six of the internal revenue code of nineteen hundred twenty-four, in which case such actual distribution shall be treated as [either subsidiary income or] investment income under this article.

[8-B. (a) The term "minimum taxable income" shall mean the entire net income of the taxpayer for the taxable year:

(1) increased by the amount of the federal items of tax preference set forth in section fifty-seven of the internal revenue code (with the modifications set forth in paragraph (b) of this subdivision), which items of tax preference shall have the same meaning and be computed in the same manner as under section fifty-seven of the internal revenue code,

(2) determined with the federal adjustments described in paragraph (c) of this subdivision, which adjustments shall have the same meaning and be computed in the same manner as under sections fifty-six and fifty-eight of the internal revenue code,

(3) increased by the net operating loss deduction otherwise allowed under paragraph (f) of subdivision nine of this section, and

1 (4) reduced, for taxable years beginning after nineteen hundred nine-  
2 ty-three, by the alternative net operating loss deduction, as defined in  
3 paragraph (d) of this subdivision.

4 (b) The federal items of tax preference referred to hereinabove shall  
5 be modified by deducting "tax-exempt interest" and "accelerated depreci-  
6 ation or amortization on certain property placed in service before Janu-  
7 ary 1, 1987", as determined under paragraphs five and seven of  
8 subsection (a) of section fifty-seven of the internal revenue code.

9 (c) The adjustments referred to hereinabove shall be:

10 (1) "Depreciation" as determined under paragraph one of subsection (a)  
11 of section fifty-six of the internal revenue code. For purposes of this  
12 subparagraph, the depreciation item of adjustment provided for here  
13 shall not include any amount attributable to property for which the tax  
14 benefits of the accelerated cost recovery system are not available under  
15 this article by reason of subparagraph ten of paragraph (b) of subdivi-  
16 sion nine of this section;

17 (2) "Mining exploration and development costs" as determined under  
18 paragraph two of subsection (a) of section fifty-six of the internal  
19 revenue code;

20 (3) "Treatment of certain long-term contracts" as determined under  
21 paragraph three of subsection (a) of section fifty-six of the internal  
22 revenue code;

23 (4) "Installment sales of certain property" as determined under para-  
24 graph six of subsection (a) of section fifty-six of the internal revenue  
25 code;

26 (5) "Circulation expenditures of personal holding companies" as deter-  
27 mined under subparagraph (C) of paragraph two of subsection (b) of  
28 section fifty-six of the internal revenue code;

29 (6) "Merchant marine capital construction funds" as determined under  
30 paragraph two of subsection (c) of section fifty-six of the internal  
31 revenue code;

32 (7) "Disallowance of passive activity loss" as determined under  
33 subsection (b) of section fifty-eight of the internal revenue code; and

34 (8) "Adjusted basis", as it appears in paragraph seven of subsection  
35 (a) of section fifty-six of the internal revenue code, but without  
36 taking into account the references therein to paragraph five of  
37 subsection (a) of section fifty-six of the internal revenue code.

38 (d) The term "alternative net operating loss deduction" means the net  
39 operating loss deduction allowed for the taxable year under paragraph  
40 (f) of subdivision nine of this section, except as provided herein.

41 (1)(A) The net operating loss for any year beginning after nineteen  
42 hundred eighty-nine which is included in determining such deduction  
43 shall be determined with the adjustments provided in subparagraph two of  
44 paragraph (a) of this subdivision, and shall be reduced by the items of  
45 tax preference determined under subparagraph one of paragraph (a) of  
46 this subdivision, attributable to such year. An item of tax preference  
47 shall be taken into account only to the extent such item increased the  
48 amount of the net operating loss for the taxable year under paragraph  
49 (f) of subdivision nine of this section.

50 (B) In the case of loss years beginning before nineteen hundred nine-  
51 ty, the amount of the net operating loss which may be carried over to  
52 taxable years beginning after nineteen hundred eighty-nine shall be  
53 equal to an amount which may be carried from the loss year to the first  
54 taxable year of the taxpayer beginning after nineteen hundred eighty-  
55 nine.

(2) In determining the amount of such deduction, loss carryforwards and carrybacks shall, subject to the provisions of subparagraph five of paragraph (f) of subdivision nine of this section, be computed in the manner set forth in paragraph two of subsection (b) of section one hundred seventy-two of the internal revenue code, except that, for the reference therein to taxable income, there shall be substituted the phrase "ninety percent of minimum taxable income determined without regard to the alternative net operating loss deduction".

(3) The amount of such deduction shall not exceed ninety percent of minimum taxable income determined without regard to such deduction, provided, however, the term "ninety percent" shall be read as "forty-five percent" with respect to taxable years beginning in nineteen hundred ninety-four.

(e) The tax commission may, whenever necessary in order to properly reflect the minimum taxable income of any taxpayer, determine the year or period in which any item of income or deduction shall be included, without regard to the method of accounting employed by the taxpayer.

(f) If the period covered by a report under this article is other than the period covered by the report to the United States treasury department, the minimum taxable income shall be appropriately modified pursuant to regulations promulgated by the tax commission.]

9. The term "entire net income" means total net income from all sources, which shall be presumably the same as the entire taxable income [(but not alternative minimum taxable income)], WHICH, EXCEPT AS HEREIN-AFTER PROVIDED IN THIS SUBDIVISION,

(i) [which] the taxpayer is required to report to the United States treasury department, or

(ii) [which] the taxpayer would have been required to report to the United States treasury department if it had not made an election under subchapter s of chapter one of the internal revenue code, or

(iii) [which] the taxpayer, in the case of a corporation which is exempt from federal income tax (other than the tax on unrelated business taxable income imposed under section 511 of the internal revenue code) but which is subject to tax under this article, would have been required to report to the United States treasury department but for such exemption, [except as hereinafter provided, and subject to any modification required by paragraphs (d) and (e) of subdivision three of section two hundred ten of this article] OR

(IV) IN THE CASE OF AN ALIEN CORPORATION THAT UNDER ANY PROVISION OF THE INTERNAL REVENUE CODE IS NOT TREATED AS A "DOMESTIC CORPORATION" AS DEFINED IN SECTION SEVEN THOUSAND SEVEN HUNDRED ONE OF SUCH CODE IS EFFECTIVELY CONNECTED WITH THE CONDUCT OF A TRADE OR BUSINESS WITHIN THE UNITED STATES AS DETERMINED UNDER SECTION 882 OF THE INTERNAL REVENUE CODE.

(a) Entire net income shall not include:

[(1) income, gains and losses from subsidiary capital which do not include the amount of a recovery in respect of any war loss except for such amounts from a former DISC which are treated as business income under subdivision eight-A of this section,

(2) fifty percent of dividends (A) other than from subsidiaries, and (B) other than amounts treated as business income under subdivision eight-A of this section, on shares of stock which conform to the requirements of subsection (c) of section two hundred forty-six of the internal revenue code.]

(3) bona fide gifts,

1 (4) income and deductions with respect to amounts received from school  
2 districts and from corporations and associations, organized and operated  
3 exclusively for religious, charitable or educational purposes, no part  
4 of the net earnings of which inures to the benefit of any private share-  
5 holder or individual, for the operation of school buses,

6 (5) (i) any refund or credit of a tax imposed under this article,  
7 article twenty-three, or FORMER article thirty-two of this chapter, for  
8 which tax no exclusion or deduction was allowed in determining the  
9 taxpayer's entire net income under this article, article twenty-three,  
10 or FORMER article thirty-two of this chapter for any prior year, (ii) a  
11 refund or credit of general corporation tax allowed by subdivision elev-  
12 en of section 11-604 of the administrative code of the city of New York,  
13 or (iii) any refund or credit of a tax imposed under sections one  
14 hundred eighty-three, one hundred eighty-three-a, one hundred eighty-  
15 four or one hundred eighty-four-a of this chapter, and

16 (6) any amount treated as dividends pursuant to section seventy-eight  
17 of the internal revenue code [and not otherwise deductible under subpar-  
18 agraphs one and two of this paragraph];

19 (7) that portion of wages and salaries paid or incurred for the taxa-  
20 ble year for which a deduction is not allowed pursuant to the provisions  
21 of section two hundred eighty-C of the internal revenue code.

22 [(8) in the case of a taxpayer who is separately or as a partner of a  
23 partnership doing an insurance business as a member of the New York  
24 insurance exchange described in section six thousand two hundred one of  
25 the insurance law, any item of income, gain, loss or deduction of such  
26 business which is the taxpayer's distributive or pro rata share for  
27 federal income tax purposes or which the taxpayer is required to take  
28 into account separately for federal income tax purposes.]

29 (9) for taxable years beginning after December thirty-first, nineteen  
30 hundred eighty-one, except with respect to property which is a qualified  
31 mass commuting vehicle described in subparagraph (D) of paragraph eight  
32 of subsection (f) of section one hundred sixty-eight of the internal  
33 revenue code (relating to qualified mass commuting vehicles) and proper-  
34 ty of a taxpayer principally engaged in the conduct of aviation (other  
35 than air freight forwarders acting as principal and like indirect air  
36 carriers) which is placed in service before taxable years beginning in  
37 nineteen hundred eighty-nine, any amount which is included in the  
38 taxpayer's federal taxable income solely as a result of an election made  
39 pursuant to the provisions of such paragraph eight as it was in effect  
40 for agreements entered into prior to January first, nineteen hundred  
41 eighty-four;

42 (10) for taxable years beginning after December thirty-first, nineteen  
43 hundred eighty-one, except with respect to property which is a qualified  
44 mass commuting vehicle described in subparagraph (D) of paragraph eight  
45 of subsection (f) of section one hundred sixty-eight of the internal  
46 revenue code (relating to qualified mass commuting vehicles) and proper-  
47 ty of a taxpayer principally engaged in the conduct of aviation (other  
48 than air freight forwarders acting as principal and like indirect air  
49 carriers) which is placed in service before taxable years beginning in  
50 nineteen hundred eighty-nine, any amount which the taxpayer could have  
51 excluded from federal taxable income had it not made the election  
52 provided for in such paragraph eight as it was in effect for agreements  
53 entered into prior to January first, nineteen hundred eighty-four;

54 (11) the amount deductible pursuant to paragraph (j) of this subdivi-  
55 sion; and

(12) upon the disposition of property to which paragraph (j) of this subdivision applies, the amount, if any, by which the aggregate of the amounts described in subparagraph ten of paragraph (b) of this subdivision attributable to such property exceeds the aggregate of the amounts described in paragraph (j) of this subdivision attributable to such property; and

[(13) if the added tax provided for in either (i) former subdivision two of section one hundred eighty-two of this chapter (relating to real estate corporations) or (ii) former subdivision one-a of section two hundred nine of this chapter (relating to real estate corporations) has been imposed upon the taxpayer, any income which has been used in computing such tax.]

(14) The amount deductible pursuant to paragraph (l) of this [subsection] SUBDIVISION.

[(15) In the case of an attorney-in-fact, with respect to which a mutual insurance company, which is an interinsurer or a reciprocal insurer and is subject to tax under subdivision (a) of section fifteen hundred ten of this chapter, has made the election provided for under section eight hundred thirty-five of the Internal Revenue Code, an amount equal to the excess, if any, of the amounts paid or incurred by such interinsurer or reciprocal insurer in the taxable year to the attorney-in-fact over the deduction allowed to such interinsurer or reciprocal insurer with respect to amounts paid or incurred in the taxable year to the attorney-in-fact under subsection (b) of such section eight hundred thirty-five of the Internal Revenue Code.]

(16) In the case of a taxpayer subject to the modification provided by subparagraph sixteen of paragraph (b) of this subdivision, the amount required to be recaptured pursuant to subsection (d) of section 179 of the internal revenue code with respect to property upon which such modification was based.

(17) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND TWO, THE AMOUNT DEDUCTIBLE PURSUANT TO PARAGRAPH (N-1) OF THIS SUBDIVISION.

(18) the amount of income or gain included in federal taxable income of a taxpayer that is a partner in a qualified entity or is a qualified entity that is located both within and without a New York state innovation hot spot, to the extent that the income or gain is attributable to the operations of a qualified entity at or as part of the New York state innovation hot spot as provided in section thirty-eight of this chapter.

(19) THE AMOUNT COMPUTED PURSUANT TO PARAGRAPH (R), (S) OR (T) OF THIS SUBDIVISION, BUT ONLY THE AMOUNT DETERMINED PURSUANT TO ONE OF SUCH PARAGRAPHS.

(b) Entire net income shall be determined without the exclusion, deduction or credit of:

(1) [the amount of any specific exemption or credit allowed in any law of the United States imposing any tax on or measured by the income of corporations,] IN THE CASE OF AN ALIEN CORPORATION THAT UNDER ANY PROVISION OF THE INTERNAL REVENUE CODE IS NOT TREATED AS A "DOMESTIC CORPORATION" AS DEFINED IN SECTION SEVEN THOUSAND SEVEN HUNDRED ONE OF SUCH CODE, (I) ANY PART OF ANY INCOME FROM DIVIDENDS OR INTEREST ON ANY KIND OF STOCK, SECURITIES OR INDEBTEDNESS, BUT ONLY IF SUCH INCOME IS TREATED AS EFFECTIVELY CONNECTED WITH THE CONDUCT OF A TRADE OR BUSINESS IN THE UNITED STATES PURSUANT TO SECTION 864 OF THE INTERNAL REVENUE CODE, (II) ANY INCOME EXEMPT FROM FEDERAL TAXABLE INCOME UNDER ANY TREATY OBLIGATION OF THE UNITED STATES, BUT ONLY IF SUCH INCOME WOULD BE

1 TREATED AS EFFECTIVELY CONNECTED IN ABSENCE OF SUCH EXEMPTION PROVIDED  
2 THAT SUCH TREATY OBLIGATION DOES NOT PRECLUDE THE TAXATION OF SUCH  
3 INCOME BY A STATE, OR (III) ANY INCOME WHICH WOULD BE TREATED AS EFFEC-  
4 TIVELY CONNECTED IF SUCH INCOME WERE NOT EXCLUDED FROM GROSS INCOME  
5 PURSUANT TO SUBSECTION (A) OF SECTION 103 OF THE INTERNAL REVENUE CODE;

6 (2) any part of any income from dividends or interest on any kind of  
7 stock, securities or indebtedness, [except as provided in clauses (1)  
8 and (2) of paragraph (a) hereof,]

9 (3) taxes on or measured by profits or income paid or accrued to the  
10 United States[,] OR any of its possessions [or to any foreign country],  
11 TERRITORIES OR COMMONWEALTHS, including taxes in lieu of any of the  
12 foregoing taxes otherwise generally imposed by [any foreign country or  
13 by] any possession, TERRITORY OR COMMONWEALTH of the United States,

14 (3-a) taxes on or measured by profits or income, or which include  
15 profits or income as a measure, paid or accrued to any other state of  
16 the United States, or any political subdivision thereof, or to the  
17 District of Columbia, including taxes expressly in lieu of any of the  
18 foregoing taxes otherwise generally imposed by any other state of the  
19 United States, or any political subdivision thereof, or the District of  
20 Columbia;

21 (4) taxes imposed under this article and article thirty-two AS IN  
22 EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN and sections one  
23 hundred eighty-three, one hundred eighty-three-a, one hundred eighty-  
24 four and one hundred eighty-four-a of this chapter,

25 (4-a)(A) [the entire amount allowable as an exclusion or deduction for  
26 stock transfer taxes imposed by article twelve of this chapter in deter-  
27 mining the entire taxable income which the taxpayer is required to  
28 report to the United States treasury department but only to the extent  
29 that such taxes are incurred and paid in market making transactions,  
30 (B)] in those instances where a credit for the special additional mort-  
31 gage recording tax credit is allowed under [paragraph (a) of] subdivi-  
32 sion [seventeen] NINE of section two hundred [ten] TEN-B of this arti-  
33 cle, the amount allowed as an exclusion or deduction for the special  
34 additional mortgage recording tax imposed by subdivision one-a of  
35 section two hundred fifty-three of this chapter in determining the  
36 entire taxable income which the taxpayer is required to report to the  
37 United States treasury department, and [(C)] (B) unless the credit  
38 allowed pursuant to subdivision [seventeen] NINE of section two hundred  
39 [ten] TEN-B of this article is reflected in the computation of the gain  
40 or loss so as to result in an increase in such gain or decrease of such  
41 loss, for federal income tax purposes, from the sale or other disposi-  
42 tion of the property with respect to which the special additional mort-  
43 gage recording tax imposed pursuant to subdivision one-a of section two  
44 hundred fifty-three of this chapter was paid, the amount of the special  
45 additional mortgage recording tax imposed by subdivision one-a of  
46 section two hundred fifty-three of this chapter which was paid and which  
47 is reflected in the computation of the basis of the property so as to  
48 result in a decrease in such gain or increase in such loss for federal  
49 income tax purposes from the sale or other disposition of the property  
50 with respect to which such tax was paid.

51 (6) [in the discretion of the tax commission, any amount of interest  
52 directly or indirectly and any other amount directly or indirectly  
53 attributable as a carrying charge or otherwise to subsidiary capital or  
54 to income, gains or losses from subsidiary capital] ANY AMOUNT ALLOWED  
55 AS A DEDUCTION FOR THE TAXABLE YEAR UNDER SECTION 172 OF THE INTERNAL

1 REVENUE CODE, INCLUDING CARRYOVERS OF DEDUCTIONS FROM PRIOR TAXABLE  
2 YEARS.

3 [(7) in the case of a taxpayer who is separately or as a partner of a  
4 partnership doing an insurance business as a member of the New York  
5 insurance exchange described in section six thousand two hundred one of  
6 the insurance law, such taxpayer's distributive or pro rata share of the  
7 allocated entire net income of such business as determined under  
8 sections fifteen hundred three and fifteen hundred four of this chapter,  
9 provided however, in the event such allocated entire net income is a  
10 loss, such taxpayer's distributive or pro rata share of such loss shall  
11 not be subtracted from federal taxable income in computing entire net  
12 income under this subdivision.]

13 (8) for taxable years beginning after December thirty-first, nineteen  
14 hundred eighty-one, except with respect to property which is a qualified  
15 mass commuting vehicle described in subparagraph (D) of paragraph eight  
16 of subsection (f) of section one hundred sixty-eight of the internal  
17 revenue code (relating to qualified mass commuting vehicles) and proper-  
18 ty of a taxpayer principally engaged in the conduct of aviation (other  
19 than air freight forwarders acting as principal and like indirect air  
20 carriers) which is placed in service before taxable years beginning in  
21 nineteen hundred eighty-nine, any amount which the taxpayer claimed as a  
22 deduction in computing its federal taxable income solely as a result of  
23 an election made pursuant to the provisions of such paragraph eight as  
24 it was in effect for agreements entered into prior to January first,  
25 nineteen hundred eighty-four;

26 (9) for taxable years beginning after December thirty-first, nineteen  
27 hundred eighty-one, except with respect to property which is a qualified  
28 mass commuting vehicle described in subparagraph (D) of paragraph eight  
29 of subsection (f) of section one hundred sixty-eight of the internal  
30 revenue code (relating to qualified mass commuting vehicles) and proper-  
31 ty of a taxpayer principally engaged in the conduct of aviation (other  
32 than air freight forwarders acting as principal and like indirect air  
33 carriers) which is placed in service before taxable years beginning in  
34 nineteen hundred eighty-nine, any amount which the taxpayer would have  
35 been required to include in the computation of its federal taxable  
36 income had it not made the election permitted pursuant to such paragraph  
37 eight as it was in effect for agreements entered into prior to January  
38 first, nineteen hundred eighty-four;

39 (10) in the case of property placed in service in taxable years begin-  
40 ning before nineteen hundred ninety-four, for taxable years beginning  
41 after December thirty-first, nineteen hundred eighty-one, except with  
42 respect to property subject to the provisions of section two hundred  
43 eighty-F of the internal revenue code, property subject to the  
44 provisions of section one hundred sixty-eight of the internal revenue  
45 code which is placed in service in this state in taxable years beginning  
46 after December thirty-first, nineteen hundred eighty-four and property  
47 of a taxpayer principally engaged in the conduct of aviation (other than  
48 air freight forwarders acting as principal and like indirect air carri-  
49 ers) which is placed in service before taxable years beginning in nine-  
50 teen hundred [eight-nine] EIGHTY-NINE, the amount allowable as a  
51 deduction determined under section one hundred sixty-eight of the inter-  
52 nal revenue code;

53 (11) upon the disposition of property to which paragraph (j) of this  
54 subdivision applies, the amount, if any, by which the aggregate of the  
55 amounts described in such paragraph (j) attributable to such property



1 exceeds the aggregate of the amounts described in subparagraph ten of  
2 this paragraph attributable to such property.

3 (15) Real property taxes paid on qualified agricultural property and  
4 deducted in determining federal taxable income, to the extent of the  
5 amount of the agricultural property tax credit allowed under subdivision  
6 [twenty-two] ELEVEN of section two hundred [ten] TEN-B of this article.

7 (16) In the case of a taxpayer which is not an eligible farmer as  
8 defined in paragraph (b) of subdivision [twenty-two] ELEVEN of section  
9 two hundred [ten] TEN-B of this article, the amount of any deduction  
10 claimed pursuant to section 179 of the internal revenue code with  
11 respect to a sport utility vehicle which is not a passenger automobile  
12 as defined in paragraph 5 of subsection (d) of section 280F of the  
13 internal revenue code.

14 (17) for taxable years beginning after December thirty-first, two  
15 thousand two, in the case of qualified property described in paragraph  
16 two of subsection k of section 168 of the internal revenue code, other  
17 than qualified resurgence zone property described in paragraph (q) of  
18 this subdivision, and other than qualified New York Liberty Zone proper-  
19 ty described in paragraph two of subsection b of section 1400L of the  
20 internal revenue code (without regard to clause (i) of subparagraph (C)  
21 of such paragraph), which was placed in service on or after June first,  
22 two thousand three, the amount allowable as a deduction under section  
23 167 of the internal revenue code.

24 (18) Premiums paid for environmental remediation insurance, as defined  
25 in section twenty-three of this chapter, and deducted in determining  
26 federal taxable income, to the extent of the amount of the environmental  
27 remediation insurance credit allowed under such section twenty-three and  
28 subdivision [thirty-five] NINETEEN of section two hundred [ten] TEN-B of  
29 this article.

30 (19) The amount of any deduction allowed pursuant to section one  
31 hundred ninety-nine of the internal revenue code.

32 (20) The amount of any federal deduction for taxes imposed under arti-  
33 cle twenty-three of this chapter.

34 (20-A) THE AMOUNT OF ANY FEDERAL DEDUCTION FOR THE EXCISE TAX ON TELE-  
35 COMMUNICATION SERVICES TO THE EXTENT SUCH TAXES ARE USED AS THE BASIS OF  
36 THE CALCULATION OF THE TAX-FREE NY AREA EXCISE TAX ON TELECOMMUNICATION  
37 SERVICES CREDIT ALLOWED UNDER SUBDIVISION FORTY-FOUR OF SECTION TWO  
38 HUNDRED TEN-B OF THIS ARTICLE.

39 (21) THE AMOUNT OF ANY FEDERAL DEDUCTION FOR REAL PROPERTY TAXES TO  
40 THE EXTENT SUCH TAXES ARE USED AS THE BASIS OF THE CALCULATION OF THE  
41 REAL PROPERTY TAX CREDIT FOR MANUFACTURERS ALLOWED UNDER SUBDIVISION  
42 FORTY-THREE OF SECTION TWO HUNDRED TEN-B OF THIS ARTICLE.

43 [(c) Entire net income shall include income within and without the  
44 United States;]

45 (c-1)(1) Notwithstanding any other provision of this article, in the  
46 case of a taxpayer which is a foreign air carrier holding a foreign air  
47 carrier permit issued by the United States department of transportation  
48 pursuant to section four hundred two of the federal aviation act of  
49 nineteen hundred fifty-eight, as amended, and which is qualified under  
50 subparagraph two of this paragraph, entire net income shall not include,  
51 and shall be computed without the deduction of, amounts directly or  
52 indirectly attributable to, (i) any income derived from the interna-  
53 tional operation of aircraft as described in and subject to the  
54 provisions of section eight hundred eighty-three of the internal revenue  
55 code, (ii) income without the United States which is derived from the  
56 operation of aircraft, and (iii) income without the United States which

1 is of a type described in subdivision (a) of section eight hundred  
2 eighty-one of the internal revenue code except that it is derived from  
3 sources without the United States. Entire net income shall include  
4 income described in clauses (i), (ii) and (iii) of this subparagraph in  
5 the case of taxpayers not described in the previous sentence.

6 (2) A taxpayer is qualified under this subparagraph if air carriers  
7 organized in the United States and operating in the foreign country or  
8 countries in which the taxpayer has its major base of operations and in  
9 which it is organized, resident or headquartered (if not in the same  
10 country as its major base of operations) are not subject to any income  
11 tax or other tax based on or measured by income or receipts imposed by  
12 such foreign country or countries or any political subdivision thereof,  
13 or if so subject to such tax, are provided an exemption from such tax  
14 equivalent to that provided for herein.

15 (c-2) Adjustments by qualified public utilities. (1) In the case of a  
16 taxpayer which is a qualified public utility, entire net income shall be  
17 computed with the adjustments set forth in this paragraph.

18 (2) Definitions. (A) Qualified public utility. The term "qualified  
19 public utility" means a taxpayer which: (i) on December thirty-first,  
20 nineteen hundred ninety-nine, was subject to the ratemaking supervision  
21 of the state department of public service, and (ii) for the year ending  
22 on December thirty-first, nineteen hundred ninety-nine, was subject to  
23 tax under former section one hundred eighty-six of this chapter.

24 (B) Transition property. The term "transition property" means property  
25 placed in service by the taxpayer before January first, two thousand,  
26 for which a depreciation deduction is allowed under section one hundred  
27 sixty-seven of the internal revenue code.

28 (3) Federal depreciation disallowed. With respect to transition prop-  
29 erty, the deduction for federal income tax purposes for depreciation  
30 shall not be allowed.

31 (4) New York depreciation. With respect to transition property, a  
32 deduction shall be allowed for the depreciation expense shown on the  
33 books and records of the taxpayer for the taxable year and determined in  
34 accordance with generally accepted accounting principles.

35 (5) Regulatory assets. A deduction shall be allowed for amounts recog-  
36 nized as expense on the books and records of the taxpayer for the taxa-  
37 ble year, which amounts were recognized as expense for federal income  
38 tax purposes in a taxable year ending on or before December thirty-  
39 first, nineteen hundred ninety-nine, where: (A) such amounts represent  
40 expenditures which, when made, were charged to a deferred debit account  
41 or similar asset account on the books and records of the taxpayer, and  
42 where (B) the recognition of expense on the books and records of the  
43 taxpayer is matched by revenue stemming from a procedure or adjustment  
44 allowing the recovery of such expenditures, and where (C) such revenue  
45 is recognized for federal income tax purposes in the taxable year.

46 (6) Basis for gain or loss. (A) Recognition transactions. (i) General  
47 rule - book basis. Except as provided in subclause (ii) of this clause,  
48 where transition property is sold or otherwise disposed of in the taxa-  
49 ble year in a transaction of the type requiring recognition of gain or  
50 loss for federal income tax purposes, the basis for determining the  
51 amount of such gain or loss under this article shall be the cost of the  
52 property less the accumulated depreciation on the property determined on  
53 the books and records of the taxpayer in accordance with generally  
54 accepted accounting principles.

55 (ii) Qualified gain - New York basis. Where a sale or disposition  
56 described in subclause (i) of this clause results in recognition of gain

1 for federal income tax purposes, and where either (I) such recognition  
2 occurs in a taxable year ending after nineteen hundred ninety-nine and  
3 before two thousand ten, or (II) such recognition is with respect to a  
4 nuclear electric generating facility, the basis for determining the  
5 amount of such gain under this article shall be the cost of the property  
6 less the aggregate of the New York depreciation deductions on the prop-  
7 erty determined under subparagraph four of this paragraph.

8 (iii) No conversion of gain to loss. In the event that the basis  
9 determined under subclause (ii) of this clause results in determination  
10 of a loss on the sale or disposition of the property, no gain or loss  
11 shall be recognized under this article with respect to such sale or  
12 disposition.

13 (B) Nonrecognition transactions. (i) Carryover basis. (I) where tran-  
14 sition property is disposed of ("original disposition") in a transaction  
15 of a type requiring deferral of recognition of gain or loss for federal  
16 income tax purposes, and where (II) there is a subsequent recognition of  
17 gain or loss for federal income tax purposes ("clause B gain or loss"),  
18 the amount of which is determined by reference, in whole or in part, to  
19 the basis of such transition property ("underlying transition proper-  
20 ty"), then (III) the amount of such clause B gain or loss under this  
21 article shall be adjusted as provided in subclause (ii) or (iii) of this  
22 clause.

23 (ii) General rule - book basis adjustment. Except as provided in  
24 subclause (iii) of this clause, the amount of clause B gain shall be  
25 reduced, or the amount of clause B loss increased, by the amount by  
26 which the book basis of the underlying transition property on the date  
27 of original disposition (determined using the provisions of subclause  
28 (i) of clause (A) of this subparagraph) exceeds the federal income tax  
29 basis of such property on such date.

30 (iii) Qualified gain - New York basis adjustment. Where clause B gain  
31 either (I) occurs in a taxable year ending after nineteen hundred nine-  
32 ty-nine and before two thousand ten, or (II) is with respect to a nucle-  
33 ar electric generating facility, the amount of such gain under this  
34 article shall be reduced, but not below zero, by the amount by which the  
35 New York basis of the underlying transition property on the date of  
36 original disposition (determined using the provisions of subclause (ii)  
37 of clause (A) of this subparagraph) exceeds the federal income tax basis  
38 of such property on such date.

39 (iv) Application to replacement property and transferee taxpayers.  
40 This clause shall apply whether the clause B gain or loss: (I) is with  
41 respect to either transition property or depreciable property the basis  
42 of which is determined by reference to transition property, or (II) is  
43 recognized by either a qualified public utility or by a taxpayer which  
44 is a transferee of transition property (whether or not such transferee  
45 is a qualified public utility, notwithstanding subparagraph one of this  
46 paragraph).

47 (c-3) Depreciation adjustments by qualified power producers and pipe-  
48 line companies. (1) In the case of a qualified taxpayer, entire net  
49 income shall be computed with the depreciation adjustments set forth in  
50 this paragraph.

51 (2) Definitions. (A) Qualified taxpayer. The term "qualified taxpayer"  
52 means a qualified power producer or a qualified pipeline.

53 (B) Qualified power producer. The term "qualified power producer"  
54 means a taxpayer which: (i) on December thirty-first, nineteen hundred  
55 ninety-nine, was not subject to the ratemaking supervision of the state  
56 department of public service, and (ii) for the year ending on December

thirty-first, nineteen hundred ninety-nine, was subject to tax under former section one hundred eighty-six of this chapter on account of its being principally engaged in the business of supplying electricity.

(C) Qualified pipeline. The term "qualified pipeline" means a taxpayer which: (i) on December thirty-first, nineteen hundred ninety-nine, was subject to the ratemaking supervision of either the federal energy regulatory commission or the state department of public service, and (ii) for the year ending on December thirty-first, nineteen hundred ninety-nine, was subject to tax under sections one hundred eighty-three and one hundred eighty-four of this chapter on account of its being principally engaged in the business of pipeline transmission.

(D) Transition property. The term "transition property" means property placed in service by a qualified taxpayer before January first, two thousand, for which a depreciation deduction is allowed under section one hundred sixty-seven of the internal revenue code.

(3) Federal depreciation disallowed. With respect to transition property, the deduction for federal income tax purposes for depreciation shall not be allowed.

(4) New York depreciation. With respect to transition property, a deduction shall be allowed for the depreciation expense computed as provided in this subparagraph. (A) All transition property shown on the books and records of the taxpayer on January first, two thousand shall be treated as a single asset placed in service on such date. The New York basis for purposes of computing the depreciation deduction on such single asset shall be the net book value of such transition property determined on the first day of the federal taxable year ending in two thousand (or on the date any such property is placed in service, if later) adjusted as provided in clause (B) of this subparagraph.

(B) If transition property is sold or otherwise disposed of, the New York basis of the single asset shall be reduced on the date of such sale or disposition by the amount of the adjusted federal tax basis of such property on such date.

(C) The New York depreciation deduction allowed for any taxable year with respect to such single asset shall be computed using the straight-line method, a twenty-year life, and a salvage value of zero.

(D) For purposes of this subparagraph, the term "net book value" means cost reduced by accumulated depreciation shown on the books and records of the taxpayer and determined, in the case of a qualified power producer, in accordance with generally accepted accounting principles; and in the case of a qualified pipeline, in accordance with the taxpayer's regulatory reports filed with the federal energy regulatory commission or state department of public service.

(d) The [tax commission] COMMISSIONER may, whenever necessary in order properly to reflect the entire net income of any taxpayer, determine the year or period in which any item of income or deduction shall be included, without regard to the method of accounting employed by the taxpayer[;].

(e) The entire net income of any bridge commission created by act of congress to construct a bridge across an international boundary means its gross income less the expense of maintaining and operating its properties, the annual interest upon its bonds and other obligations, and the annual charge for the retirement of such bonds or obligations at maturity[;].

[(f) A net operating loss deduction shall be allowed which shall be presumably the same as the net operating loss deduction allowed under section one hundred seventy-two of the internal revenue code, or which

1 would have been allowed if the taxpayer had not made an election under  
2 subchapter s of chapter one of the internal revenue code, except that in  
3 every instance where such deduction is allowed under this article:

4 (1) any net operating loss included in determining such deduction  
5 shall be adjusted to reflect the inclusions and exclusions from entire  
6 net income required by paragraphs (a), (b) and (g) hereof,

7 (2) such deduction shall not include any net operating loss sustained  
8 during any taxable year beginning prior to January first, nineteen  
9 hundred sixty-one, or during any taxable year in which the taxpayer was  
10 not subject to the tax imposed by this article,

11 (3) such deduction shall not exceed the deduction for the taxable year  
12 allowed under section one hundred seventy-two of the internal revenue  
13 code, or the deduction for the taxable year which would have been  
14 allowed if the taxpayer had not made an election under subchapter s of  
15 chapter one of the internal revenue code,

16 (4) in the case of a New York S corporation, such deduction shall not  
17 include any net operating loss sustained during a New York C year or  
18 during a New York S year beginning prior to nineteen hundred ninety, and  
19 in the case of a New York C corporation, such deduction shall not  
20 include any net operating loss sustained during a New York S year,  
21 provided, however, a New York S year shall be treated as a taxable year  
22 for purposes of determining the number of taxable years to which a net  
23 operating loss may be carried back or carried forward, and

24 (5) the net operating loss deduction allowed under section one hundred  
25 seventy-two of the internal revenue code shall for purposes of this  
26 paragraph be determined as if the taxpayer had elected under such  
27 section to relinquish the entire carryback period with respect to net  
28 operating losses, except with respect to the first ten thousand dollars  
29 of each of such losses, sustained during taxable years ending after June  
30 thirtieth, nineteen hundred eighty-nine.

31 (g) For taxable years commencing prior to January first, nineteen  
32 hundred eighty-seven, at the election of the taxpayer, a deduction shall  
33 be allowed for expenditures paid or incurred during the taxable year for  
34 the construction, reconstruction, erection or improvement of either  
35 industrial waste treatment facilities or air pollution control facili-  
36 ties, or, with respect to taxable years beginning on or after January  
37 first, nineteen hundred seventy-seven and before January first, nineteen  
38 hundred eighty-one, industrial waste treatment controlled process facil-  
39 ities or air pollution controlled process facilities.

40 (1) (A) (1) The term "industrial waste treatment facilities" shall  
41 mean facilities for the treatment, neutralization or stabilization of  
42 industrial waste and other wastes (as the terms "industrial waste" and  
43 "other wastes" are defined in section 17-0105 of the environmental  
44 conservation law) from a point immediately preceding the point of such  
45 treatment, neutralization or stabilization to the point of disposal,  
46 including the necessary pumping and transmitting facilities.

47 (2) The term "industrial waste treatment controlled process facility"  
48 shall mean such portion of the cost of an industrial production facility  
49 designed for the purpose of obviating the need for industrial waste  
50 treatment facilities as defined in item one of this clause as shall  
51 exceed the cost of an industrial production facility of equal production  
52 capacity which if constructed would require industrial waste treatment  
53 facilities to meet emission standards in compliance with the provisions  
54 of the environmental conservation law and the codes, rules, regulations,  
55 permits or orders issued pursuant thereto but only to the extent of the  
56 cost of such industrial waste treatment facilities.

1 (B) (1) The term "air pollution control facilities" shall mean facili-  
2 ties which remove, reduce, or render less noxious air contaminants emit-  
3 ted from an air contamination source (as the terms "air contaminant" and  
4 "air contamination source" are defined in section 19-0107 of the envi-  
5 ronmental conservation law) from a point immediately preceding the point  
6 of such removal, reduction or rendering to the point of discharge of  
7 air, meeting emission standards as established by the department of  
8 environmental conservation, but excluding such facilities installed for  
9 the primary purpose of salvaging materials which are usable in the manu-  
10 facturing process or are marketable and excluding those facilities which  
11 rely for their efficacy on dilution, dispersion or assimilation of air  
12 contaminants in the ambient air after emission. Such term shall further  
13 include flue gas desulfurization equipment and attendant sludge disposal  
14 facilities, fluidized bed boilers, precombustion coal cleaning facili-  
15 ties or other facilities that conform with this subdivision and which  
16 comply with the provisions of the state acid deposition control act set  
17 forth in title nine of article nineteen of the environmental conserva-  
18 tion law.

19 (2) The term "air pollution controlled process facility" shall mean  
20 such portion of the cost of an industrial production facility designed  
21 for the purpose of obviating the need for air pollution control facili-  
22 ties as defined in item one of this clause as shall exceed the cost of  
23 an industrial production facility of equal productive capacity which if  
24 constructed would require air pollution control facilities to inert  
25 emission standards as established pursuant to title three of article  
26 nineteen of the environmental conservation law but only to the extent of  
27 the cost of such air pollution control facilities.

28 (2) However, such deduction shall be allowed only

29 (A) with respect to tangible property which is depreciable, pursuant  
30 to section one hundred sixty-seven of the internal revenue code, having  
31 a situs in this state and used in the taxpayer's trade or business, the  
32 construction, reconstruction, erection or improvement of which, in the  
33 case of industrial waste treatment facilities, is initiated on or after  
34 January first, nineteen hundred sixty-five or which, in the case of air  
35 pollution control facilities, is initiated on or after January first,  
36 nineteen hundred sixty-six, or which in the case of industrial waste  
37 treatment controlled process facilities or air pollution controlled  
38 process facilities is initiated on and after January first, nineteen  
39 hundred seventy-seven, and

40 (B) on condition that such facilities have been certified by the state  
41 commissioner of environmental conservation or his designated represen-  
42 tative, pursuant to section 19-0309 of the environmental conservation  
43 law, as complying with applicable provisions of the environmental  
44 conservation law, the public health law, the state sanitary code and  
45 codes, rules, regulations, permits or orders issued pursuant thereto,  
46 and

47 (C) on condition that entire net income for the taxable year and all  
48 succeeding taxable years be computed without any deductions for such  
49 expenditures or for depreciation or amortization of the same property  
50 other than the deductions allowed by this paragraph (g), except to the  
51 extent that the basis of the property may be attributable to factors  
52 other than such expenditures, or in case a deduction is allowable pursu-  
53 ant to this paragraph for only a part of such expenditures, on condition  
54 that any deduction allowed for federal income tax purposes for such  
55 expenditures or for depreciation or amortization of the same property be

1 proportionately reduced in computing entire net income for the taxable  
2 year and all succeeding taxable years, and

3 (D) where the election provided for in paragraph (d) of subdivision  
4 three of section two hundred ten of this chapter has not been exercised  
5 in respect to the same property.

6 (3) (A) If expenditures in respect to an industrial waste treatment  
7 facility, an air pollution control facility, an industrial waste treat-  
8 ment controlled process facility or an air pollution controlled process  
9 facility have been deducted as provided herein and if within ten years  
10 from the end of the taxable year in which such deduction was allowed  
11 such property or any part thereof is used for the primary purpose of  
12 salvaging materials which are usable in the manufacturing process or are  
13 marketable, the taxpayer shall report such change of use in its report  
14 for the first taxable year during which it occurs, and the tax commis-  
15 sion may recompute the tax for the year or years for which such  
16 deduction was allowed and any carryback or carryover year, and may  
17 assess any additional tax resulting from such recomputation within the  
18 time fixed by paragraph nine of subsection (c) of section ten hundred  
19 eighty-three of this chapter.

20 (B) If a deduction is allowed as herein provided for expenditures paid  
21 or incurred during any taxable year on the basis of a temporary certif-  
22 icate of compliance issued pursuant to the environmental conservation  
23 law and if the taxpayer fails to obtain a permanent certificate of  
24 compliance upon completion of the facilities with respect to which such  
25 temporary certificate was issued, the taxpayer shall report such failure  
26 in its report for the taxable year during which such facilities are  
27 completed, and the tax commission may recompute the tax for the year or  
28 years for which such deduction was allowed and any carryback or carry-  
29 over year, and may assess any additional tax resulting from in such  
30 recomputation within the time fixed by paragraph nine of subsection (c)  
31 of section ten hundred eighty-three.

32 (C) If a deduction is allowed as herein provided for expenditures paid  
33 or incurred during any taxable year in respect to an air pollution  
34 control facility on the basis of a certificate of compliance issued  
35 pursuant to the environmental conservation law and the certificate is  
36 revoked pursuant to subdivision three of section 19-0309 of the environ-  
37 mental conservation law, the tax commission may recompute the tax for  
38 the year or years for which the facility is not or was not in compliance  
39 with the applicable provisions of the environmental conservation law,  
40 the state sanitary code or codes, rules, regulations, permits or orders  
41 promulgated pursuant thereto, and for which a deduction was allowed, as  
42 well as for any carryback or carryover year to which such deduction was  
43 carried, and may assess any additional tax resulting from such recompu-  
44 tation within the time fixed by paragraph nine of subsection (c) of  
45 section ten hundred eighty-three.

46 (4) In any taxable year when property is sold or otherwise disposed  
47 of, with respect to which a deduction has been allowed pursuant to this  
48 paragraph, such deduction shall be disregarded in computing gain or  
49 loss, and the gain or loss on the sale or other disposition of such  
50 property shall be the gain or loss entering into the computation of  
51 entire taxable income which the taxpayer is required to report to the  
52 United States treasury department for such taxable year.]

53 (h) If the period covered by a report under this article is other than  
54 the period covered by the report to the United States treasury depart-  
55 ment,

1 (1) except as provided in subparagraph two hereof, entire net income  
2 shall be determined by multiplying the taxable income reported to such  
3 department (as adjusted pursuant to the provisions of this article) by  
4 the number of calendar months or major parts thereof covered by the  
5 report under this article and dividing by the number of calendar months  
6 or major parts thereof covered by the report to such department. If it  
7 shall appear that such method of determining entire net income does not  
8 properly reflect the taxpayer's income during the period covered by the  
9 report under this article, the [tax commission] COMMISSIONER shall be  
10 authorized in its discretion to determine such entire net income solely  
11 on the basis of the taxpayer's income during the period covered by its  
12 report under this article[;].

13 (2) [in] IN the case of a New York S termination year, an equal  
14 portion of entire net income shall be assigned to each day of such year.  
15 The portion of such entire net income thereby assigned to the S short  
16 year and the C short year shall be included in the respective reports  
17 for the S short year and the C short year under this article. However,  
18 where paragraph three of subsection (s) of section six hundred twelve of  
19 this chapter applies, the portion of such entire net income assigned to  
20 the S short year and the C short year shall be determined under normal  
21 tax accounting rules.

22 (i) With respect to a DISC which during any taxable year or reporting  
23 year (1) received more than five percent of its gross sales from the  
24 sale of inventory or other property which it purchased from its stock-  
25 holders, (2) received more than five percent of its gross rentals from  
26 the rental of property which it purchased or rented from its stockhold-  
27 ers or (3) received more than five percent of its total receipts other  
28 than sales and rentals from its stockholders, the following provisions  
29 shall apply.

30 (A) For any taxable year in which sub-paragraph (B) of this paragraph  
31 is in effect and not rendered invalid, a DISC meeting the above test  
32 shall be exempt from all taxes imposed by this article.

33 (B) Supplemental to the provisions of subdivision five of section two  
34 hundred eleven of this article, any taxpayer required to compute a tax  
35 under this article, which during the taxable year being reported was a  
36 stockholder in any DISC meeting the test prescribed in this paragraph,  
37 shall for any taxable year ending after December thirty-first, nineteen  
38 hundred seventy-one adjust each item of its receipts, expenses, assets  
39 and liabilities, as otherwise computed under this article, by adding  
40 thereto its attributable share of each such DISC's receipts, expenses,  
41 assets and liabilities as reportable by each such DISC to the United  
42 States Treasury Department for its annual reporting period ending during  
43 the current taxable year of such taxpayer; provided, however, (1) that  
44 all transactions between the taxpayer and each such DISC shall be elimi-  
45 nated from the taxpayer's adjusted receipts, expenses, assets and  
46 liabilities; (2) that the taxpayer's entire net income as otherwise  
47 computed under this section, shall be reduced by subtracting the amount  
48 of the deemed distribution of current income, if any, from each such  
49 DISC already included in the entire net income of such taxpayer by  
50 virtue of having been included in its entire taxable income for that  
51 taxable year as reported to the United States Treasury Department; and  
52 (3) that in the event this paragraph should be rendered invalid, all  
53 DISC's and their stockholders taxable hereunder shall be taxed instead  
54 under the remaining portions of this article.

55 (j) in the case of property placed in service in taxable years begin-  
56 ning before nineteen hundred ninety-four, for taxable years beginning



1 after December thirty-first, nineteen hundred eighty-one, except with  
2 respect to property subject to the provisions of section two hundred  
3 eighty-F of the internal revenue code and property subject to the  
4 provisions of section one hundred sixty-eight of the internal revenue  
5 code which is placed in service in this state in taxable years beginning  
6 after December thirty-first, nineteen hundred eighty-four, and provided  
7 a deduction has not been excluded from entire net income pursuant to  
8 subparagraph eight of paragraph (b) of this subdivision, a taxpayer  
9 shall be allowed with respect to property which is subject to the  
10 provisions of section one hundred sixty-eight of the internal revenue  
11 code the depreciation deduction allowable under section one hundred  
12 sixty-seven of the internal revenue code as such section would have  
13 applied to property placed in service on December thirty-first, nineteen  
14 hundred eighty. This paragraph shall not apply to property of a taxpayer  
15 principally engaged in the conduct of aviation (other than air freight  
16 forwarders acting as principal and like indirect air carriers) which is  
17 placed in service before taxable years beginning in nineteen hundred  
18 eighty-nine.

19 (k) QSSS. (1) New York S corporation. In the case of a New York S  
20 corporation which is the parent of a qualified subchapter S subsidiary  
21 (QSSS) with respect to a taxable year:

22 (A) where the QSSS is not an excluded corporation,

23 (i) in determining the entire net income of such parent corporation,  
24 all assets, liabilities, income and deductions of the QSSS shall be  
25 treated as assets, liabilities, income and deductions of the parent  
26 corporation, and

27 (ii) the QSSS shall be exempt from all taxes imposed by this article,  
28 and

29 (B) where the QSSS is an excluded corporation, the entire net income  
30 of the parent corporation shall be determined as if the federal QSSS  
31 election had not been made.

32 (2) New York C corporation. In the case of a New York C corporation  
33 which is the parent of a QSSS with respect to a taxable year:

34 (A) where the QSSS is a taxpayer,

35 (i) in determining the entire net income of such parent corporation,  
36 all assets, liabilities, income and deductions of the QSSS shall be  
37 treated as assets, liabilities, income and deductions of the parent  
38 corporation, and

39 (ii) the QSSS shall be exempt from all taxes imposed by this article,  
40 and

41 (B) where the QSSS is not a taxpayer,

42 (i) if the QSSS is not an excluded corporation, the parent corporation  
43 may make a QSSS inclusion election to include all assets, liabilities,  
44 income and deductions of the QSSS as assets, liabilities, income and  
45 deductions of the parent corporation, and

46 (ii) in the absence of such election, or where the QSSS is an excluded  
47 corporation, the entire net income of the parent corporation shall be  
48 determined as if the federal QSSS election had not been made.

49 (3) Non-New York S corporation not excluded. In the case of an S  
50 corporation which is not a taxpayer and not an excluded corporation, and  
51 which is the parent of a QSSS which is a taxpayer, the shareholders of  
52 the parent corporation shall be entitled to make the New York S election  
53 under subsection (a) of section six hundred sixty of this chapter.

54 (A) For any taxable year for which such election is in effect, the  
55 parent corporation shall be subject to tax under this article as a New

1 York S corporation, and the provisions of clause (A) of subparagraph one  
2 of this paragraph shall apply.

3 (B) For any taxable year for which such election is not in effect, the  
4 QSSS shall be a New York C corporation, and the entire net income of the  
5 QSSS shall be determined as if the federal QSSS election had not been  
6 made. For purposes of such determination, the taxable year of the parent  
7 corporation shall constitute the taxable year of the QSSS, excluding,  
8 however, any portion of such year during which the QSSS is not a taxpay-  
9 er.

10 (4) S corporation excluded. In the case of an S corporation which is  
11 an excluded corporation and which is the parent of a QSSS which is a  
12 taxpayer, the QSSS shall be a New York C corporation and the provisions  
13 of clause (B) of subparagraph three of this paragraph shall apply.

14 (5) Excluded corporation. The term "excluded corporation" means a  
15 corporation subject to tax under sections one hundred eighty-three  
16 through one hundred eighty-six, inclusive, or article [thirty-two or]  
17 thirty-three of this chapter, or a foreign corporation not taxable by  
18 this state which, if it were taxable, would be subject to tax under any  
19 of such sections or [articles] ARTICLE.

20 (6) Taxpayer. For purposes of this paragraph, the term "taxpayer"  
21 means a parent corporation or QSSS subject to tax under this article,  
22 determined without regard to the provisions of this paragraph.

23 (7) QSSS inclusion election. The election under subclause (i) of  
24 clause (B) of subparagraph two of this paragraph shall be effective for  
25 the taxable year for which made and for all succeeding taxable years of  
26 the corporation until such election is terminated. An election or termi-  
27 nation shall be made on such form and in such manner as the commissioner  
28 may prescribe by regulation or instruction.

29 (1) Emerging technology investment deferral. In the case of any sale  
30 of a qualified emerging technologies investment held for more than thir-  
31 ty-six months and with respect to which the taxpayer elects the applica-  
32 tion of this paragraph, gain from such sale shall be recognized only to  
33 the extent that the amount realized on such sale exceeds the cost of any  
34 qualified emerging technologies investment purchased by the taxpayer  
35 during the three hundred sixty-five-day period beginning on the date of  
36 such sale, reduced by any portion of such cost previously taken into  
37 account under this paragraph. For purposes of this paragraph the follow-  
38 ing shall apply:

39 (1) A qualified investment is stock of a corporation or an interest,  
40 other than as a creditor, in a partnership or limited liability company  
41 that was acquired by the taxpayer as provided in Internal Revenue Code S  
42 1202(c)(1)(B), except that the reference to the term "stock" in such  
43 section shall be read as "investment," or by the taxpayer from a person  
44 who had acquired such stock or interest in such a manner.

45 (2) A qualified emerging technology investment is a qualified invest-  
46 ment, that was held by the taxpayer for at least thirty-six months, in a  
47 company defined in paragraph (c) of subdivision one of section thirty-  
48 one hundred two-e of the public authorities law or an investment in a  
49 partnership or limited liability company that is taxed as a partnership  
50 to the extent that such partnership or limited liability company invests  
51 in qualified emerging technology companies.

52 (3) For purposes of determining whether the nonrecognition of gain  
53 under this subsection applies to a qualified emerging technologies  
54 investment that is sold, the taxpayer's holding period for such invest-  
55 ment and the qualified emerging technologies investment that is

1 purchased shall be determined without regard to Internal Revenue Code S  
2 1223.

3 (m) Amounts deferred. The amount deferred under paragraph (l) of this  
4 subdivision shall be added to entire net income when the reinvestment in  
5 the New York qualified emerging technology company which qualified a  
6 taxpayer for such deferral is sold.

7 [(n) Qualified gas transportation contracts.

8 (1) Any tax paid under this article allocable to receipts attributable  
9 to a "qualified gas transportation contract" shall be deemed to have  
10 been paid under article nine of this chapter for all purposes of law for  
11 taxable years commencing on or after January first, two thousand,  
12 computed as hereinafter provided, if all of the following conditions are  
13 met:

14 (i) For periods ending prior to January first, two thousand, the  
15 taxpayer paid the franchise tax due under section one hundred eighty-  
16 four of this chapter.

17 (ii) For the taxable year, all of the receipts from the pipeline  
18 transportation of natural gas attributable to the taxpayer and included  
19 in the taxpayer's entire net income (without regard to this paragraph)  
20 are solely from the transportation of natural gas for wholesale custom-  
21 ers and commercial retail customers.

22 (iii) The taxpayer's franchise tax liability under this article for  
23 the taxable year (computed without regard to this paragraph) is deter-  
24 mined under paragraph (a) of subdivision one of section two hundred ten  
25 of this article, and such tax liability (without regard to this para-  
26 graph) is greater than the liability the taxpayer would have incurred  
27 under sections one hundred eighty-three and one hundred eighty-four of  
28 this chapter (as such sections existed on December thirty-first, nine-  
29 teen hundred ninety-nine) based on the same taxable period.

30 (iv) The taxpayer is a party to a "qualified gas transportation  
31 contract," as defined herein.

32 (2) The provisions of this paragraph shall apply only for the taxable  
33 years during which such qualified gas transportation contract is in full  
34 force and effect, and shall apply only to the receipts of the taxpayer  
35 less any expenses of the taxpayer (but not less than zero), during the  
36 taxable year, to the extent included in entire net income, which are  
37 attributable to any such qualified gas transportation contracts.  
38 Provided, further, in any event, the characterization hereunder shall  
39 expire and be of no further force and effect for taxable years commenc-  
40 ing on or after January first, two thousand fifteen.

41 (3) The term "qualified gas transportation contract" shall mean a  
42 service agreement for the transportation of natural gas for an end-user  
43 which is a qualified cogeneration facility with a rated capacity of one  
44 thousand megawatts or more, which (i) was entered into before January  
45 first, two thousand, and was in full force and effect and binding on the  
46 parties thereto as of such date, (ii) as originally executed, was for a  
47 term of at least twenty years, and (iii) the terms of which prohibit the  
48 pass-through to such customer of the franchise tax imposed under this  
49 article, while allowing the recovery of the gross earnings tax imposed  
50 under section one hundred eighty-four of this chapter. A contract shall  
51 not qualify as a qualified gas transportation contract if there is: (i)  
52 any renewal or extension of an otherwise qualified gas transportation  
53 contract occurring on or after January first, two thousand, or (ii) any  
54 material amendment to, or supplementation of, an otherwise qualified gas  
55 transportation contract on or after such date. Such renewal, extension,  
56 or material amendment or supplementation shall have the same force and

effect of terminating the characterization hereunder as if the qualifying contract had expired by its own terms.

(o)] (N-1) For taxable years beginning after December thirty-first, two thousand two, in the case of qualified property described in paragraph two of subsection k of section 168 of the internal revenue code, other than qualified resurgence zone property described in paragraph (q) of this subdivision, and other than qualified New York Liberty Zone property described in paragraph two of subsection b of section 1400L of the internal revenue code (without regard to clause (i) of subparagraph (C) of such paragraph), which was placed in service on or after June first, two thousand three, a taxpayer shall be allowed with respect to such property the depreciation deduction allowable under section 167 of the internal revenue code as such section would have applied to such property had it been acquired by the taxpayer on September tenth, two thousand one.

(o) Related members expense add back. (1) Definitions. (A) Related member. "Related member" means a related person as defined in subparagraph (c) of paragraph three of subsection (b) of section four hundred sixty-five of the internal revenue code, except that "fifty percent" shall be substituted for "ten percent".

(B) Effective rate of tax. "Effective rate of tax" means, as to any state or U.S. possession, the maximum statutory rate of tax imposed by the state or possession on or measured by a related member's net income multiplied by the apportionment percentage, if any, applicable to the related member under the laws of said jurisdiction. For purposes of this definition, the effective rate of tax as to any state or U.S. possession is zero where the related member's net income tax liability in said jurisdiction is reported on a combined or consolidated return including both the taxpayer and the related member where the reported transactions between the taxpayer and the related member are eliminated or offset. Also, for purposes of this definition, when computing the effective rate of tax for a jurisdiction in which a related member's net income is eliminated or offset by a credit or similar adjustment that is dependent upon the related member either maintaining or managing intangible property or collecting interest income in that jurisdiction, the maximum statutory rate of tax imposed by said jurisdiction shall be decreased to reflect the statutory rate of tax that applies to the related member as effectively reduced by such credit or similar adjustment.

(C) Royalty payments. Royalty payments are payments directly connected to the acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of licenses, trademarks, copyrights, trade names, trade dress, service marks, mask works, trade secrets, patents and any other similar types of intangible assets as determined by the commissioner, and include amounts allowable as interest deductions under section one hundred sixty-three of the internal revenue code to the extent such amounts are directly or indirectly for, related to or in connection with the acquisition, use, maintenance or management, ownership, sale, exchange or disposition of such intangible assets.

(D) Valid Business Purpose. A valid business purpose is one or more business purposes, other than the avoidance or reduction of taxation, which alone or in combination constitute the primary motivation for some business activity or transaction, which activity or transaction changes in a meaningful way, apart from tax effects, the economic position of the taxpayer. The economic position of the taxpayer includes an increase

1 in the market share of the taxpayer, or the entry by the taxpayer into  
2 new business markets.

3 (2) Royalty expense add backs. (A) Except where a taxpayer is included  
4 in a combined report with a related member pursuant to [subdivision four  
5 of] section two hundred [eleven] TEN-C of this article, for the purpose  
6 of computing entire net income or other applicable taxable basis, a  
7 taxpayer must add back royalty payments directly or indirectly paid,  
8 accrued, or incurred in connection with one or more direct or indirect  
9 transactions with one or more related members during the taxable year to  
10 the extent deductible in calculating federal taxable income.

11 (B) Exceptions. (i) The adjustment required in this paragraph shall  
12 not apply to the portion of the royalty payment that the taxpayer estab-  
13 lishes, by clear and convincing evidence of the type and in the form  
14 specified by the commissioner, meets all of the following requirements:  
15 (I) the related member was subject to tax in this state or another state  
16 or possession of the United States or a foreign nation or some combina-  
17 tion thereof on a tax base that included the royalty payment paid,  
18 accrued or incurred by the taxpayer; (II) the related member during the  
19 same taxable year directly or indirectly paid, accrued or incurred such  
20 portion to a person that is not a related member; and (III) the trans-  
21 action giving rise to the royalty payment between the taxpayer and the  
22 related member was undertaken for a valid business purpose.

23 (ii) The adjustment required in this paragraph shall not apply if the  
24 taxpayer establishes, by clear and convincing evidence of the type and  
25 in the form specified by the commissioner, that: (I) the related member  
26 was subject to tax on or measured by its net income in this state or  
27 another state or possession of the United States or some combination  
28 thereof; (II) the tax base for said tax included the royalty payment  
29 paid, accrued or incurred by the taxpayer; and (III) the aggregate  
30 effective rate of tax applied to the related member in those jurisdic-  
31 tions is no less than eighty percent of the statutory rate of tax that  
32 applied to the taxpayer under section two hundred ten of this article  
33 for the taxable year.

34 (iii) The adjustment required in this paragraph shall not apply if the  
35 taxpayer establishes, by clear and convincing evidence of the type and  
36 in the form specified by the commissioner, that: (I) the royalty payment  
37 was paid, accrued or incurred to a related member organized under the  
38 laws of a country other than the United States; (II) the related  
39 member's income from the transaction was subject to a comprehensive  
40 income tax treaty between such country and the United States; (III) the  
41 related member was subject to tax in a foreign nation on a tax base that  
42 included the royalty payment paid, accrued or incurred by the taxpayer;  
43 (IV) the related member's income from the transaction was taxed in such  
44 country at an effective rate of tax at least equal to that imposed by  
45 this state; and (V) the royalty payment was paid, accrued or incurred  
46 pursuant to a transaction that was undertaken for a valid business  
47 purpose and using terms that reflect an arm's length relationship.

48 (iv) The adjustment required in this paragraph shall not apply if the  
49 taxpayer and the commissioner agree in writing to the application or use  
50 of alternative adjustments or computations. The commissioner may, in his  
51 or her discretion, agree to the application or use of alternative  
52 adjustments or computations when he or she concludes that in the absence  
53 of such agreement the income of the taxpayer would not be properly  
54 reflected.

55 (p) For taxable years beginning after December thirty-first, two thou-  
56 sand two, upon the disposition of property to which paragraph [(o)]

(N-1) of this subdivision applies, the amount of any gain or loss includible in entire net income shall be adjusted to reflect the inclusions and exclusions from entire net income pursuant to subparagraph seventeen of paragraph (a) and subparagraph seventeen of paragraph (b) of this subdivision attributable to such property.

(q) For purposes of paragraphs [(o)] (N-1) and (p) of this subdivision, qualified resurgence zone property shall mean qualified property described in paragraph two of subsection k of section 168 of the internal revenue code substantially all of the use of which is in the resurgence zone, as defined below, and is in the active conduct of a trade or business by the taxpayer in such zone, and the original use of which in the resurgence zone commences with the taxpayer after December thirty-first, two thousand two. The resurgence zone shall mean the area of New York county bounded on the south by a line running from the intersection of the Hudson River with the Holland Tunnel, and running thence east to Canal Street, then running along the centerline of Canal Street to the intersection of the Bowery and Canal Street, running thence in a southeasterly direction diagonally across Manhattan Bridge Plaza, to the Manhattan Bridge and thence along the centerline of the Manhattan Bridge to the point where the centerline of the Manhattan Bridge would intersect with the easterly bank of the East River, and bounded on the north by a line running from the intersection of the Hudson River with the Holland Tunnel and running thence north along West Avenue to the intersection of Clarkson Street then running east along the centerline of Clarkson Street to the intersection of Washington Avenue, then running south along the centerline of Washington Avenue to the intersection of West Houston Street, then east along the centerline of West Houston Street, then at the intersection of the Avenue of the Americas continuing east along the centerline of East Houston Street to the easterly bank of the East River.

(R) SUBTRACTION MODIFICATION FOR QUALIFIED RESIDENTIAL LOAN PORTFOLIOS. (1)(A) A TAXPAYER THAT IS EITHER A THRIFT INSTITUTION AS DEFINED IN SUBPARAGRAPH THREE OF THIS PARAGRAPH OR A QUALIFIED COMMUNITY BANK AS DEFINED IN SUBPARAGRAPH TWO OF PARAGRAPH (S) OF THIS SUBDIVISION AND MAINTAINS A QUALIFIED RESIDENTIAL LOAN PORTFOLIO AS DEFINED IN SUBPARAGRAPH TWO OF THIS PARAGRAPH SHALL BE ALLOWED AS A DEDUCTION IN COMPUTING ENTIRE NET INCOME THE AMOUNT, IF ANY, BY WHICH (I) THIRTY-TWO PERCENT OF ITS ENTIRE NET INCOME DETERMINED WITHOUT REGARD TO THIS PARAGRAPH EXCEEDS (II) THE AMOUNTS DEDUCTED BY THE TAXPAYER PURSUANT TO SECTIONS 166 AND 585 OF THE INTERNAL REVENUE CODE LESS ANY AMOUNTS INCLUDED IN FEDERAL TAXABLE INCOME AS A RESULT OF A RECOVERY OF A LOAN.

(B)(I) IF THE TAXPAYER IS IN A COMBINED REPORT UNDER SECTION TWO HUNDRED TEN-C OF THIS ARTICLE, THIS DEDUCTION WILL BE COMPUTED ON A COMBINED BASIS. IN THAT INSTANCE, THE ENTIRE NET INCOME OF THE COMBINED REPORTING GROUP FOR PURPOSES OF THIS PARAGRAPH SHALL BE MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE AVERAGE TOTAL ASSETS OF ALL THE THRIFT INSTITUTIONS AND QUALIFIED COMMUNITY BANKS INCLUDED IN THE COMBINED REPORT AND THE DENOMINATOR OF WHICH IS THE AVERAGE TOTAL ASSETS OF ALL THE CORPORATIONS INCLUDED IN THE COMBINED REPORT.

(II) MEASUREMENT OF ASSETS. (I) TOTAL ASSETS ARE THOSE ASSETS THAT ARE PROPERLY REFLECTED ON A BALANCE SHEET, COMPUTED IN THE SAME MANNER AS IS REQUIRED BY THE BANKING REGULATOR OF THE TAXPAYERS INCLUDED IN THE COMBINED RETURN.

(II) ASSETS WILL ONLY BE INCLUDED IF THE INCOME OR EXPENSES OF WHICH ARE PROPERLY REFLECTED (OR WOULD HAVE BEEN PROPERLY REFLECTED IF NOT FULLY DEPRECIATED OR EXPENSED, OR DEPRECIATED OR EXPENSED TO A NOMINAL

1 AMOUNT) IN THE COMPUTATION OF THE COMBINED GROUP'S ENTIRE NET INCOME FOR  
2 THE TAXABLE YEAR. ASSETS WILL NOT INCLUDE DEFERRED TAX ASSETS AND INTAN-  
3 GIBLE ASSETS IDENTIFIED AS "GOODWILL".

4 (III) TANGIBLE REAL AND PERSONAL PROPERTY, SUCH AS BUILDINGS, LAND,  
5 MACHINERY, AND EQUIPMENT SHALL BE VALUED AT COST. LEASED ASSETS WILL BE  
6 VALUED AT THE ANNUAL LEASE PAYMENT MULTIPLIED BY EIGHT. INTANGIBLE PROP-  
7 ERTY, SUCH AS LOANS AND INVESTMENTS, SHALL BE VALUED AT BOOK VALUE  
8 EXCLUSIVE OF RESERVES.

9 (IV) INTERCORPORATE STOCKHOLDINGS AND BILLS, NOTES AND ACCOUNTS  
10 RECEIVABLE, AND OTHER INTERCORPORATE INDEBTEDNESS BETWEEN THE CORPO-  
11 RATIONS INCLUDED IN THE COMBINED REPORT SHALL BE ELIMINATED.

12 (V) AVERAGE ASSETS ARE COMPUTED USING THE ASSETS MEASURED ON THE FIRST  
13 DAY OF THE TAXABLE YEAR, AND ON THE LAST DAY OF EACH SUBSEQUENT QUARTER  
14 OF THE TAXABLE YEAR OR MONTH OR DAY DURING THE TAXABLE YEAR.

15 (2) QUALIFIED RESIDENTIAL LOAN PORTFOLIO. (A) A TAXPAYER MAINTAINS A  
16 QUALIFIED RESIDENTIAL LOAN PORTFOLIO IF AT LEAST SIXTY PERCENT OF THE  
17 AMOUNT OF THE TOTAL ASSETS AT THE CLOSE OF THE TAXABLE YEAR OF THE  
18 THRIFT INSTITUTION OR QUALIFIED COMMUNITY BANK CONSISTS OF THE ASSETS  
19 DESCRIBED IN ITEMS (I) THROUGH (XII) OF THIS CLAUSE, WITH THE APPLICA-  
20 TION OF THE RULE IN ITEM (XIII). IF THE TAXPAYER IS A MEMBER OF A  
21 COMBINED GROUP, THE DETERMINATION OF WHETHER THERE IS A QUALIFIED RESI-  
22 DENTIAL LOAN PORTFOLIO WILL BE MADE BY AGGREGATING THE ASSETS OF THE  
23 THRIFT INSTITUTIONS AND QUALIFIED COMMUNITY BANKS THAT ARE MEMBERS OF  
24 THE COMBINED GROUP.

25 ASSETS:

26 (I) CASH, WHICH INCLUDES CASH AND CASH EQUIVALENTS INCLUDING CASH  
27 ITEMS IN THE PROCESS OF COLLECTION, DEPOSIT WITH OTHER FINANCIAL INSTI-  
28 TUTIONS, INCLUDING CORPORATE CREDIT UNIONS, BALANCES WITH FEDERAL  
29 RESERVE BANKS AND FEDERAL HOME LOAN BANKS, FEDERAL FUNDS SOLD, AND CASH  
30 AND CASH EQUIVALENTS ON HAND. CASH SHALL NOT INCLUDE ANY BALANCES SERV-  
31 ING AS COLLATERAL FOR SECURITIES LENDING TRANSACTIONS;

32 (II) OBLIGATIONS OF THE UNITED STATES OR OF A STATE OR POLITICAL  
33 SUBDIVISION THEREOF, AND STOCK OR OBLIGATIONS OF A CORPORATION WHICH IS  
34 AN INSTRUMENTALITY OR A GOVERNMENT SPONSORED ENTERPRISE OF THE UNITED  
35 STATES OR OF A STATE OR POLITICAL SUBDIVISION THEREOF;

36 (III) LOANS SECURED BY A DEPOSIT OR SHARE OF A MEMBER;

37 (IV) LOANS SECURED BY AN INTEREST IN REAL PROPERTY WHICH IS (OR FROM  
38 THE PROCEEDS OF THE LOAN, WILL BECOME) RESIDENTIAL REAL PROPERTY OR REAL  
39 PROPERTY USED PRIMARILY FOR CHURCH PURPOSES, LOANS MADE FOR THE IMPROVE-  
40 MENT OF RESIDENTIAL REAL PROPERTY OR REAL PROPERTY USED PRIMARILY FOR  
41 CHURCH PURPOSES, PROVIDED THAT FOR PURPOSES OF THIS ITEM, RESIDENTIAL  
42 REAL PROPERTY SHALL INCLUDE SINGLE OR MULTI-FAMILY DWELLINGS, FACILITIES  
43 IN RESIDENTIAL DEVELOPMENTS DEDICATED TO PUBLIC USE OR PROPERTY USED ON  
44 A NONPROFIT BASIS FOR RESIDENTS, AND MOBILE HOMES NOT USED ON A TRAN-  
45 SIENT BASIS;

46 (V) PROPERTY ACQUIRED THROUGH THE LIQUIDATION OF DEFAULTED LOANS  
47 DESCRIBED IN ITEM (IV) OF THIS CLAUSE;

48 (VI) ANY REGULAR OR RESIDUAL INTEREST IN A REMIC, AS SUCH TERM IS  
49 DEFINED IN SECTION 860D OF THE INTERNAL REVENUE CODE, BUT ONLY IN THE  
50 PROPORTION WHICH THE ASSETS OF SUCH REMIC CONSIST OF PROPERTY DESCRIBED  
51 IN ANY OF THE PRECEDING ITEMS OF THIS CLAUSE, EXCEPT THAT IF NINETY-FIVE  
52 PERCENT OR MORE OF THE ASSETS OF SUCH REMIC ARE ASSETS DESCRIBED IN  
53 ITEMS (I) THROUGH (V) OF THIS CLAUSE, THE ENTIRE INTEREST IN THE REMIC  
54 SHALL QUALIFY;

55 (VII) ANY MORTGAGE-BACKED SECURITY WHICH REPRESENTS OWNERSHIP OF A  
56 FRACTIONAL UNDIVIDED INTEREST IN A TRUST, THE ASSETS OF WHICH CONSIST

1 PRIMARILY OF MORTGAGE LOANS, PROVIDED THAT THE REAL PROPERTY WHICH  
2 SERVES AS SECURITY FOR THE LOANS IS (OR FROM THE PROCEEDS OF THE LOAN,  
3 WILL BECOME) THE TYPE OF PROPERTY DESCRIBED IN ITEM (IV) OF THIS CLAUSE  
4 AND ANY COLLATERALIZED MORTGAGE OBLIGATION, THE SECURITY FOR WHICH  
5 CONSISTS PRIMARILY OF MORTGAGE LOANS THAT MAINTAIN AS SECURITY THE TYPE  
6 OF PROPERTY DESCRIBED IN ITEM (IV) OF THIS CLAUSE;

7 (VIII) CERTIFICATES OF DEPOSIT IN, OR OBLIGATIONS OF, A CORPORATION  
8 ORGANIZED UNDER A STATE LAW WHICH SPECIFICALLY AUTHORIZES SUCH CORPO-  
9 RATION TO INSURE THE DEPOSITS OR SHARE ACCOUNTS OF MEMBER ASSOCIATIONS;

10 (IX) LOANS SECURED BY AN INTEREST IN EDUCATIONAL, HEALTH, OR WELFARE  
11 INSTITUTIONS OR FACILITIES, INCLUDING STRUCTURES DESIGNED OR USED PRIMA-  
12 RILY FOR RESIDENTIAL PURPOSES FOR STUDENTS, RESIDENTS, AND PERSONS UNDER  
13 CARE, EMPLOYEES, OR MEMBERS OF THE STAFF OF SUCH INSTITUTIONS OR FACILI-  
14 TIES;

15 (X) LOANS MADE FOR THE PAYMENT OF EXPENSES OF COLLEGE OR UNIVERSITY  
16 EDUCATION OR VOCATIONAL TRAINING;

17 (XI) PROPERTY USED BY THE TAXPAYER IN SUPPORT OF BUSINESS WHICH  
18 CONSISTS PRINCIPALLY OF ACQUIRING THE SAVINGS OF THE PUBLIC AND INVEST-  
19 ING IN LOANS; AND

20 (XII) LOANS FOR WHICH THE TAXPAYER IS THE CREDITOR AND WHICH ARE WHOL-  
21 LY SECURED BY LOANS DESCRIBED IN ITEM (IV) OF THIS CLAUSE.

22 (XIII) THE VALUE OF ACCRUED INTEREST RECEIVABLE AND ANY LOSS-SHARING  
23 COMMITMENT OR OTHER LOAN GUARANTY BY A GOVERNMENTAL AGENCY WILL BE  
24 CONSIDERED PART OF THE BASIS IN THE LOANS TO WHICH THE ACCRUED INTEREST  
25 OR LOSS PROTECTION APPLIES.

26 (B) AT THE ELECTION OF THE TAXPAYER, THE PERCENTAGE SPECIFIED IN  
27 CLAUSE (A) OF THIS SUBPARAGRAPH SHALL BE APPLIED ON THE BASIS OF THE  
28 AVERAGE ASSETS OUTSTANDING DURING THE TAXABLE YEAR, IN LIEU OF THE CLOSE  
29 OF THE TAXABLE YEAR. THE TAXPAYER CAN ELECT TO COMPUTE AN AVERAGE USING  
30 THE ASSETS MEASURED ON THE FIRST DAY OF THE TAXABLE YEAR AND ON THE LAST  
31 DAY OF EACH SUBSEQUENT QUARTER, OR MONTH OR DAY DURING THE TAXABLE YEAR.  
32 THIS ELECTION MAY BE MADE ANNUALLY.

33 (C) FOR PURPOSES OF ITEM (IV) OF CLAUSE (A) OF THIS SUBPARAGRAPH, IF A  
34 MULTIFAMILY STRUCTURE SECURING A LOAN IS USED IN PART FOR NONRESIDENTIAL  
35 USE PURPOSES, THE ENTIRE LOAN IS DEEMED A RESIDENTIAL REAL PROPERTY LOAN  
36 IF THE PLANNED RESIDENTIAL USE EXCEEDS EIGHTY PERCENT OF THE PROPERTY'S  
37 PLANNED USE (MEASURED, AT THE TAXPAYER'S ELECTION, BY USING SQUARE  
38 FOOTAGE OR GROSS RENTAL REVENUE, AND DETERMINED AS OF THE TIME THE LOAN  
39 IS MADE).

40 (D) FOR PURPOSES OF ITEM (IV) OF CLAUSE (A) OF THIS SUBPARAGRAPH,  
41 LOANS MADE TO FINANCE THE ACQUISITION OR DEVELOPMENT OF LAND SHALL BE  
42 DEEMED TO BE LOANS SECURED BY AN INTEREST IN RESIDENTIAL REAL PROPERTY  
43 IF THERE IS A REASONABLE ASSURANCE THAT THE PROPERTY WILL BECOME RESI-  
44 DENTIAL REAL PROPERTY WITHIN A PERIOD OF THREE YEARS FROM THE DATE OF  
45 ACQUISITION OF SUCH LAND; BUT THIS SENTENCE SHALL NOT APPLY FOR ANY  
46 TAXABLE YEAR UNLESS, WITHIN SUCH THREE YEAR PERIOD, SUCH LAND BECOMES  
47 RESIDENTIAL REAL PROPERTY. FOR PURPOSES OF DETERMINING WHETHER ANY  
48 INTEREST IN A REMIC QUALIFIES UNDER ITEM (VI) OF CLAUSE (A) OF THIS  
49 SUBPARAGRAPH, ANY REGULAR INTEREST IN ANOTHER REMIC HELD BY SUCH REMIC  
50 SHALL BE TREATED AS A LOAN DESCRIBED IN A PRECEDING ITEM UNDER PRINCI-  
51 PLES SIMILAR TO THE PRINCIPLE OF SUCH ITEM (VI), EXCEPT THAT IS SUCH  
52 REMICS ARE PART OF A TIERED STRUCTURE, THEY SHALL BE TREATED AS ONE  
53 REMIC FOR PURPOSES OF SUCH ITEM (VI).

54 (3) FOR PURPOSES OF THIS PARAGRAPH, A "THRIFT INSTITUTION" IS A  
55 SAVINGS BANK, A SAVINGS AND LOAN ASSOCIATION, OR OTHER SAVINGS INSTITU-  
56 TION CHARTERED AND SUPERVISED AS SUCH UNDER FEDERAL OR STATE LAW.



(S) SUBTRACTION MODIFICATION FOR COMMUNITY BANKS AND SMALL THRIFTS.  
(1) A TAXPAYER THAT IS A QUALIFIED COMMUNITY BANK AS DEFINED IN SUBPARAGRAPH TWO OF THIS PARAGRAPH OR A SMALL THRIFT INSTITUTION AS DEFINED IN SUBPARAGRAPH TWO-A OF THIS PARAGRAPH SHALL BE ALLOWED A DEDUCTION IN COMPUTING ENTIRE NET INCOME EQUAL TO THE AMOUNT COMPUTED UNDER SUBPARAGRAPH THREE OF THIS PARAGRAPH.

(2) TO BE A QUALIFIED COMMUNITY BANK, A TAXPAYER MUST SATISFY THE FOLLOWING CONDITIONS.

(A) IT IS A BANK OR TRUST COMPANY ORGANIZED UNDER OR SUBJECT TO THE PROVISIONS OF ARTICLE THREE OF THE BANKING LAW OR A COMPARABLE PROVISION OF THE LAWS OF ANOTHER STATE, OR A NATIONAL BANKING ASSOCIATION.

(B) THE AVERAGE VALUE DURING THE TAXABLE YEAR OF THE ASSETS OF THE TAXPAYER, OR THE ASSETS OF THE COMBINED REPORTING GROUP OF THE TAXPAYER UNDER SECTION TWO HUNDRED TEN-C OF THIS ARTICLE, MUST NOT EXCEED EIGHT BILLION DOLLARS.

(2-A) TO BE A SMALL THRIFT INSTITUTION, A TAXPAYER MUST SATISFY THE FOLLOWING CONDITIONS.

(A) IT IS A SAVINGS BANK, A SAVINGS AND LOAN ASSOCIATION, OR OTHER SAVINGS INSTITUTION CHARTERED AND SUPERVISED AS SUCH UNDER FEDERAL OR STATE LAW.

(B) THE AVERAGE VALUE DURING THE TAXABLE YEAR OF THE ASSETS OF THE TAXPAYER, OR THE ASSETS OF THE COMBINED REPORTING GROUP OF THE TAXPAYER UNDER SECTION TWO HUNDRED TEN-C OF THIS ARTICLE, MUST NOT EXCEED EIGHT BILLION DOLLARS.

(3)(A) THE SUBTRACTION MODIFICATION SHALL BE COMPUTED AS FOLLOWS:

(I) MULTIPLY THE TAXPAYER'S NET INTEREST INCOME FROM LOANS DURING THE TAXABLE YEAR BY A FRACTION, THE NUMERATOR OF WHICH IS THE GROSS INTEREST INCOME DURING THE TAXABLE YEAR FROM QUALIFYING LOANS AND THE DENOMINATOR OF WHICH IS THE GROSS INTEREST INCOME DURING THE TAXABLE YEAR FROM ALL LOANS.

(II) MULTIPLY THE AMOUNT DETERMINED IN CLAUSE (I) BY FIFTY PERCENT. THIS PRODUCT IS THE AMOUNT OF THE DEDUCTION ALLOWED UNDER THIS PARAGRAPH.

(B)(I) NET INTEREST INCOME FROM LOANS SHALL MEAN GROSS INTEREST INCOME FROM LOANS LESS GROSS INTEREST EXPENSE FROM LOANS. GROSS INTEREST EXPENSE FROM LOANS IS DETERMINED BY MULTIPLYING GROSS INTEREST EXPENSE BY A FRACTION, THE NUMERATOR OF WHICH IS THE AVERAGE TOTAL VALUE OF LOANS OWNED BY THE THRIFT INSTITUTION OR COMMUNITY BANK DURING THE TAXABLE YEAR AND THE DENOMINATOR OF WHICH IS THE AVERAGE TOTAL ASSETS OF THE THRIFT INSTITUTION OR COMMUNITY BANK DURING THE TAXABLE YEAR.

(II) MEASUREMENT OF ASSETS. (I) TOTAL ASSETS ARE THOSE ASSETS THAT ARE PROPERLY REFLECTED ON A BALANCE SHEET, COMPUTED IN THE SAME MANNER AS IS REQUIRED BY THE BANKING REGULATOR OF THE TAXPAYERS INCLUDED IN THE COMBINED RETURN.

(II) ASSETS WILL ONLY BE INCLUDED IF THE INCOME OR EXPENSES OF WHICH ARE PROPERLY REFLECTED (OR WOULD HAVE BEEN PROPERLY REFLECTED IF NOT FULLY DEPRECIATED OR EXPENSED, OR DEPRECIATED OR EXPENSED TO A NOMINAL AMOUNT) IN THE COMPUTATION OF THE TAXPAYER'S ENTIRE NET INCOME FOR THE TAXABLE YEAR. ASSETS WILL NOT INCLUDE DEFERRED TAX ASSETS AND INTANGIBLE ASSETS IDENTIFIED AS "GOODWILL".

(III) TANGIBLE REAL AND PERSONAL PROPERTY, SUCH AS BUILDINGS, LAND, MACHINERY, AND EQUIPMENT SHALL BE VALUED AT COST. LEASED ASSETS WILL BE VALUED AT THE ANNUAL LEASE PAYMENT MULTIPLIED BY EIGHT. INTANGIBLE PROPERTY, SUCH AS LOANS AND INVESTMENTS, SHALL BE VALUED AT BOOK VALUE EXCLUSIVE OF RESERVES.

1 (IV) AVERAGE ASSETS ARE COMPUTED USING THE ASSETS MEASURED ON THE  
2 FIRST DAY OF THE TAXABLE YEAR, AND ON THE LAST DAY OF EACH SUBSEQUENT  
3 QUARTER OF THE TAXABLE YEAR OR MONTH OR DAY DURING THE TAXABLE YEAR.

4 (C) A QUALIFYING LOAN IS A LOAN THAT MEETS THE CONDITIONS SPECIFIED IN  
5 SUBCLAUSE (I) OF THIS CLAUSE AND SUBCLAUSE (II) OF THIS CLAUSE.

6 (I) THE LOAN IS ORIGINATED BY THE QUALIFIED COMMUNITY BANK OR SMALL  
7 THRIFT INSTITUTION OR PURCHASED BY THE QUALIFIED COMMUNITY BANK OR SMALL  
8 THRIFT INSTITUTION IMMEDIATELY AFTER ITS ORIGINATION IN CONNECTION WITH  
9 A COMMITMENT TO PURCHASE MADE BY THE BANK OR THRIFT INSTITUTION PRIOR TO  
10 THE LOAN'S ORIGINATION.

11 (II) THE LOAN IS A SMALL BUSINESS LOAN OR A RESIDENTIAL MORTGAGE LOAN,  
12 THE PRINCIPAL AMOUNT OF WHICH LOAN IS FIVE MILLION DOLLARS OR LESS, AND  
13 EITHER THE BORROWER IS LOCATED IN THIS STATE AS DETERMINED UNDER SECTION  
14 TWO HUNDRED TEN-A OF THIS ARTICLE AND THE LOAN IS NOT SECURED BY REAL  
15 PROPERTY, OR THE LOAN IS SECURED BY REAL PROPERTY LOCATED IN NEW YORK.

16 (III) A LOAN THAT MEETS THE DEFINITION OF A QUALIFYING LOAN IN A PRIOR  
17 TAXABLE YEAR (INCLUDING YEARS PRIOR TO THE EFFECTIVE DATE OF THIS PARA-  
18 GRAPH) REMAINS A QUALIFYING LOAN IN TAXABLE YEARS DURING AND AFTER WHICH  
19 SUCH LOAN IS ACQUIRED BY ANOTHER CORPORATION IN THE TAXPAYER'S COMBINED  
20 REPORTING GROUP UNDER SECTION TWO HUNDRED TEN-C OF THIS ARTICLE.

21 (T) A SMALL THRIFT INSTITUTION OR A QUALIFIED COMMUNITY BANK, AS  
22 DEFINED IN PARAGRAPH (S) OF THIS SUBDIVISION, THAT MAINTAINED A CAPTIVE  
23 REIT ON APRIL FIRST, TWO THOUSAND FOURTEEN SHALL UTILIZE A REIT  
24 SUBTRACTION EQUAL TO ONE HUNDRED SIXTY PERCENT OF THE DIVIDENDS PAID  
25 DEDUCTIONS ALLOWED TO THAT CAPTIVE REIT FOR THE TAXABLE YEAR FOR FEDERAL  
26 INCOME TAX PURPOSES AND SHALL NOT BE ALLOWED TO UTILIZE THE SUBTRACTION  
27 MODIFICATION FOR QUALIFIED RESIDENTIAL LOAN PORTFOLIOS UNDER PARAGRAPH  
28 (R) OF THIS SUBDIVISION OR THE SUBTRACTION MODIFICATION FOR COMMUNITY  
29 BANKS AND SMALL THRIFTS UNDER PARAGRAPH (S) OF THIS SUBDIVISION IN ANY  
30 TAX YEAR IN WHICH SUCH THRIFT INSTITUTION OR COMMUNITY BANK MAINTAINS  
31 THAT CAPTIVE REIT.

32 10. The term "calendar year" means a period of twelve calendar months  
33 (or any shorter period beginning on the date the taxpayer becomes  
34 subject to the tax imposed by this article) ending on the thirty-first  
35 day of December, provided the taxpayer keeps its books on the basis of  
36 such period or on the basis of any period ending on any day other than  
37 the last day of a calendar month, or provided the taxpayer does not keep  
38 books, and includes, in case the taxpayer changes the period on the  
39 basis of which it keeps its books from a fiscal year to a calendar year,  
40 the period from the close of its last old fiscal year up to and includ-  
41 ing the following December thirty-first. The term "fiscal year" means a  
42 period of twelve calendar months (or any shorter period beginning on the  
43 date the taxpayer becomes subject to the tax imposed by this article)  
44 ending on the last day of any month other than December, provided the  
45 taxpayer keeps its books on the basis of such period, and includes, in  
46 case the taxpayer changes the period on the basis of which it keeps its  
47 books from a calendar year to a fiscal year or from one fiscal year to  
48 another fiscal year, the period from the close of its last old calendar  
49 or fiscal year up to the date designated as the close of its new fiscal  
50 year.

51 11. The term "tangible personal property" means corporeal personal  
52 property, such as machinery, tools, implements, goods, wares and  
53 merchandise, and does not mean money, deposits in banks, shares of  
54 stock, bonds, notes, credits or evidences of an interest in property and  
55 evidences of debt.

12. The term elected or appointed officer shall include the chairman, president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, comptroller, and also any other officer, irrespective of his title, who is charged with and performs any of the regular functions of any such officer, unless the total compensation of such officer is derived exclusively from the receipt of commissions. A director shall be considered an elected or appointed officer only if he performs duties ordinarily performed by an officer.

[19. The term "fulfillment services" shall mean any of the following services performed by an entity on its premises on behalf of a purchaser:

(a) the acceptance of orders electronically or by mail, telephone, telefax or internet;

(b) responses to consumer correspondence or inquiries electronically or by mail, telephone, telefax or internet;

(c) billing and collection activities; or

(d) the shipment of orders from an inventory of products offered for sale by the purchaser.]

S 5. Subdivisions 1, 2, 2-a, 4, 5, 6, 7 and 8 of section 209 of the tax law, subdivisions 1 and 6 as amended by chapter 817 of the laws of 1987, subdivision 2 as amended by chapter 75 of the laws of 1998, subdivision 2-a as added by chapter 340 of the laws of 1998, subdivision 4 as amended by section 27 of part S of this act, subdivisions 5 and 7 as amended by section 2 of part FF-1 of chapter 57 of the laws of 2008, and subdivision 8 as added by section 1 of part O of chapter 61 of the laws of 2006, are amended to read as follows:

1. (A) For the privilege of exercising its corporate franchise, or of doing business, or of employing capital, or of owning or leasing property in this state in a corporate or organized capacity, or of maintaining an office in this state, OR OF DERIVING RECEIPTS FROM ACTIVITY IN THIS STATE, for all or any part of each of its fiscal or calendar years, every domestic or foreign corporation, except corporations specified in subdivision four of this section, shall annually pay a franchise tax, upon the basis of its [entire net] BUSINESS income base, or upon such other basis as may be applicable as hereinafter provided, for such fiscal or calendar year or part thereof, on a report which shall be filed, except as hereinafter provided, on or before the fifteenth day of March next succeeding the close of each such year, or, in the case of a corporation which reports on the basis of a fiscal year, within two and one-half months after the close of such fiscal year, and shall be paid as hereinafter provided.

(B) A CORPORATION IS DERIVING RECEIPTS FROM ACTIVITY IN THIS STATE IF IT HAS RECEIPTS WITHIN THIS STATE OF ONE MILLION DOLLARS OR MORE IN THE TAXABLE YEAR. FOR PURPOSES OF THIS SECTION, THE TERM "RECEIPTS" MEANS THE RECEIPTS THAT ARE SUBJECT TO THE APPORTIONMENT RULES SET FORTH IN SECTION TWO HUNDRED TEN-A OF THIS ARTICLE, AND THE TERM "RECEIPTS WITHIN THIS STATE" MEANS THE RECEIPTS INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FACTOR DETERMINED UNDER SECTION TWO HUNDRED TEN-A OF THIS ARTICLE. FOR PURPOSES OF THIS PARAGRAPH, RECEIPTS FROM PROCESSING CREDIT CARD TRANSACTIONS FOR MERCHANTS INCLUDE MERCHANT DISCOUNT FEES RECEIVED BY THE CORPORATION.

(C) A CORPORATION IS DOING BUSINESS IN THIS STATE IF (I) IT HAS ISSUED CREDIT CARDS TO ONE THOUSAND OR MORE CUSTOMERS WHO HAVE A MAILING ADDRESS WITHIN THIS STATE AS OF THE LAST DAY OF ITS TAXABLE YEAR, (II) IT HAS MERCHANT CUSTOMER CONTRACTS WITH MERCHANTS AND THE TOTAL NUMBER OF LOCATIONS COVERED BY THOSE CONTRACTS EQUALS ONE THOUSAND OR MORE

1 LOCATIONS IN THIS STATE TO WHOM THE CORPORATION REMITTED PAYMENTS FOR  
2 CREDIT CARD TRANSACTIONS DURING THE TAXABLE YEAR, OR (III) THE SUM OF  
3 THE NUMBER OF CUSTOMERS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH  
4 PLUS THE NUMBER OF LOCATIONS COVERED BY ITS CONTRACTS DESCRIBED IN  
5 SUBPARAGRAPH (II) OF THIS PARAGRAPH EQUALS ONE THOUSAND OR MORE. AS USED  
6 IN THIS SUBDIVISION, THE TERM "CREDIT CARD" INCLUDES BANK, CREDIT, TRAV-  
7 EL AND ENTERTAINMENT CARDS.

8 (D)(I) A CORPORATION WITH LESS THAN ONE MILLION DOLLARS BUT AT LEAST  
9 TEN THOUSAND DOLLARS OF RECEIPTS WITHIN THIS STATE IN A TAXABLE YEAR  
10 THAT IS PART OF A COMBINED REPORTING GROUP UNDER SECTION TWO HUNDRED  
11 TEN-C OF THIS ARTICLE IS DERIVING RECEIPTS FROM ACTIVITY IN THIS STATE  
12 IF THE RECEIPTS WITHIN THIS STATE OF THE MEMBERS OF THE COMBINED REPORT-  
13 ING GROUP THAT HAVE AT LEAST TEN THOUSAND DOLLARS OF RECEIPTS WITHIN  
14 THIS STATE IN THE AGGREGATE MEET THE THRESHOLD SET FORTH IN PARAGRAPH  
15 (B) OF THIS SUBDIVISION.

16 (II) A CORPORATION THAT DOES NOT MEET ANY OF THE THRESHOLDS SET FORTH  
17 IN PARAGRAPH (C) OF THIS SUBDIVISION BUT HAS AT LEAST TEN CUSTOMERS, OR  
18 LOCATIONS, OR CUSTOMERS AND LOCATIONS, AS DESCRIBED IN PARAGRAPH (C) OF  
19 THIS SUBDIVISION, AND IS PART OF A COMBINED REPORTING GROUP UNDER  
20 SECTION TWO HUNDRED TEN-C OF THIS ARTICLE THAT IS DOING BUSINESS IN THIS  
21 STATE IF THE NUMBER OF CUSTOMERS, LOCATIONS, OR CUSTOMERS AND LOCATIONS,  
22 WITHIN THIS STATE OF THE MEMBERS OF THE COMBINED REPORTING GROUP THAT  
23 HAVE AT LEAST TEN CUSTOMERS, LOCATIONS, OR CUSTOMERS AND LOCATIONS,  
24 WITHIN THIS STATE IN THE AGGREGATE MEETS ANY OF THE THRESHOLDS SET FORTH  
25 IN PARAGRAPH (C) OF THIS SUBDIVISION.

26 (E) AT THE END OF EACH YEAR, THE COMMISSIONER SHALL REVIEW THE CUMULA-  
27 TIVE PERCENTAGE CHANGE IN THE CONSUMER PRICE INDEX. THE COMMISSIONER  
28 SHALL ADJUST THE RECEIPT THRESHOLDS SET FORTH IN THIS SUBDIVISION IF THE  
29 CONSUMER PRICE INDEX HAS CHANGED BY TEN PERCENT OR MORE SINCE JANUARY  
30 FIRST, TWO THOUSAND FIFTEEN, OR SINCE THE DATE THAT THE THRESHOLDS WERE  
31 LAST ADJUSTED UNDER THIS SUBDIVISION. THE THRESHOLDS SHALL BE ADJUSTED  
32 TO REFLECT THAT CUMULATIVE PERCENTAGE CHANGE IN THE CONSUMER PRICE  
33 INDEX. THE ADJUSTED THRESHOLDS SHALL BE ROUNDED TO THE NEAREST ONE THOU-  
34 SAND DOLLARS. AS USED IN THIS PARAGRAPH, "CONSUMER PRICE INDEX" MEANS  
35 THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS (CPI-U) AVAILABLE FORM  
36 THE BUREAU OF LABOR STATISTICS OF THE UNITED STATES DEPARTMENT OF LABOR.  
37 ANY ADJUSTMENT SHALL APPLY TO TAX PERIODS THAT BEGIN AFTER THE ADJUST-  
38 MENT IS MADE.

39 (F) IF A PARTNERSHIP IS DOING BUSINESS, EMPLOYING CAPITAL, OWNING OR  
40 LEASING PROPERTY IN THIS STATE, MAINTAINING AN OFFICE IN THE STATE, OR  
41 DERIVING RECEIPTS FROM ACTIVITY IN THIS STATE, ANY CORPORATION THAT IS A  
42 PARTNER IN SUCH PARTNERSHIP SHALL BE SUBJECT TO TAX UNDER THIS ARTICLE  
43 AS DESCRIBED IN THE REGULATIONS OF THE COMMISSIONER.

44 2. A foreign corporation shall not be deemed to be doing business,  
45 employing capital, owning or leasing property, or maintaining an office  
46 in this state, OR DERIVING RECEIPTS FROM ACTIVITY IN THIS STATE, for the  
47 purposes of this article, by reason of (a) the maintenance of cash  
48 balances with banks or trust companies in this state, or (b) the owner-  
49 ship of shares of stock or securities kept in this state, if kept in a  
50 safe deposit box, safe, vault or other receptacle rented for the  
51 purpose, or if pledged as collateral security, or if deposited with one  
52 or more banks or trust companies, or brokers who are members of a recog-  
53 nized security exchange, in safekeeping or custody accounts, or (c) the  
54 taking of any action by any such bank or trust company or broker, which  
55 is incidental to the rendering of safekeeping or custodian service to  
56 such corporation, or (d) the maintenance of an office in this state by

1 one or more officers or directors of the corporation who are not employ-  
2 ees of the corporation if the corporation otherwise is not doing busi-  
3 ness in this state, and does not employ capital or own or lease property  
4 in this state, or (e) the keeping of books or records of a corporation  
5 in this state if such books or records are not kept by employees of such  
6 corporation and such corporation does not otherwise do business, employ  
7 capital, own or lease property or maintain an office in this state, or  
8 (f) [the use of fulfillment services of a person other than an affil-  
9 iated person and the ownership of property stored on the premises of  
10 such person in conjunction with such services, or (g)] any combination  
11 of the foregoing activities. [For purposes of this subdivision, persons  
12 are affiliated persons with respect to each other where one of such  
13 persons has an ownership interest of more than five percent, whether  
14 direct or indirect, in the other, or where an ownership interest of more  
15 than five percent, whether direct or indirect, is held in each of such  
16 persons by another person or by a group of other persons which are  
17 affiliated persons with respect to each other. The term "person" in the  
18 preceding sentence and in paragraph (f) of this subdivision shall have  
19 the meaning ascribed thereto by subdivision (a) of section eleven  
20 hundred one of this chapter.]

21 2-a. An alien corporation shall not be deemed to be doing business,  
22 employing capital, owning or leasing property, or maintaining an office  
23 in this state, for the purposes of this article, if its activities in  
24 this state are limited solely to (a) investing or trading in stocks and  
25 securities for its own account within the meaning of clause (ii) of  
26 subparagraph (A) of paragraph (2) of subsection (b) of section eight  
27 hundred sixty-four of the internal revenue code or (b) investing or  
28 trading in commodities for its own account within the meaning of clause  
29 (ii) of subparagraph (B) of paragraph (2) of subsection (b) of section  
30 eight hundred sixty-four of the internal revenue code or (c) any combi-  
31 nation of activities described in paragraphs (a) and (b) of this subdivi-  
32 sion. AN ALIEN CORPORATION THAT UNDER ANY PROVISION OF THE INTERNAL  
33 REVENUE CODE IS NOT TREATED AS A "DOMESTIC CORPORATION" AS DEFINED IN  
34 SECTION SEVEN THOUSAND SEVEN HUNDRED ONE OF SUCH CODE AND HAS NO EFFEC-  
35 TIVELY CONNECTED INCOME FOR THE TAXABLE YEAR PURSUANT TO CLAUSE (IV) OF  
36 THE OPENING PARAGRAPH OF SUBDIVISION NINE OF SECTION TWO HUNDRED EIGHT  
37 OF THIS ARTICLE SHALL NOT BE SUBJECT TO TAX UNDER THIS ARTICLE FOR THAT  
38 TAXABLE YEAR. For purposes of this [subdivision] ARTICLE, an alien  
39 corporation is a corporation organized under the laws of a country, or  
40 any political subdivision thereof, other than the United States, OR  
41 ORGANIZED UNDER THE LAWS OF A POSSESSION, TERRITORY OR COMMONWEALTH OF  
42 THE UNITED STATES.

43 4. Corporations liable to tax under sections one hundred eighty-three  
44 to one hundred eighty-four-a, inclusive, corporations taxable under  
45 [articles thirty-two and] ARTICLE thirty-three of this chapter, any  
46 trust company organized under a law of this state all of the stock of  
47 which is owned by not less than twenty savings banks organized under a  
48 law of this state, [bank holding companies filing a combined return in  
49 accordance with subsection (f) of section fourteen hundred sixty-two of  
50 this chapter,] a captive REIT or a captive RIC filing a combined return  
51 under [either subsection (f) of section fourteen hundred sixty-two or]  
52 subdivision (f) of section fifteen hundred fifteen of this chapter, and  
53 housing companies organized and operating pursuant to the provisions of  
54 article two or article five of the private housing finance law and hous-  
55 ing development fund companies organized pursuant to the provisions of

1 article eleven of the private housing finance law shall not be subject  
2 to tax under this article.

3 5. For any taxable year of a real estate investment trust as defined  
4 in section eight hundred fifty-six of the internal revenue code in which  
5 such trust is subject to federal income taxation under section eight  
6 hundred fifty-seven of such code, such trust shall be subject to a tax  
7 computed under either paragraph (a) [, (c)] or (d) of subdivision one of  
8 section two hundred ten of this chapter, whichever is [greatest]  
9 GREATER, and shall not be subject to any tax under article [thirty-two  
10 or article] thirty-three of this chapter except for a captive REIT  
11 required to file a combined return under [subdivision (f) of section  
12 fourteen hundred sixty-two or] subdivision (f) of section fifteen  
13 hundred fifteen of this chapter. In the case of such a real estate  
14 investment trust, including a captive REIT as defined in section two of  
15 this chapter, the term "entire net income" means "real estate investment  
16 trust taxable income" as defined in paragraph two of subdivision (b) of  
17 section eight hundred fifty-seven (as modified by section eight hundred  
18 fifty-eight) of the internal revenue code plus the amount taxable under  
19 paragraph three of subdivision (b) of section eight hundred fifty-seven  
20 of such code, subject to the [modification] MODIFICATIONS required by  
21 subdivision nine of section two hundred eight of this article [(other  
22 than the modification required by subparagraph two of paragraph (a)  
23 thereof) including the modifications required by paragraphs (d) and (e)  
24 of subdivision three of section two hundred ten of this article].

25 6. For any taxable year of a DISC, not exempt from tax under paragraph  
26 (i) of subdivision nine of section two hundred eight of this article,  
27 the taxes imposed by subdivision one of this section shall be computed  
28 only under either paragraph (b) or (d) of subdivision one of section two  
29 hundred ten of this chapter, whichever is greater[, and paragraph (e) of  
30 such subdivision].

31 7. For any taxable year, beginning on or after January first, nineteen  
32 hundred eighty of a regulated investment company, as defined in section  
33 eight hundred fifty-one of the internal revenue code, in which such  
34 company is subject to federal income taxation under section eight  
35 hundred fifty-two of such code, such company shall be subject to a tax  
36 computed under either paragraph (a)[, (c)] or (d) of subdivision one of  
37 section two hundred ten of this chapter, whichever is [greatest]  
38 GREATER, and shall not be subject to any tax under article [thirty-two  
39 or article] thirty-three of this chapter except for a captive RIC  
40 required to file a combined return under [subdivision (f) of section  
41 fourteen hundred sixty-two or] subdivision (f) of section fifteen  
42 hundred fifteen of this chapter. In the case of such a regulated invest-  
43 ment company, including a captive RIC as defined in section two of this  
44 chapter, the term "entire net income" means "investment company taxable  
45 income" as defined in paragraph two of subdivision (b) of section eight  
46 hundred fifty-two, as modified by section eight hundred fifty-five, of  
47 the internal revenue code plus the amount taxable under paragraph three  
48 of subdivision (b) of section eight hundred fifty-two of such code  
49 subject to the [modification] MODIFICATIONS required by subdivision nine  
50 of section two hundred eight of this chapter[, other than the modifica-  
51 tion required by subparagraph two of paragraph (a) and by paragraph (f)  
52 thereof, including the modification required by paragraphs (d) and (e)  
53 of subdivision three of section two hundred ten of this chapter].

54 8. For any taxable year beginning on or after January first, two thou-  
55 sand six, a corporation that is no longer doing business, employing  
56 capital, or owning or leasing property, OR DERIVING RECEIPTS FROM ACTIV-

1 ITY in this state in a corporate or organized capacity that has filed a  
2 final tax return with the department for the last tax year it was doing  
3 business and has no outstanding tax liability for such final tax return  
4 or any tax return for prior tax years shall be exempt from all taxes  
5 imposed by paragraph (d) of subdivision one of section two hundred ten  
6 of this article for tax years following the last year such corporation  
7 was doing business.

8 S 6. Section 209-A of the tax law is REPEALED.

9 S 7. The section heading and subdivision 1 of section 209-B of the tax  
10 law, the section heading as amended by chapter 11 of the laws of 1983  
11 and subdivision 1 as amended by section 4 of part A of chapter 59 of the  
12 laws of 2013, are amended to read as follows:

13 [Temporary metropolitan] METROPOLITAN transportation business tax  
14 surcharge. 1. (A) For the privilege of exercising its corporate fran-  
15 chise, or of doing business, or of employing capital, or of owning or  
16 leasing property in a corporate or organized capacity, or of maintaining  
17 an office, OR OF DERIVING RECEIPTS FROM ACTIVITY in the metropolitan  
18 commuter transportation district, for all or any part of its taxable  
19 year, there is hereby imposed on every corporation, other than a New  
20 York S corporation, subject to tax under section two hundred nine of  
21 this article, or any receiver, referee, trustee, assignee or other fidu-  
22 ciary, or any officer or agent appointed by any court, who conducts the  
23 business of any such corporation, [for the taxable years commencing on  
24 or after January first, nineteen hundred eighty-two but ending before  
25 December thirty-first, two thousand eighteen,] a tax surcharge, in addi-  
26 tion to the tax imposed under section two hundred nine of this article,  
27 to be computed at the rate of [eighteen percent of the tax imposed under  
28 such section two hundred nine for such taxable years or any part of such  
29 taxable years ending before December thirty-first, nineteen hundred  
30 eighty-three after the deduction of any credits otherwise allowable  
31 under this article, and at the rate of] seventeen percent of the tax  
32 imposed under such section for such taxable years or any part of such  
33 taxable years ending on or after December thirty-first, nineteen hundred  
34 eighty-three AND BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN after the  
35 deduction of any credits otherwise allowable under this article[;  
36 provided, however, that], AT THE RATE OF TWENTY-FIVE AND SIX-TENTHS  
37 PERCENT OF THE TAX IMPOSED UNDER SUCH SECTION FOR TAXABLE YEARS BEGIN-  
38 NING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN AND BEFORE JANUARY  
39 FIRST, TWO THOUSAND SIXTEEN BEFORE THE DEDUCTION OF ANY CREDITS OTHER-  
40 WISE ALLOWABLE UNDER THIS ARTICLE, AND AT THE RATE DETERMINED BY THE  
41 COMMISSIONER PURSUANT TO PARAGRAPH (F) OF THIS SUBDIVISION OF THE TAX  
42 IMPOSED UNDER SUCH SECTION, FOR TAXABLE YEARS BEGINNING ON OR AFTER  
43 JANUARY FIRST, TWO THOUSAND SIXTEEN BEFORE THE DEDUCTION OF ANY CREDITS  
44 OTHERWISE ALLOWABLE UNDER THIS ARTICLE. HOWEVER, such [rates] RATE of  
45 tax surcharge shall be applied only to that portion of the tax imposed  
46 under section two hundred nine of this article [after] BEFORE the  
47 deduction of any credits otherwise allowable under this article which is  
48 attributable to the taxpayer's business activity carried on within the  
49 metropolitan commuter transportation district; and provided, further,  
50 [that the tax surcharge imposed by this section shall not be imposed  
51 upon any taxpayer for more than four hundred thirty-two months. Provided  
52 however, that for taxable years commencing on or after July first, nine-  
53 teen hundred ninety-eight, such surcharge shall be calculated as if the  
54 tax imposed under section two hundred ten of this article were imposed  
55 under the law in effect for taxable years commencing on or after July  
56 first, nineteen hundred ninety-seven and before July first, nineteen

1 hundred ninety-eight. Provided however, that for taxable years commenc-  
2 ing on or after January first, two thousand seven, such surcharge shall  
3 be calculated using the highest of the tax bases imposed pursuant to  
4 paragraphs (a), (b), (c) or (d) of subdivision one of section two  
5 hundred ten of this article and the amount imposed under paragraph (e)  
6 of subdivision one of such section two hundred ten, for the taxable  
7 year; and, provided further that, if such highest amount is the tax base  
8 imposed under paragraph (a), (b) or (c) of such subdivision, then the  
9 surcharge shall be computed as if the tax rates and limitations under  
10 such paragraph were the tax rates and limitations under such paragraph  
11 in effect for taxable years commencing on or after July first, nineteen  
12 hundred ninety-seven and before July first, nineteen hundred ninety-  
13 eight] THE SURCHARGE COMPUTED ON A COMBINED REPORT SHALL INCLUDE A  
14 SURCHARGE ON THE FIXED DOLLAR MINIMUM TAX FOR EACH MEMBER OF THE  
15 COMBINED GROUP SUBJECT TO THE SURCHARGE UNDER THIS SUBDIVISION.

16 (B) A CORPORATION IS DERIVING RECEIPTS FROM ACTIVITY IN THE METROPOL-  
17 ITAN COMMUTER TRANSPORTATION DISTRICT IF IT HAS RECEIPTS WITHIN THE  
18 METROPOLITAN COMMUTER TRANSPORTATION DISTRICT OF ONE MILLION DOLLARS OR  
19 MORE IN A TAXABLE YEAR. FOR PURPOSES OF THIS SECTION, THE TERM  
20 "RECEIPTS" MEANS THE RECEIPTS THAT ARE SUBJECT TO THE APPORTIONMENT  
21 RULES SET FORTH IN SECTION TWO HUNDRED TEN-A OF THIS ARTICLE, AND THE  
22 TERM "RECEIPTS WITHIN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT"  
23 MEANS THE RECEIPTS INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FACTOR  
24 DETERMINED UNDER SUBDIVISION TWO OF THIS SECTION. FOR PURPOSES OF THIS  
25 PARAGRAPH, RECEIPTS FROM PROCESSING CREDIT CARD TRANSACTIONS FOR  
26 MERCHANTS INCLUDE MERCHANT DISCOUNT FEES RECEIVED BY THE CORPORATION.

27 (C) A CORPORATION IS DOING BUSINESS IN THE METROPOLITAN COMMUTER  
28 TRANSPORTATION DISTRICT IF (I) IT HAS ISSUED CREDIT CARDS TO ONE THOU-  
29 SAND OR MORE CUSTOMERS WHO HAVE A MAILING ADDRESS WITHIN THE METROPOL-  
30 ITAN COMMUTER TRANSPORTATION DISTRICT AS OF THE LAST DAY OF ITS TAXABLE  
31 YEAR, (II) IT HAS MERCHANT CUSTOMER CONTRACTS WITH MERCHANTS AND THE  
32 TOTAL NUMBER OF LOCATIONS COVERED BY THOSE CONTRACTS EQUALS ONE THOUSAND  
33 OR MORE LOCATIONS IN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT  
34 TO WHOM THE CORPORATION REMITTED PAYMENTS FOR CREDIT CARD TRANSACTIONS  
35 DURING THE TAXABLE YEAR, OR (III) THE SUM OF THE NUMBER OF CUSTOMERS  
36 DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH PLUS THE NUMBER OF  
37 LOCATIONS COVERED BY ITS CONTRACTS DESCRIBED IN SUBPARAGRAPH (II) OF  
38 THIS PARAGRAPH EQUALS ONE THOUSAND OR MORE. AS USED IN THIS PARAGRAPH,  
39 THE TERM "CREDIT CARD" INCLUDES BANK, CREDIT, TRAVEL AND ENTERTAINMENT  
40 CARDS.

41 (D)(I) A CORPORATION WITH LESS THAN ONE MILLION DOLLARS BUT AT LEAST  
42 TEN THOUSAND DOLLARS OF RECEIPTS WITHIN THE METROPOLITAN COMMUTER TRANS-  
43 PORTATION DISTRICT IN A TAXABLE YEAR THAT IS PART OF A COMBINED REPORT-  
44 ING GROUP UNDER SECTION TWO HUNDRED TEN-C OF THIS ARTICLE IS DERIVING  
45 RECEIPTS FROM ACTIVITY IN THE METROPOLITAN COMMUTER TRANSPORTATION  
46 DISTRICT IF THE RECEIPTS WITHIN THE METROPOLITAN COMMUTER TRANSPORTATION  
47 DISTRICT OF THE MEMBERS OF THE COMBINED REPORTING GROUP THAT HAVE AT  
48 LEAST TEN THOUSAND DOLLARS OF RECEIPTS WITHIN THE METROPOLITAN COMMUTER  
49 TRANSPORTATION DISTRICT IN THE AGGREGATE MEET THE THRESHOLD SET FORTH IN  
50 PARAGRAPH (B) OF THIS SUBDIVISION.

51 (II) A CORPORATION THAT DOES NOT MEET ANY OF THE THRESHOLDS SET FORTH  
52 IN PARAGRAPH (C) OF THIS SUBDIVISION BUT HAS AT LEAST TEN CUSTOMERS, OR  
53 LOCATIONS, OR CUSTOMERS AND LOCATIONS, AS DESCRIBED IN PARAGRAPH (C),  
54 AND IS PART OF A COMBINED REPORTING GROUP UNDER SECTION TWO HUNDRED  
55 TEN-C OF THIS ARTICLE THAT IS DOING BUSINESS IN THE METROPOLITAN COMMU-  
56 TER TRANSPORTATION DISTRICT IF THE NUMBER OF CUSTOMERS, LOCATIONS, OR



CUSTOMERS AND LOCATIONS, WITHIN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT OF THE MEMBERS OF THE COMBINED REPORTING GROUP THAT HAVE AT LEAST TEN CUSTOMERS, LOCATIONS, OR CUSTOMERS AND LOCATIONS, WITHIN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT IN THE AGGREGATE MEETS ANY OF THE THRESHOLDS SET FORTH IN PARAGRAPH (C) OF THIS SUBDIVISION.

(E) AT THE END OF EACH YEAR, THE COMMISSIONER SHALL REVIEW THE CUMULATIVE PERCENTAGE CHANGE IN THE CONSUMER PRICE INDEX. THE COMMISSIONER SHALL ADJUST THE RECEIPT THRESHOLDS SET FORTH IN THIS SUBDIVISION IF THE CONSUMER PRICE INDEX HAS CHANGED BY TEN PERCENT OR MORE SINCE THE JANUARY FIRST, TWO THOUSAND FIFTEEN OR SINCE THE DATE THAT THE THRESHOLDS WERE LAST ADJUSTED UNDER THIS SUBDIVISION. THE THRESHOLDS SHALL BE ADJUSTED TO REFLECT THAT CUMULATIVE PERCENTAGE CHANGE IN THE CONSUMER PRICE INDEX. THE ADJUSTED THRESHOLDS SHALL BE ROUNDED TO THE NEAREST ONE THOUSAND DOLLARS. AS USED IN THIS PARAGRAPH, "CONSUMER PRICE INDEX" MEANS THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS (CPI-U) AVAILABLE FROM THE BUREAU OF LABOR STATISTICS OF THE UNITED STATES DEPARTMENT OF LABOR. ANY ADJUSTMENT SHALL APPLY TO TAX PERIODS THAT BEGIN AFTER THE ADJUSTMENT IS MADE.

(F) THE COMMISSIONER SHALL DETERMINE THE RATE OF TAX FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN BY ADJUSTING THE RATE FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN AS NECESSARY TO ENSURE THAT THE RECEIPTS ATTRIBUTABLE TO SUCH SURCHARGE, AS IMPACTED BY THE CHAPTER OF THE LAWS OF TWO THOUSAND FOURTEEN WHICH ADDED THIS PARAGRAPH, WILL MEET AND NOT EXCEED THE FINANCIAL PROJECTIONS FOR STATE FISCAL YEAR TWO THOUSAND SIXTEEN-TWO THOUSAND SEVENTEEN, AS REFLECTED IN STATE FISCAL YEAR TWO THOUSAND FIFTEEN-TWO THOUSAND SIXTEEN ENACTED BUDGET. THE COMMISSIONER SHALL ANNUALLY DETERMINE THE RATE THEREAFTER USING THE FINANCIAL PROJECTIONS FOR THE STATE FISCAL YEAR THAT COMMENCES IN THE YEAR FOR WHICH THE RATE IS TO BE SET AS REFLECTED IN THE ENACTED BUDGET FOR THE FISCAL YEAR COMMENCING ON THE PREVIOUS APRIL FIRST.

S 8. Subdivision 2 of section 209-B of the tax law, as amended by chapter 11 of the laws of 1983, paragraph (a) as amended by chapter 760 of the laws of 1992 and subparagraph 2 of paragraph (b) as amended by section 3 of part K of chapter 63 of the laws of 2000, is amended to read as follows:

2. The portion of the taxpayer's business activity carried on within the metropolitan commuter transportation district shall be determined by multiplying the tax imposed under section two hundred nine of this article BEFORE THE DEDUCTION OF ANY CREDITS OTHERWISE ALLOWABLE UNDER THIS ARTICLE by a percentage to be determined as follows:

(a) ascertaining the percentage which the average value of the taxpayer's real and tangible personal property, whether owned or rented to it, within the metropolitan commuter transportation district during the period covered by its report bears to the average value of all the taxpayer's real and tangible personal property, whether owned or rented to it, within the state during such period; provided that the term "value of the taxpayer's real and tangible personal property" shall [have the same meaning as is ascribed to that term by subparagraph one of paragraph (a) of subdivision three of section two hundred ten] MEAN THE ADJUSTED BASES OF SUCH PROPERTIES FOR FEDERAL INCOME TAX PURPOSES (EXCEPT THAT IN THE CASE OF RENTED PROPERTY SUCH VALUE SHALL MEAN THE PRODUCT OF (I) EIGHT AND (II) THE GROSS RENTS PAYABLE FOR THE RENTAL OF SUCH PROPERTY DURING THE TAXABLE YEAR); PROVIDED, HOWEVER, THAT THE TAXPAYER MAY MAKE A ONE-TIME, REVOCABLE ELECTION TO USE FAIR MARKET

1 VALUE AS THE VALUE OF ALL OF ITS REAL AND TANGIBLE PERSONAL PROPERTY,  
2 PROVIDED THAT SUCH ELECTION IS MADE ON OR BEFORE THE DUE DATE FOR FILING  
3 A REPORT UNDER SECTION TWO HUNDRED ELEVEN FOR THE TAXPAYER'S FIRST TAXA-  
4 BLE YEAR COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN AND  
5 PROVIDED THAT SUCH ELECTION SHALL NOT APPLY TO ANY TAXABLE YEAR WITH  
6 RESPECT TO WHICH THE TAXPAYER IS INCLUDED ON A COMBINED REPORT UNLESS  
7 EACH OF THE TAXPAYERS INCLUDED ON SUCH REPORT HAS MADE SUCH AN ELECTION  
8 WHICH REMAINS IN EFFECT FOR SUCH YEAR;

9 (b) ascertaining the percentage [which the receipts of the taxpayer,  
10 computed on the cash or accrual basis according to the method of  
11 accounting used in the computation of its entire net income, arising  
12 during such period from:

13 (1) sales of its tangible personal property where shipments are made  
14 to points within the metropolitan commuter transportation district,

15 (2) services performed within the metropolitan commuter transportation  
16 district, provided, however, that (i) in the case of a taxpayer engaged  
17 in the business of publishing newspapers or periodicals, receipts aris-  
18 ing from sales of advertising contained in such newspapers and period-  
19 icals shall be deemed to arise from services performed within the metro-  
20 politan commuter transportation district to the extent that such  
21 newspapers and periodicals are delivered to points within the metropol-  
22 itan commuter transportation district, (ii) receipts from an investment  
23 company from the sale of management, administration or distribution  
24 services to such investment company shall be deemed to arise from  
25 services performed within the metropolitan commuter transportation  
26 district to the extent set forth in subparagraph six of paragraph (a) of  
27 subdivision three of section two hundred ten of this chapter (except  
28 that references in such subparagraph six to the state shall be deemed,  
29 for purposes of application to this clause, to be references to the  
30 metropolitan commuter transportation district), (iii) in the case of  
31 taxpayers principally engaged in the activity of air freight forwarding  
32 acting as principal and like indirect air carriage receipts arising from  
33 such activity shall arise from services performed within the metropol-  
34 itan commuter transportation district as follows: one hundred percent of  
35 such receipts if both the pickup and delivery associated with such  
36 receipts are made in the metropolitan commuter transportation district  
37 and fifty percent of such receipts if either the pickup or delivery  
38 associated with such receipts is made in the metropolitan commuter  
39 transportation district, and (iv) in the case of a taxpayer which is a  
40 registered securities or commodities broker or dealer, the receipts  
41 specified in subparagraph nine of paragraph (a) of subdivision three of  
42 section two hundred ten of this article shall be deemed to arise from  
43 services performed within the metropolitan commuter transportation  
44 district to the extent set forth in such subparagraph nine (except that  
45 references in such subparagraph nine to the state shall be deemed, for  
46 purposes of the application of this clause, to be references to the  
47 metropolitan commuter transportation district),

48 (3) rentals from property situated and royalties from the use of  
49 patents or copyrights within the metropolitan commuter transportation  
50 district, and receipts from the sales of rights for closed-circuit and  
51 cable television transmissions of an event (other than events occurring  
52 on a regularly scheduled basis) taking place within the metropolitan  
53 commuter transportation district as a result of the rendition of  
54 services by employees of the corporation, as athletes, entertainers or  
55 performing artists, but only to the extent that such receipts are

1 attributable to such transmissions received or exhibited within the  
2 metropolitan commuter transportation district, and

3 (4) all other business receipts earned within the metropolitan commu-  
4 ter transportation district, bear to the total amount of the taxpayer's  
5 receipts, similarly computed, arising during such period from all sales  
6 of its tangible personal property, services, rentals, royalties,  
7 receipts from the sales of rights for closed-circuit and cable tele-  
8 vision transmissions and all other business transactions, within the  
9 state;] OF THE TAXPAYER'S RECEIPTS WITHIN THE METROPOLITAN COMMUTER  
10 TRANSPORTATION DISTRICT PURSUANT TO THE METHOD PRESCRIBED IN SECTION TWO  
11 HUNDRED TEN-A OF THIS ARTICLE, EXCEPT THAT

12 (I) THE NUMERATOR OF THE APPORTIONMENT FRACTION UNDER SUCH SECTION TWO  
13 HUNDRED TEN-A SHALL BE THE DENOMINATOR OF THE APPORTIONMENT FRACTION  
14 UNDER THIS PARAGRAPH,

15 (II) THE NUMERATOR OF THE APPORTIONMENT FRACTION UNDER THIS PARAGRAPH  
16 SHALL BE DETERMINED BY APPLYING THE RULES IN SUCH SECTION TWO HUNDRED  
17 TEN-A RELATING TO THE NUMERATOR OF THE APPORTIONMENT FRACTION AS IF  
18 THOSE RULES REFERENCED THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT  
19 RATHER THAN THIS STATE,

20 (III) TO THE EXTENT THAT A PROVISION IN SUCH SECTION TWO HUNDRED TEN-A  
21 PROVIDES THAT EIGHT PERCENT OF THE RECEIPTS SPECIFIED IN THAT PROVISION  
22 SHOULD BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION, NINE-  
23 TY PERCENT OF SUCH EIGHT PERCENT AMOUNT SHALL BE CONSIDERED WITHIN THE  
24 METROPOLITAN COMMUTER TRANSPORTATION DISTRICT AND ONE HUNDRED PERCENT OF  
25 SUCH EIGHT PERCENT AMOUNT SHALL BE CONSIDERED TO BE WITHIN THE STATE,  
26 AND

27 (IV) TO THE EXTENT THAT A PROVISION IN SUCH SECTION TWO HUNDRED TEN-A  
28 OF THIS ARTICLE PROVIDES THAT THE RECEIPTS SPECIFIED IN THAT PROVISION  
29 SHALL NOT BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION  
30 UNDER SUCH SECTION TWO HUNDRED TEN-A, SUCH RECEIPTS SHALL NOT BE  
31 INCLUDED IN DETERMINING THE PORTION OF THE TAXPAYER'S BUSINESS ACTIVITY  
32 CARRIED ON WITHIN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT;

33 (c) ascertaining the percentage of the total wages, salaries and other  
34 personal service compensation, similarly computed, during such period,  
35 of employees within the metropolitan commuter transportation district,  
36 except general executive officers, to the total wages, salaries and  
37 other personal service compensation, similarly computed, during such  
38 period, of all the taxpayer's employees within the state, except general  
39 executive officers; and

40 (d) adding together the percentages so determined and dividing the  
41 result by the number of percentages.

42 S 9. Intentionally omitted.

43 S 10. Subdivisions 2-a and 2-b of section 209-B of the tax law are  
44 REPEALED.

45 S 11. Subdivisions 3 and 5 of section 209-B of the tax law, subdivi-  
46 sion 3 as amended by chapter 11 of the laws of 1983 and subdivision 5 as  
47 amended by chapter 166 of the laws of 1991, are amended to read as  
48 follows:

49 3. A corporation shall not be deemed to be doing business, employing  
50 capital, owning or leasing property, or maintaining an office, OR DERIV-  
51 ING RECEIPTS FROM ACTIVITY in the metropolitan commuter transportation  
52 district, for the purposes of this section, by reason of (a) the mainte-  
53 nance of cash balances with banks or trust companies in the metropolitan  
54 commuter transportation district, or (b) the ownership of shares of  
55 stock or securities kept in the metropolitan commuter transportation  
56 district, if kept in a safe deposit box, safe, vault or other receptacle

1 rented for the purpose, or if pledged as collateral security, or if  
2 deposited with one or more banks or trust companies, or brokers who are  
3 members of a recognized security exchange, in safekeeping or custody  
4 accounts, or (c) the taking of any action by any such bank or trust  
5 company or broker, which is incidental to the rendering of safekeeping  
6 or custodian service to such corporation, or (d) the maintenance of an  
7 office in the metropolitan commuter transportation district by one or  
8 more officers or directors of the corporation who are not employees of  
9 the corporation if the corporation otherwise is not doing business in  
10 the metropolitan commuter transportation district, and does not employ  
11 capital or own or lease property in the metropolitan commuter transpor-  
12 tation district, or (e) the keeping of books or records of a corporation  
13 in the metropolitan commuter transportation district if such books or  
14 records are not kept by employees of such corporation and such corpo-  
15 ration does not otherwise do business, employ capital, own or lease  
16 property or maintain an office in the metropolitan commuter transporta-  
17 tion district, or (f) any combination of the foregoing activities.

18 5. The provisions concerning reports under [section] SECTIONS TWO  
19 HUNDRED TEN-C AND two hundred eleven shall be applicable to this  
20 section, except that for purposes of an automatic extension for six  
21 months for filing a report covering the tax surcharge imposed by this  
22 section, such automatic extension shall be allowed only if a taxpayer  
23 files with the commissioner an application for extension in such form as  
24 said commissioner may prescribe by regulation and pays on or before the  
25 date of such filing in addition to any other amounts required under this  
26 article, either ninety percent of the entire tax surcharge required to  
27 be paid under this section for the applicable period, or not less than  
28 the tax surcharge shown on the taxpayer's return for the preceding taxa-  
29 ble year, if such preceding taxable year was a taxable year of twelve  
30 months; provided, however, that in no event shall such amount be less  
31 than the product of the following three amounts: (1) the tax surcharge  
32 rate in effect for the taxable year pursuant to subdivision one of this  
33 section, (2) the fixed dollar minimum applicable to such taxpayer as  
34 determined under paragraph (d) of subdivision one of section two hundred  
35 ten of this chapter for the taxable year, and (3) the percentage deter-  
36 mined under subdivision two of this section for the preceding taxable  
37 year, unless the taxpayer was not subject to the tax surcharge imposed  
38 pursuant to this section with respect to such year, in which case such  
39 percentage shall be deemed to be one hundred percent. The tax surcharge  
40 imposed by this section shall be payable to the commissioner in full at  
41 the time the report is required to be filed, and such tax surcharge or  
42 the balance thereof, imposed on any taxpayer which ceases to exercise  
43 its franchise or be subject to the tax surcharge imposed by this section  
44 shall be payable to the commissioner at the time the report is required  
45 to be filed, provided such tax surcharge of a domestic corporation which  
46 continues to possess its franchise shall be subject to adjustment as the  
47 circumstances may require; all other tax surcharges of any such taxpay-  
48 er, which pursuant to the foregoing provisions of this section would  
49 otherwise be payable subsequent to the time such report is required to  
50 be filed, shall nevertheless be payable at such time. All of the  
51 provisions of this article presently applicable are applicable to the  
52 tax surcharge imposed by this section.

53 S 12. Subdivision 1 of section 210 of the tax law, as added by chapter  
54 817 of the laws of 1987, the opening paragraph as amended by section 1  
55 of part D and paragraph (g) as amended by section 2 of part A of chapter  
56 63 of the laws of 2000, paragraph (a) as amended by section 2 of part N

1 of chapter 60 of the laws of 2007, subparagraph 2 of paragraph (b) as  
2 amended by section 1 of part GG-1 of chapter 57 of the laws of 2008,  
3 subparagraph 3 of paragraph (b) as added by section 2 of part Z of chap-  
4 ter 59 of the laws of 2013, subparagraph (ii) of paragraph (c) as  
5 amended by section 2 of part C and subparagraph 5 of paragraph (d) as  
6 added by section 3 of part C of chapter 56 of the laws of 2011, subpara-  
7 graph (vi) of paragraph (a) as amended by section 1 of part C of chapter  
8 56 of the laws of 2011, subparagraph (vii) as added by section 1 of part  
9 Z of chapter 59 of the laws of 2013, subparagraph (iii) of paragraph (c)  
10 as added by section 3 of part Z of chapter 59 of the laws of 2013,  
11 subparagraph 6 of paragraph (d) as added by section 4 of part Z of chap-  
12 ter 59 of the laws of 2013, paragraph (b) as amended by section 1 of  
13 part GG1, subparagraph 3 of paragraph (d) as amended by section 3 of  
14 part AA1, subparagraph 4 of paragraph (d) as added by section 2 of part  
15 AA1 and subparagraph 1 of paragraph (g) as amended by section 4 of part  
16 AA1 of chapter 57 of the laws of 2008, paragraph (c) as amended by  
17 section 10 of part A and subparagraph 1 of paragraph (d) as amended by  
18 section 12 of part A of chapter 56 of the laws of 1998, paragraph (d) as  
19 amended by chapter 760 of the laws of 1992, paragraph (e) as amended by  
20 section 1 of part P of chapter 407 of the laws of 1999, and paragraph  
21 (f) as amended by section 2 of part E of chapter 61 of the laws of 2005,  
22 is amended to read as follows:

23 1. The tax imposed by subdivision one of section two hundred nine of  
24 this chapter shall be: (A) in the case of each taxpayer other than a New  
25 York S corporation or a qualified homeowners association, the [sum of  
26 (1) the] highest of the amounts prescribed in paragraphs (a), (b), [(c)]  
27 and (d) of this subdivision [and (2) the amount prescribed in paragraph  
28 (e) of this subdivision], (B) in the case of each New York S corpo-  
29 ration, the amount prescribed in paragraph [(g)] (D) of this subdivi-  
30 sion, and (C) in the case of a qualified homeowners association, the  
31 [sum of (1) the] highest of the amounts prescribed in paragraphs (a)[,]  
32 AND (b) [and (c)] of this subdivision [and (2) the amount prescribed in  
33 paragraph (e) of this subdivision]. For purposes of this paragraph, the  
34 term "qualified homeowners association" means a homeowners association,  
35 as such term is defined in subsection (c) of section five hundred twen-  
36 ty-eight of the internal revenue code without regard to subparagraph (E)  
37 of paragraph one of such subsection (relating to elections to be taxed  
38 pursuant to such section), which has no homeowners association taxable  
39 income, as such term is defined in subsection (d) of such section.  
40 Provided, however, that in the case of a small business taxpayer (other  
41 than a New York S corporation) as defined in paragraph (f) of this  
42 subdivision, FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOU-  
43 SAND SIXTEEN, if the amount prescribed in such paragraph (b) is higher  
44 than the amount prescribed in such paragraph (a) solely by reason of the  
45 application of the rate applicable to small business taxpayers, then  
46 with respect to such taxpayer the tax referred to in the previous  
47 sentence shall be [the sum of (1) the highest] HIGHER of the amounts  
48 prescribed in paragraphs (a)[, (c)] and (d) of this subdivision [and (2)  
49 the amount prescribed in paragraph (e) of this subdivision].

50 (a) [Entire net] BUSINESS income base. [For taxable years beginning  
51 before July first, nineteen hundred ninety-nine, the amount prescribed  
52 by this paragraph shall be computed at the rate of nine percent of the  
53 taxpayer's entire net income base. For taxable years beginning after  
54 June thirtieth, nineteen hundred ninety-nine and before July first, two  
55 thousand, the amount prescribed by this paragraph shall be computed at  
56 the rate of eight and one-half percent of the taxpayer's entire net

1 income base. For taxable years beginning after June thirtieth, two thou-  
2 sand and before July first, two thousand one, the amount prescribed by  
3 this paragraph shall be computed at the rate of eight percent of the  
4 taxpayer's entire net income base. For taxable years beginning after  
5 June thirtieth, two thousand one and before January first, two thousand  
6 seven, the amount prescribed by this paragraph shall be computed at the  
7 rate of seven and one-half percent of the taxpayer's entire net income  
8 base.] For taxable years beginning [on or after] BEFORE January first,  
9 two thousand [seven] SIXTEEN, the amount prescribed by this paragraph  
10 shall be computed at the rate of seven and one-tenth percent of the  
11 taxpayer's [entire net] BUSINESS income base. FOR TAXABLE YEARS BEGIN-  
12 NING ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN, THE AMOUNT  
13 PRESCRIBED BY THIS PARAGRAPH SHALL BE SIX AND ONE-HALF PERCENT OF THE  
14 TAXPAYER'S BUSINESS INCOME BASE. The taxpayer's [entire net] BUSINESS  
15 income base shall mean the portion of the taxpayer's [entire net] BUSI-  
16 NESS income allocated within the state as hereinafter provided[, subject  
17 to any modification required by paragraphs (d) and (e) of subdivision  
18 three of this section]. However, in the case of a small business taxpay-  
19 er, as defined in paragraph (f) of this subdivision, the amount  
20 prescribed by this paragraph shall be computed pursuant to subparagraph  
21 (iv) of this paragraph and in the case of a manufacturer, as defined in  
22 subparagraph (vi) of this paragraph, the amount prescribed by this para-  
23 graph shall be computed pursuant to subparagraph (vi) of this paragraph.  
24 [(i) if the entire net income base is not more than two hundred thou-  
25 sand dollars, (1) for taxable years beginning before July first, nine-  
26 teen hundred ninety-nine, the amount shall be eight percent of the  
27 entire net income base; (2) for taxable years beginning after June thir-  
28 tieth, nineteen hundred ninety-nine and before July first, two thousand  
29 three, the amount shall be seven and one-half percent of the entire net  
30 income base; and (3) for taxable years beginning after June thirtieth,  
31 two thousand three and before January first, two thousand five, the  
32 amount shall be 6.85 percent of the entire net income base;  
33 (ii) if the entire net income base is more than two hundred thousand  
34 dollars but not over two hundred ninety thousand dollars, (1) for taxa-  
35 ble years beginning before July first, nineteen hundred ninety-nine, the  
36 amount shall be the sum of (a) sixteen thousand dollars, (b) nine  
37 percent of the excess of the entire net income base over two hundred  
38 thousand dollars and (c) five percent of the excess of the entire net  
39 income base over two hundred fifty thousand dollars; (2) for taxable  
40 years beginning after June thirtieth, nineteen hundred ninety-nine and  
41 before July first, two thousand, the amount shall be the sum of (a)  
42 fifteen thousand dollars, (b) eight and one-half percent of the excess  
43 of the entire net income base over two hundred thousand dollars and (c)  
44 five percent of the excess of the entire net income base over two  
45 hundred fifty thousand dollars; (3) for taxable years beginning after  
46 June thirtieth, two thousand and before July first, two thousand one,  
47 the amount shall be the sum of (a) fifteen thousand dollars, (b) eight  
48 percent of the excess of the entire net income base over two hundred  
49 thousand dollars and (c) two and one-half percent of the excess of the  
50 entire net income base over two hundred fifty thousand dollars; (4) for  
51 taxable years beginning after June thirtieth, two thousand one and  
52 before July first, two thousand three, the amount shall be seven and  
53 one-half percent of the entire net income base; and (5) for taxable  
54 years beginning after June thirtieth, two thousand three and before  
55 January first, two thousand five, the amount shall be the sum of (a)  
56 thirteen thousand seven hundred dollars, (b) 7.5 percent of the excess

1 of the entire net income base over two hundred thousand dollars and (c)  
2 3.25 percent of the excess of the entire net income base over two  
3 hundred fifty thousand dollars;

4 (iii) for taxable years beginning on or after January first, two thou-  
5 sand five and ending before January first, two thousand seven, if the  
6 entire net income base is not more than two hundred ninety thousand  
7 dollars the amount shall be six and one-half percent of the entire net  
8 income base; if the entire net income base is more than two hundred  
9 ninety thousand dollars but not over three hundred ninety thousand  
10 dollars the amount shall be the sum of (1) eighteen thousand eight  
11 hundred fifty dollars, (2) seven and one-half percent of the excess of  
12 the entire net income base over two hundred ninety thousand dollars but  
13 not over three hundred ninety thousand dollars and (3) seven and one-  
14 quarter percent of the excess of the entire net income base over three  
15 hundred fifty thousand dollars but not over three hundred ninety thou-  
16 sand dollars;]

17 (iv) for taxable years beginning [on or after] BEFORE January first,  
18 two thousand [seven] SIXTEEN, if the [entire net] BUSINESS income base  
19 is not more than two hundred ninety thousand dollars the amount shall be  
20 six and one-half percent of the [entire net] BUSINESS income base; if  
21 the [entire net] BUSINESS income base is more than two hundred ninety  
22 thousand dollars but not over three hundred ninety thousand dollars the  
23 amount shall be the sum of (1) eighteen thousand eight hundred fifty  
24 dollars, (2) seven and one-tenth percent of the excess of the [entire  
25 net] BUSINESS income base over two hundred ninety thousand dollars but  
26 not over three hundred ninety thousand dollars and (3) four and thirty-  
27 five hundredths percent of the excess of the [entire net] BUSINESS  
28 income base over three hundred fifty thousand dollars but not over three  
29 hundred ninety thousand dollars;

30 (v) if the taxable period to which [subparagraphs (i), (ii), (iii),  
31 and] SUBPARAGRAPH (iv) of this paragraph [apply] APPLIES is less than  
32 twelve months, the amount prescribed by this paragraph shall be computed  
33 as follows:

34 (A) Multiply the [entire net] BUSINESS income base for such taxpayer  
35 by twelve;

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

38 (C) Compute an amount pursuant to [subparagraphs (i) and (ii)] SUBPAR-  
39 AGRAPH (IV) as if the result obtained in (B) were the taxpayer's [entire  
40 net] BUSINESS income base;

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

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

44 (vi) for taxable years beginning on or after January [thirty-first]  
45 FIRST, two thousand [seven] FOURTEEN, the amount prescribed by this  
46 paragraph for a taxpayer which is a qualified New York manufacturer,  
47 shall be computed at the rate of [six and one-half (6.5)] ZERO percent  
48 of the taxpayer's [entire net] BUSINESS income base. [For taxable years  
49 beginning on or after January first, two thousand twelve and before  
50 January first, two thousand fifteen, the amount prescribed by this para-  
51 graph for a taxpayer which is an eligible qualified New York manufactur-  
52 er shall be computed at the rate of three and one-quarter (3.25) percent  
53 of the taxpayer's entire net income base.] The term "manufacturer" shall  
54 mean a taxpayer which during the taxable year is principally engaged in  
55 the production of goods by manufacturing, processing, assembling, refin-  
56 ing, mining, extracting, farming, agriculture, horticulture, floricult-

1 ture, viticulture or commercial fishing. However, the generation and  
2 distribution of electricity, the distribution of natural gas, and the  
3 production of steam associated with the generation of electricity shall  
4 not be qualifying activities for a manufacturer under this subparagraph.  
5 Moreover, the combined group shall be considered a "manufacturer" for  
6 purposes of this subparagraph only if the combined group during the  
7 taxable year is principally engaged in the activities set forth in this  
8 paragraph, or any combination thereof. A taxpayer or a combined group  
9 shall be "principally engaged" in activities described above if, during  
10 the taxable year, more than fifty percent of the gross receipts of the  
11 taxpayer or combined group, respectively, are derived from receipts from  
12 the sale of goods produced by such activities. In computing a combined  
13 group's gross receipts, intercorporate receipts shall be eliminated. A  
14 "qualified New York manufacturer" is a manufacturer which has property  
15 in New York which is described in [clause (A) of subparagraph (i) of  
16 paragraph (b) of] subdivision [twelve of this section] ONE OF SECTION  
17 TWO HUNDRED TEN-B OF THIS ARTICLE and either (I) the adjusted basis of  
18 such property for federal income tax purposes at the close of the taxa-  
19 ble year is at least one million dollars or (II) all of its real and  
20 personal property is located in New York. [In addition, a "qualified New  
21 York manufacturer" means a taxpayer which is defined as a qualified  
22 emerging technology company under paragraph (c) of subdivision one of  
23 section thirty-one hundred two-e of the public authorities law regard-  
24 less of the ten million dollar limitation expressed in subparagraph one  
25 of such paragraph (c). The commissioner shall establish guidelines and  
26 criteria that specify requirements by which a manufacturer may be clas-  
27 sified as an eligible qualified New York manufacturer. Criteria may  
28 include but not be limited to factors such as regional unemployment, the  
29 economic impact that manufacturing has on the surrounding community,  
30 population decline within the region and median income within the region  
31 in which the manufacturer is located. In establishing these guidelines  
32 and criteria, the commissioner shall endeavor that the total annual cost  
33 of the lower rates shall not exceed twenty-five million dollars.] A  
34 TAXPAYER OR, IN THE CASE OF A COMBINED REPORT, A COMBINED GROUP, THAT  
35 DOES NOT SATISFY THE PRINCIPALLY ENGAGED TEST MAY BE A QUALIFIED NEW  
36 YORK MANUFACTURER IF THE TAXPAYER OR THE COMBINED GROUP EMPLOYS DURING  
37 THE TAXABLE YEAR AT LEAST TWO THOUSAND FIVE HUNDRED EMPLOYEES IN MANU-  
38 FACTURING IN NEW YORK AND THE TAXPAYER OR THE COMBINED GROUP HAS PROPER-  
39 TY IN THE STATE USED IN MANUFACTURING, THE ADJUSTED BASIS OF WHICH FOR  
40 FEDERAL INCOME TAX PURPOSES AT THE CLOSE OF THE TAXABLE YEAR IS AT LEAST  
41 ONE HUNDRED MILLION DOLLARS.

42 (vii) For a TAXPAYER THAT IS DEFINED AS A qualified [New York manufac-  
43 turer, as defined in subparagraph (vi) of this paragraph,] EMERGING  
44 TECHNOLOGY COMPANY UNDER PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION  
45 THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW REGARDLESS OF THE  
46 TEN MILLION DOLLAR LIMITATION EXPRESSED IN SUBPARAGRAPH ONE OF SUCH  
47 PARAGRAPH (C) the rate at which the tax is computed in effect for taxa-  
48 ble years beginning on or after January first, two thousand thirteen and  
49 before January first, two thousand fourteen for SUCH qualified [New York  
50 manufacturers] EMERGING TECHNOLOGY COMPANIES shall be reduced by nine  
51 and two-tenths percent for taxable years commencing on or after January  
52 first, two thousand fourteen and before January first, two thousand  
53 fifteen, twelve and three-tenths percent for taxable years commencing on  
54 or after January first, two thousand fifteen and before January first,  
55 two thousand sixteen, fifteen and four-tenths percent for taxable years  
56 commencing on or after January first, two thousand sixteen and before



1 January first, two thousand eighteen, and twenty-five percent for taxa-  
2 ble years beginning on or after January first, two thousand eighteen.

3 (VIII) (A) IN COMPUTING THE BUSINESS INCOME BASE, TAXPAYERS SHALL BE  
4 ALLOWED BOTH A PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION UNDER  
5 THIS SUBPARAGRAPH AND A NET OPERATING LOSS DEDUCTION UNDER SUBPARAGRAPH  
6 (IX) OF THIS PARAGRAPH. THE PRIOR NET OPERATING LOSS CONVERSION  
7 SUBTRACTION COMPUTED UNDER THIS SUBPARAGRAPH SHALL BE APPLIED AGAINST  
8 THE BUSINESS INCOME BASE BEFORE THE NET OPERATING LOSS DEDUCTION  
9 COMPUTED UNDER SUBPARAGRAPH (IX) OF THIS PARAGRAPH.

10 (B) PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION.

11 (1) DEFINITIONS.

12 (I) "BASE YEAR" MEANS THE LAST TAXABLE YEAR BEGINNING ON OR AFTER  
13 JANUARY FIRST, TWO THOUSAND FOURTEEN AND BEFORE JANUARY FIRST, TWO THOU-  
14 SAND FIFTEEN.

15 (II) "UNABSORBED NET OPERATING LOSS" MEANS THE UNABSORBED PORTION OF  
16 NET OPERATING LOSS AS CALCULATED UNDER PARAGRAPH (F) OF SUBDIVISION NINE  
17 OF SECTION TWO HUNDRED EIGHT OF THIS ARTICLE OR SUBSECTION (K-1) OF  
18 SECTION FOURTEEN HUNDRED FIFTY-THREE OF THIS CHAPTER AS SUCH SECTIONS  
19 WERE IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN, THAT WAS  
20 NOT DEDUCTIBLE IN PREVIOUS TAXABLE YEARS AND WAS ELIGIBLE FOR CARRYOVER  
21 ON THE LAST DAY OF THE BASE YEAR SUBJECT TO THE LIMITATIONS FOR  
22 DEDUCTION UNDER SUCH SECTIONS, INCLUDING ANY NET OPERATING LOSS  
23 SUSTAINED BY THE TAXPAYER DURING THE BASE YEAR.

24 (III) "BASE YEAR BAP" MEANS THE TAXPAYER'S BUSINESS ALLOCATION  
25 PERCENTAGE AS CALCULATED UNDER PARAGRAPH (A) OF SUBDIVISION THREE OF  
26 THIS SECTION FOR THE BASE YEAR, OR THE TAXPAYER'S ALLOCATION PERCENTAGE  
27 AS CALCULATED UNDER SECTION FOURTEEN HUNDRED FIFTY-FOUR OF THIS CHAPTER  
28 FOR PURPOSES OF CALCULATING ENTIRE NET INCOME FOR THE BASE YEAR, AS SUCH  
29 SECTIONS WERE IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN.

30 (IV) "BASE YEAR TAX RATE" MEANS THE TAXPAYER'S TAX RATE FOR THE BASE  
31 YEAR AS CALCULATED UNDER THIS PARAGRAPH OR SUBSECTION (A) OF SECTION  
32 FOURTEEN HUNDRED FIFTY-FIVE OF THIS CHAPTER, AS SUCH PROVISIONS WERE IN  
33 EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN.

34 (2) THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION SHALL BE  
35 CALCULATED AS FOLLOWS:

36 (I) THE TAXPAYER SHALL FIRST CALCULATE THE TAX VALUE OF ITS UNABSORBED  
37 NET OPERATING LOSS FOR THE BASE YEAR. THE VALUE IS EQUAL TO THE PRODUCT  
38 OF (I) THE AMOUNT OF THE TAXPAYER'S UNABSORBED NET OPERATING LOSS, (II)  
39 THE TAXPAYER'S BASE YEAR BAP, AND (III) THE TAXPAYER'S BASE YEAR TAX  
40 RATE.

41 (II) THE PRODUCT DETERMINED UNDER ITEM (I) OF THIS SUBCLAUSE IS THEN  
42 DIVIDED BY SIX AND ONE-HALF PERCENT, OR IN THE CASE OF A QUALIFIED NEW  
43 YORK MANUFACTURER, FIVE AND SEVEN-TENTHS PERCENT. THIS RESULT SHALL  
44 EQUAL THE TAXPAYER'S PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION  
45 POOL.

46 (III) THE TAXPAYER'S PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION  
47 FOR THE TAXABLE YEAR SHALL EQUAL ONE-TENTH OF ITS NET OPERATING LOSS  
48 CONVERSION SUBTRACTION POOL PLUS ANY AMOUNT OF UNUSED PRIOR NET OPERAT-  
49 ING LOSS CONVERSION SUBTRACTION FROM PRECEDING TAXABLE YEARS. PROVIDED,  
50 HOWEVER, THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION OF A SMALL  
51 BUSINESS CORPORATION, AS DEFINED IN PARAGRAPH (F) OF THIS SUBDIVISION,  
52 AS OF THE LAST DAY OF THE BASE YEAR, SHALL NOT BE SUBJECT TO THE  
53 ONE-TENTH LIMITATION IN THE PREVIOUS SENTENCE.

54 (IV) IN LIEU OF THE SUBTRACTION DESCRIBED IN ITEM (III) OF THIS  
55 SUBCLAUSE, IF THE TAXPAYER SO ELECTS, THE TAXPAYER'S PRIOR NET OPERATING  
56 LOSS CONVERSION SUBTRACTION FOR THE TAX YEARS BEGINNING ON OR AFTER

1 JANUARY FIRST, TWO THOUSAND FIFTEEN AND BEFORE JANUARY FIRST, TWO THOU-  
2 SAND SEVENTEEN SHALL EQUAL IN EACH YEAR, NOT MORE THAN ONE-HALF OF ITS  
3 NET OPERATING LOSS CONVERSION SUBTRACTION POOL. THE TAXPAYER SHALL MAKE  
4 SUCH ELECTION ON ITS RETURN FOR THE TAX YEAR BEGINNING ON OR AFTER JANU-  
5 ARY FIRST, TWO THOUSAND FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND  
6 SIXTEEN BY THE DUE DATE FOR SUCH RETURN (DETERMINED WITH REGARD TO  
7 EXTENSIONS).

8 (3) COMBINED GROUPS. (I) WHERE A TAXPAYER WAS PROPERLY INCLUDED OR  
9 REQUIRED TO BE INCLUDED IN A COMBINED REPORT FOR THE BASE YEAR PURSUANT  
10 TO SECTION TWO HUNDRED ELEVEN OF THIS ARTICLE OR A COMBINED RETURN UNDER  
11 SECTION FOURTEEN HUNDRED SIXTY-TWO OF THIS CHAPTER, AS SUCH SECTIONS  
12 WERE IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN, AND THE  
13 MEMBERS OF THE COMBINED GROUP FOR THE BASE YEAR ARE THE SAME AS THE  
14 MEMBERS OF THE COMBINED GROUP FOR THE TAXABLE YEAR IMMEDIATELY SUCCEED-  
15 ING THE BASE YEAR, THE COMBINED GROUP SHALL CALCULATE ITS PRIOR NET  
16 OPERATING LOSS CONVERSION SUBTRACTION POOL USING THE COMBINED GROUP'S  
17 TOTAL UNABSORBED NET OPERATING LOSS, BASE YEAR BAP, AND BASE YEAR TAX  
18 RATE.

19 (II) IF A COMBINED GROUP INCLUDES ADDITIONAL MEMBERS IN THE TAXABLE  
20 YEAR IMMEDIATELY SUCCEEDING THE BASE YEAR THAT WERE NOT INCLUDED IN THE  
21 COMBINED GROUP DURING THE BASE YEAR, EACH BASE YEAR COMBINED GROUP AND  
22 EACH TAXPAYER THAT FILED SEPARATELY IN THE BASE YEAR BUT IS INCLUDED IN  
23 THE COMBINED GROUP IN THE TAXABLE YEAR SUCCEEDING THE BASE YEAR SHALL  
24 CALCULATE ITS PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION POOL, AND  
25 THE SUM OF THE POOLS SHALL BE THE COMBINED PRIOR NET OPERATING LOSS  
26 CONVERSION SUBTRACTION POOL OF THE COMBINED GROUP.

27 (III) IF A TAXPAYER WAS PROPERLY INCLUDED IN A COMBINED REPORT FOR THE  
28 BASE YEAR AND FILES A SEPARATE REPORT IN A SUBSEQUENT TAXABLE YEAR, THEN  
29 THE AMOUNT OF REMAINING PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION  
30 ALLOWED TO THE TAXPAYER FILING SUCH SEPARATE REPORT SHALL BE PROPOR-  
31 TIONATE TO THE AMOUNT THAT SUCH TAXPAYER CONTRIBUTED TO THE PRIOR NET  
32 OPERATING LOSS CONVERSION SUBTRACTION POOL ON A COMBINED BASIS, AND THE  
33 REMAINING PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION ALLOWED TO THE  
34 REMAINING MEMBERS OF THE COMBINED GROUP SHALL BE REDUCED ACCORDINGLY.

35 (IV) IF A TAXPAYER FILED A SEPARATE REPORT FOR THE BASE YEAR AND IS  
36 PROPERLY INCLUDED IN A COMBINED REPORT IN A SUBSEQUENT TAXABLE YEAR,  
37 THEN THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION POOL OF THE  
38 COMBINED GROUP SHALL BE INCREASED BY THE AMOUNT OF THE REMAINING NET  
39 OPERATING LOSS CONVERSION SUBTRACTION ALLOWED TO THE TAXPAYER AT THE  
40 TIME THE TAXPAYER IS PROPERLY INCLUDED IN THE COMBINED GROUP.

41 (4) THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION MAY BE USED TO  
42 REDUCE THE TAXPAYER'S TAX ON ALLOCATED BUSINESS INCOME TO THE HIGHER OF  
43 THE TAX ON THE CAPITAL BASE UNDER PARAGRAPH (B) OF THIS SUBDIVISION OR  
44 THE FIXED DOLLAR MINIMUM UNDER PARAGRAPH (D) OF THIS SUBDIVISION. ANY  
45 AMOUNT OF UNUSED SUBTRACTION SHALL BE CARRIED FORWARD TO SUBSEQUENT TAX  
46 YEAR OR YEARS UNTIL TAX YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO  
47 THOUSAND THIRTY-SIX. SUCH AMOUNT CARRIED FORWARD SHALL NOT BE SUBJECT  
48 TO THE ONE-TENTH LIMITATION FOR THE SUBSEQUENT TAX YEAR OR YEARS. HOWEV-  
49 ER, IF THE TAXPAYER ELECTS TO COMPUTE ITS PRIOR NET OPERATING LOSS  
50 CONVERSION SUBTRACTION PURSUANT TO ITEM (IV) OF SUBCLAUSE TWO OF THIS  
51 CLAUSE, THE TAXPAYER SHALL NOT CARRY FORWARD ANY AMOUNT OF SUCH  
52 SUBTRACTION BEYOND ITS TAX YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO  
53 THOUSAND SIXTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SEVENTEEN.

54 (IX) NET OPERATING LOSS DEDUCTION. IN COMPUTING THE BUSINESS INCOME  
55 BASE, A NET OPERATING LOSS DEDUCTION SHALL BE ALLOWED. A NET OPERATING  
56 LOSS DEDUCTION IS THE AMOUNT OF NET OPERATING LOSS OR LOSSES FROM ONE OR

MORE TAXABLE YEARS THAT ARE CARRIED FORWARD TO A PARTICULAR INCOME YEAR. A NET OPERATING LOSS IS THE AMOUNT OF A BUSINESS LOSS INCURRED IN A PARTICULAR TAX YEAR MULTIPLIED BY THE APPORTIONMENT FACTOR FOR THAT YEAR AS DETERMINED UNDER SECTION TWO HUNDRED TEN-A OF THIS ARTICLE. THE MAXIMUM NET OPERATING DEDUCTION THAT IS ALLOWED IN A TAXABLE YEAR IS THE AMOUNT THAT REDUCES THE TAXPAYER'S TAX ON ALLOCATED BUSINESS INCOME TO THE HIGHER OF THE TAX ON THE CAPITAL BASE OR THE FIXED DOLLAR MINIMUM. SUCH DEDUCTION AND LOSS ARE DETERMINED IN ACCORDANCE WITH THE FOLLOWING:

(1) SUCH NET OPERATING LOSS DEDUCTION IS NOT LIMITED TO THE AMOUNT ALLOWED UNDER SECTION ONE HUNDRED SEVENTY-TWO OF THE INTERNAL REVENUE CODE OR THE AMOUNT THAT WOULD HAVE BEEN ALLOWED IF THE TAXPAYER HAD NOT MADE AN ELECTION UNDER SUBCHAPTER S OF CHAPTER ONE OF THE INTERNAL REVENUE CODE.

(2) SUCH NET OPERATING LOSS DEDUCTION SHALL NOT INCLUDE ANY NET OPERATING LOSS INCURRED DURING ANY TAXABLE YEAR BEGINNING PRIOR TO JANUARY FIRST, TWO THOUSAND FIFTEEN, OR DURING ANY TAXABLE YEAR IN WHICH THE TAXPAYER WAS NOT SUBJECT TO THE TAX IMPOSED BY THIS ARTICLE.

(3) A TAXPAYER THAT FILES AS PART OF A FEDERAL CONSOLIDATED RETURN BUT ON A SEPARATE BASIS FOR PURPOSES OF THIS ARTICLE MUST COMPUTE ITS DEDUCTION AND LOSS AS IF IT WERE FILING ON A SEPARATE BASIS FOR FEDERAL INCOME TAX PURPOSES.

(4) A NET OPERATING LOSS MAY BE CARRIED FORWARD TO EACH OF THE TWENTY TAXABLE YEARS FOLLOWING THE TAXABLE YEAR OF THE LOSS. A NET OPERATING LOSS MAY BE CARRIED BACK TO EACH OF THE THREE TAXABLE YEARS PRECEDING THE TAXABLE YEAR OF THE LOSS; PROVIDED, HOWEVER NO LOSS CAN BE CARRIED BACK TO A TAX YEAR PRIOR TO A TAX YEAR BEGINNING ON OR AFTER JANUARY, FIRST, TWO THOUSAND FIFTEEN. A TAXPAYER MUST APPLY BOTH OF THESE LIMITATIONS IN COMPUTING SUCH NET OPERATING LOSS DEDUCTION.

(5) SUCH NET OPERATING LOSS DEDUCTION SHALL NOT INCLUDE ANY NET OPERATING LOSS INCURRED DURING A NEW YORK S YEAR; PROVIDED, HOWEVER, A NEW YORK S YEAR MUST BE TREATED AS A TAXABLE YEAR FOR PURPOSES OF DETERMINING THE NUMBER OF TAXABLE YEARS TO WHICH A NET OPERATING LOSS MAY BE CARRIED FORWARD.

(6) WHERE THERE ARE TWO OR MORE ALLOCATED NET OPERATING LOSSES, OR PORTIONS THEREOF, CARRIED FORWARD TO BE DEDUCTED IN ONE PARTICULAR TAX YEAR FROM ALLOCATED BUSINESS INCOME, THE EARLIEST ALLOCATED LOSS INCURRED MUST BE APPLIED FIRST.

(b) Capital base. (1) The [amount prescribed by this paragraph for taxable years beginning before January first, two thousand eight shall be computed at .178 percent for each dollar of the taxpayer's total business and investment capital, or the portion thereof allocated within the state as hereinafter provided. For taxable years beginning on or after January first, two thousand eight, the] amount prescribed by this paragraph shall be computed at .15 percent for each dollar of the taxpayer's total business [and investment] capital, or the portion thereof allocated within the state as hereinafter provided FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN. However, in the case of a cooperative housing corporation as defined in the internal revenue code, the applicable rate shall be .04 percent UNTIL TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWENTY. THE RATE OF TAX FOR SUBSEQUENT TAX YEARS SHALL BE AS FOLLOWS: .125 PERCENT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SEVENTEEN; .100 PERCENT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN; .075 PERCENT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND

1 EIGHTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND NINETEEN; .050 PERCENT  
2 FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND  
3 NINETEEN AND BEFORE JANUARY FIRST, TWO THOUSAND TWENTY; .025 PERCENT FOR  
4 TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWENTY  
5 AND BEFORE JANUARY FIRST, TWO THOUSAND TWENTY-ONE; AND ZERO PERCENT FOR  
6 YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWENTY-ONE. THE  
7 RATE OF TAX FOR A QUALIFIED NEW YORK MANUFACTURER FOR TAX YEARS SUBSE-  
8 QUENT TO TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND  
9 FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN SHALL BE .106  
10 PERCENT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-  
11 SAND SIXTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SEVENTEEN, .085  
12 PERCENT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-  
13 SAND SEVENTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN; .056  
14 PERCENT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-  
15 SAND EIGHTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND NINETEEN; .038  
16 PERCENT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-  
17 SAND NINETEEN AND BEFORE JANUARY FIRST, THOUSAND TWENTY; .019 PERCENT  
18 FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND  
19 TWENTY AND BEFORE JANUARY FIRST, TWO THOUSAND TWENTY-ONE; AND ZERO  
20 PERCENT FOR YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND  
21 TWENTY-ONE. 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] FIVE million dollars  
24 [for taxable years beginning on or after January first, two thousand  
25 eight but before January first, two thousand eleven and one million  
26 dollars for taxable years beginning on or after January first, two thou-  
27 sand eleven].

28 (2) For purposes of subparagraph one of this paragraph, the term  
29 "manufacturer" shall mean a taxpayer which during the taxable year is  
30 principally engaged in the production of goods by manufacturing, proc-  
31 essing, assembling, refining, mining, extracting, farming, agriculture,  
32 horticulture, floriculture, viticulture or commercial fishing. Moreover,  
33 for purposes of computing the capital base in a combined report, the  
34 combined group shall be considered a "manufacturer" for purposes of this  
35 subparagraph only if the combined group during the taxable year is prin-  
36 cipally engaged in the activities set forth in this subparagraph, or any  
37 combination thereof. A taxpayer or a combined group shall be "principal-  
38 ly engaged" in activities described above if, during the taxable year,  
39 more than fifty percent of the gross receipts of the taxpayer or  
40 combined group, respectively, are derived from receipts from the sale of  
41 goods produced by such activities. In computing a combined group's gross  
42 receipts, intercorporate receipts shall be eliminated. A "qualified New  
43 York manufacturer" is a manufacturer that has property in New York that  
44 is described in [clause (A) of subparagraph (i) of paragraph (b) of]  
45 subdivision [twelve of this section] ONE OF SECTION 210-B OF THIS ARTI-  
46 CLE and either (i) the adjusted basis of that property for federal  
47 income tax purposes at the close of the taxable year is at least one  
48 million dollars or (ii) all of its real and personal property is located  
49 in New York. In addition, a "qualified New York manufacturer" means a  
50 taxpayer that is defined as a qualified emerging technology company  
51 under paragraph (c) of subdivision one of section thirty-one hundred  
52 two-e of the public authorities law regardless of the ten million dollar  
53 limitation expressed in subparagraph one of such paragraph. A TAXPAYER  
54 OR, IN THE CASE OF A COMBINED REPORT, A COMBINED GROUP, THAT DOES NOT  
55 SATISFY THE PRINCIPALLY ENGAGED TEST MAY BE A QUALIFIED NEW YORK  
56 MANUFACTURER IF THE TAXPAYER OR THE COMBINED GROUP EMPLOYS DURING THE

1 TAXABLE YEAR AT LEAST TWO THOUSAND FIVE HUNDRED EMPLOYEES IN MANUFACTUR-  
2 ING IN NEW YORK AND THE TAXPAYER OR THE COMBINED GROUP HAS PROPERTY IN  
3 THE STATE USED IN MANUFACTURING, THE ADJUSTED BASIS OF WHICH FOR FEDERAL  
4 INCOME TAX PURPOSES AT THE CLOSE OF THE TAXABLE YEAR IS AT LEAST ONE  
5 HUNDRED MILLION DOLLARS.

6 [(3) For a qualified New York manufacturer, as defined in subparagraph  
7 two of this paragraph, the rate at which the tax is computed in effect  
8 for taxable years beginning on or after January first, two thousand  
9 thirteen and before January first, two thousand fourteen shall be  
10 reduced by nine and two-tenths percent for taxable years commencing on  
11 or after January first, two thousand fourteen and before January first,  
12 two thousand fifteen, twelve and three-tenths percent for taxable years  
13 commencing on or after January first, two thousand fifteen and before  
14 January first, two thousand sixteen, fifteen and four-tenths percent for  
15 taxable years commencing on or after January first, two thousand sixteen  
16 and before January first, two thousand eighteen, and twenty-five percent  
17 for taxable years beginning on or after January first, two thousand  
18 eighteen.

19 (c) Minimum taxable income bases. (i) For taxable years beginning  
20 after nineteen hundred eighty-six and before nineteen hundred eighty-  
21 nine, the amount prescribed by this paragraph shall be computed at the  
22 rate of three and one-half percent of the taxpayer's pre-nineteen  
23 hundred ninety minimum taxable income base. For taxable years beginning  
24 in nineteen hundred eighty-nine, the amount prescribed by this paragraph  
25 shall be computed at the rate of five percent of the taxpayer's pre-  
26 nineteen hundred ninety minimum taxable income base. A "taxpayer's pre-  
27 nineteen hundred ninety minimum taxable income base" shall mean the  
28 portion of the taxpayer's entire net income allocated within the state  
29 as hereinafter provided, subject to any modification required by para-  
30 graphs (d) and (e) of subdivision three of this section;

31 (ii) (A) For taxable years beginning on or after January first, two  
32 thousand seven, the amount prescribed by this paragraph shall be  
33 computed at the rate of one and one-half percent of the taxpayer's mini-  
34 mum taxable income base. The "taxpayer's minimum taxable income base"  
35 shall mean the portion of the taxpayer's minimum taxable income allo-  
36 cated within the state as hereinafter provided, subject to any modifica-  
37 tions required by paragraphs (d) and (e) of subdivision three of this  
38 section.

39 (B) For taxable years beginning on or after January first, two thou-  
40 sand twelve and before January first, two thousand fifteen, the amount  
41 prescribed by this paragraph for an eligible qualified New York manufac-  
42 turer shall be computed at the rate of seventy-five hundredths (.75)  
43 percent of the taxpayer's minimum taxable income base. For purposes of  
44 this clause, the term "eligible qualified New York manufacturer" shall  
45 have the same meaning as in subparagraph (vi) of paragraph (a) of this  
46 subdivision.

47 (iii) For a qualified New York manufacturer, as defined in subpara-  
48 graph (vi) of paragraph (a) of this subdivision, the rate at which the  
49 tax is computed in effect for taxable years beginning on or after Janu-  
50 ary first, two thousand thirteen and before January first, two thousand  
51 fourteen for qualified New York manufacturers shall be reduced by nine  
52 and two-tenths percent for taxable years commencing on or after January  
53 first, two thousand fourteen and before January first, two thousand  
54 fifteen, twelve and three-tenths percent for taxable years commencing on  
55 or after January first, two thousand fifteen and before January first,  
56 two thousand sixteen, fifteen and four-tenths percent for taxable years

commencing on or after January first, two thousand sixteen and before January first, two thousand eighteen, and twenty-five percent for taxable years beginning on or after January first, two thousand eighteen.]

(d) Fixed dollar minimum. (1) The [amount prescribed by this paragraph shall be for a taxpayer which during the taxable year has:

(A) a gross payroll of six million two hundred fifty thousand dollars or more, one thousand five hundred dollars;

(B) a gross payroll of less than six million two hundred fifty thousand dollars but more than one million dollars, four hundred twenty-five dollars;

(C) a gross payroll of no more than one million dollars but more than five hundred thousand dollars, three hundred twenty-five dollars;

(D) a gross payroll of no more than five hundred thousand dollars but more than two hundred fifty thousand dollars, two hundred twenty-five dollars;

(E) a gross payroll of two hundred fifty thousand dollars or less (except as prescribed in clause (F) of this subparagraph), one hundred dollars;

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

(2) For purposes of this paragraph:

(A) gross payroll shall be the same as the total wages, salaries and other personal service compensation of all the taxpayer's employees, within and without this state, as defined in subparagraph three of paragraph (a) of subdivision three of this section, except that general executive officers shall not be excluded.

(B) total receipts shall be the same as receipts within and without this state as defined in subparagraph two of paragraph (a) of subdivision three of this section.

(C) average value of the assets shall be the same as prescribed by subdivision two of this section without reduction for liabilities.

(3) If the taxable year is less than twelve months, the amount prescribed by this paragraph shall be reduced by twenty-five percent if the period for which the taxpayer is subject to tax is more than six months but not more than nine months and by fifty percent if the period for which the taxpayer is subject to tax is not more than six months. Provided, however, that in determining the amount of gross payroll and total receipts for purposes of subparagraph one of this paragraph, where the taxable year is less than twelve months, the amount of each shall be determined by dividing the amount of each with respect to the taxable year by the number of months in such taxable year and multiplying the result by twelve. If the taxable year is less than twelve months, the amount of New York receipts for purposes of subparagraph four of this paragraph is determined by dividing the amount of the receipts for the taxable year by the number of months in the taxable year and multiplying the result by twelve.

(4) Notwithstanding subparagraphs one and two of this paragraph, for taxable years beginning on or after January first, two thousand eight, the] amount prescribed by this paragraph for New York S corporations will be determined in accordance with the following table:

If New York receipts are:	The fixed dollar minimum tax is:
not more than \$100,000	\$ 25
more than \$100,000 but not over \$250,000	\$ 50

1	more than \$250,000 but not over \$500,000	\$ 175
2	more than \$500,000 but not over \$1,000,000	\$ 300
3	more than \$1,000,000 but not over \$5,000,000	\$1,000
4	more than \$5,000,000 but not over \$25,000,000	\$3,000
5	Over \$25,000,000	\$4,500

6 [Otherwise the amount prescribed by this paragraph will be determined in  
7 accordance with the following table:]

8 PROVIDED FURTHER, THE AMOUNT PRESCRIBED BY THIS PARAGRAPH FOR A QUALI-  
9 FIED NEW YORK MANUFACTURER, AS DEFINED IN SUBPARAGRAPH (VI) OF PARAGRAPH  
10 (A) OF THIS SUBDIVISION, AND A QUALIFIED EMERGING TECHNOLOGY COMPANY  
11 UNDER PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION THIRTY-ONE HUNDRED  
12 TWO-E OF THE PUBLIC AUTHORITIES LAW REGARDLESS OF THE TEN MILLION DOLLAR  
13 LIMITATION EXPRESSED IN SUBPARAGRAPH ONE OF SUCH PARAGRAPH (C) WILL BE  
14 DETERMINED IN ACCORDANCE WITH THE FOLLOWING TABLES:  
15 FOR TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2014 AND BEFORE JANUARY  
16 1, 2015:

17	IF NEW YORK RECEIPTS ARE:	THE FIXED DOLLAR MINIMUM TAX IS:
18	NOT MORE THAN \$100,000	\$ 23
19	MORE THAN \$100,000 BUT NOT OVER \$250,000	\$ 68
20	MORE THAN \$250,000 BUT NOT OVER \$500,000	\$ 159
21	MORE THAN \$500,000 BUT NOT OVER \$1,000,000	\$ 454
22	MORE THAN \$1,000,000 BUT NOT OVER \$5,000,000	\$1,362
23	MORE THAN \$5,000,000 BUT NOT OVER \$25,000,000	\$3,178
24	OVER \$25,000,000	\$4,500

25 FOR TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2015 AND BEFORE JANUARY  
26 1, 2016:

27	IF NEW YORK RECEIPTS ARE:	THE FIXED DOLLAR MINIMUM TAX IS:
28	NOT MORE THAN \$100,000	\$ 22
29	MORE THAN \$100,000 BUT NOT OVER \$250,000	\$ 66
30	MORE THAN \$250,000 BUT NOT OVER \$500,000	\$ 153
31	MORE THAN \$500,000 BUT NOT OVER \$1,000,000	\$ 439
32	MORE THAN \$1,000,000 BUT NOT OVER \$5,000,000	\$1,316
33	MORE THAN \$5,000,000 BUT NOT OVER \$25,000,000	\$3,070
34	OVER \$25,000,000	\$4,385

35 FOR TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2016 AND BEFORE JANUARY  
36 1, 2018:

37	IF NEW YORK RECEIPTS ARE:	THE FIXED DOLLAR MINIMUM TAX IS:
38	NOT MORE THAN \$100,000	\$ 21
39	MORE THAN \$100,000 BUT NOT OVER \$250,000	\$ 63
40	MORE THAN \$250,000 BUT NOT OVER \$500,000	\$ 148
41	MORE THAN \$500,000 BUT NOT OVER \$1,000,000	\$ 423
42	MORE THAN \$1,000,000 BUT NOT OVER \$5,000,000	\$1,269
43	MORE THAN \$5,000,000 BUT NOT OVER \$25,000,000	\$2,961
44	OVER \$25,000,000	\$4,230

45 FOR TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2018:

46	IF NEW YORK RECEIPTS ARE:	THE FIXED DOLLAR MINIMUM TAX IS:
47	NOT MORE THAN \$100,000	\$ 19
48	MORE THAN \$100,000 BUT NOT OVER \$250,000	\$ 56

1	MORE THAN \$250,000 BUT NOT OVER \$500,000	\$ 131
2	MORE THAN \$500,000 BUT NOT OVER \$1,000,000	\$ 375
3	MORE THAN \$1,000,000 BUT NOT OVER \$5,000,000	\$1,125
4	MORE THAN \$5,000,000 BUT NOT OVER \$25,000,000	\$2,625
5	OVER \$25,000,000	\$3,750

6 OTHERWISE THE AMOUNT PRESCRIBED BY THIS PARAGRAPH WILL BE DETERMINED IN  
7 ACCORDANCE WITH THE FOLLOWING TABLE:

8	If New York receipts are:	The fixed dollar minimum tax is:
9	not more than \$100,000	\$ 25
10	more than \$100,000 but not over \$250,000	\$ 75
11	more than \$250,000 but not over \$500,000	\$ 175
12	more than \$500,000 but not over \$1,000,000	\$ 500
13	more than \$1,000,000 but not over \$5,000,000	\$1,500
14	more than \$5,000,000 but not over \$25,000,000	\$3,500
15	[Over] MORE THAN \$25,000,000	
16	BUT NOT OVER \$50,000,000	\$5,000
17	MORE THAN \$50,000,000 BUT NOT OVER \$100,000,000	\$10,000
18	MORE THAN \$100,000,000 BUT NOT OVER \$250,000,000	\$20,000
19	MORE THAN \$250,000,000 BUT NOT OVER \$500,000,000	\$50,000
20	MORE THAN \$500,000,000 BUT NOT OVER \$1,000,000,000	\$100,000
21	OVER \$1,000,000,000	\$200,000

22 For purposes of this paragraph, New York receipts are the receipts  
23 [computed in accordance with subparagraph two of paragraph (a) of subdi-  
24 vision three of this] INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT  
25 FACTOR DETERMINED UNDER section TWO HUNDRED TEN-A for the taxable year.

26 (2) IF THE TAXABLE YEAR IS LESS THAN TWELVE MONTHS, THE AMOUNT OF NEW  
27 YORK RECEIPTS IS DETERMINED BY DIVIDING THE AMOUNT OF THE RECEIPTS FOR  
28 THE TAXABLE YEAR BY THE NUMBER OF MONTHS IN THE TAXABLE YEAR AND MULTI-  
29 PLYING THE RESULT BY TWELVE. IN THE CASE OF A TERMINATION YEAR OF A NEW  
30 YORK S CORPORATION, THE SUM OF THE TAX COMPUTED UNDER THIS PARAGRAPH FOR  
31 THE S SHORT YEAR AND FOR THE C SHORT YEAR SHALL NOT BE LESS THAN THE  
32 AMOUNT COMPUTED UNDER THIS PARAGRAPH AS IF THE CORPORATION WERE A NEW  
33 YORK C CORPORATION FOR THE ENTIRE TAXABLE YEAR.

34 [(5) For taxable years beginning on or after January first, two thou-  
35 sand twelve and before January first, two thousand fifteen, the amounts  
36 prescribed in subparagraphs one and four of this paragraph as the fixed  
37 dollar minimum tax for an eligible qualified New York manufacturer shall  
38 be one-half of the amounts stated in those subparagraphs. For purposes  
39 of this subparagraph, the term "eligible qualified New York manufactur-  
40 er" shall have the same meaning as in subparagraph (vi) of paragraph (a)  
41 of this subdivision.

42 (6) For a qualified New York manufacturer, as defined in subparagraph  
43 (vi) of paragraph (a) of this subdivision, the amounts prescribed in  
44 subparagraphs one and four of this paragraph in effect for taxable years  
45 beginning on or after January first, two thousand thirteen and before  
46 January first, two thousand fourteen for qualified New York manufactur-  
47 ers shall be reduced by nine and two-tenths percent for taxable years  
48 commencing on or after January first, two thousand fourteen and before  
49 January first, two thousand fifteen, twelve and three-tenths percent for  
50 taxable years commencing on or after January first, two thousand fifteen  
51 and before January first, two thousand sixteen, fifteen and four-tenths  
52 percent for taxable years commencing on or after January first, two  
53 thousand sixteen and before January first, two thousand eighteen, and



twenty-five percent for taxable years beginning on or after January first, two thousand eighteen.

(e) Subsidiary capital base. (1) The amount prescribed by this paragraph shall be computed at the rate of nine-tenths of a mill for each dollar of the portion of the taxpayer's subsidiary capital allocated within the state as hereinafter provided.

(2) For purposes of this paragraph, the amount of such subsidiary capital, prior to allocation, shall be reduced by the applicable percentage of the taxpayer's (i) investments in the stock of, and any indebtedness from, subsidiaries subject to tax under section one hundred eighty-six of this chapter (but only to the extent such indebtedness is included in subsidiary capital), and (ii) investments in the stock of, and any indebtedness from, subsidiaries subject to tax under article thirty-two or thirty-three of this chapter (but only to the extent such indebtedness is included in subsidiary capital). For purposes of clause (i) of this subparagraph, the applicable percentage shall be thirty percent for taxable years beginning in two thousand, and one hundred percent for taxable years beginning after two thousand. For purposes of clause (ii) of this subparagraph, the applicable percentage shall be one hundred percent for taxable years beginning after nineteen hundred ninety-nine.]

(f) For purposes of this section, the term "small business taxpayer" shall mean a taxpayer (i) which has an entire net income of not more than three hundred ninety thousand dollars for the taxable year; (ii) [which constitutes a small business as defined in section 1244(c)(3) of internal revenue code (without regard to the second sentence of subparagraph (A) thereof) as of the last day of the taxable year] THE AGGREGATE AMOUNT OF MONEY AND OTHER PROPERTY RECEIVED BY THE CORPORATION FOR STOCK, AS A CONTRIBUTION TO CAPITAL, AND AS PAID-IN SURPLUS, DOES NOT EXCEED ONE MILLION DOLLARS; [and] (iii) which is not part of an affiliated group, as defined in section 1504 of the internal revenue code, unless such group, if it had filed a report under this article on a combined basis, would have itself qualified as a "small business taxpayer" pursuant to this subdivision; AND (IV) WHICH HAS AN AVERAGE NUMBER OF INDIVIDUALS, EXCLUDING GENERAL EXECUTIVE OFFICERS, EMPLOYED FULL-TIME IN THE STATE DURING THE TAXABLE YEAR OF ONE HUNDRED OR FEWER. If the taxable period to which subparagraph (i) of this paragraph applies is less than twelve months, entire net income under such subparagraph shall be placed on an annual basis by multiplying the entire net income by twelve and dividing the result by the number of months in the period. FOR PURPOSES OF SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE AMOUNT TAKEN INTO ACCOUNT WITH RESPECT TO ANY PROPERTY OTHER THAN MONEY SHALL BE THE AMOUNT EQUAL TO THE ADJUSTED BASIS TO THE CORPORATION OF SUCH PROPERTY FOR DETERMINING GAIN, REDUCED BY ANY LIABILITY TO WHICH THE PROPERTY WAS SUBJECT OR WHICH WAS ASSUMED BY THE CORPORATION. THE DETERMINATION UNDER THE PRECEDING SENTENCE SHALL BE MADE AS OF THE TIME THE PROPERTY WAS RECEIVED BY THE CORPORATION. FOR PURPOSES OF SUBPARAGRAPH (III) OF THIS SECTION, "AVERAGE NUMBER OF INDIVIDUALS, EXCLUDING GENERAL EXECUTIVE OFFICERS, EMPLOYED FULL-TIME" SHALL BE COMPUTED BY ASCERTAINING THE NUMBER OF SUCH INDIVIDUALS EMPLOYED BY THE TAXPAYER ON THE THIRTY-FIRST DAY OF MARCH, THE THIRTIETH DAY OF JUNE, THE THIRTIETH DAY OF SEPTEMBER AND THE THIRTY-FIRST DAY OF DECEMBER DURING EACH TAXABLE YEAR OR OTHER APPLICABLE PERIOD, BY ADDING TOGETHER THE NUMBER OF SUCH INDIVIDUALS ASCERTAINED ON EACH OF SUCH DATES AND DIVIDING THE SUM SO OBTAINED BY THE NUMBER OF SUCH DATES OCCURRING WITHIN SUCH TAXABLE YEAR OR OTHER APPLICABLE PERIOD. AN INDIVIDUAL EMPLOYED FULL-TIME MEANS AN EMPLOYEE IN

1 A JOB CONSISTING OF AT LEAST THIRTY-FIVE HOURS PER WEEK, OR TWO OR MORE  
2 EMPLOYEES WHO ARE IN JOBS THAT TOGETHER CONSTITUTE THE EQUIVALENT OF A  
3 JOB AT LEAST THIRTY-FIVE HOURS PER WEEK (FULL-TIME EQUIVALENT).  
4 FULL-TIME EQUIVALENT EMPLOYEES IN THE STATE INCLUDES ALL EMPLOYEES REGU-  
5 LARLY CONNECTED WITH OR WORKING OUT OF AN OFFICE OR PLACE OF BUSINESS OF  
6 THE TAXPAYER WITHIN THE STATE.

7 [(g) New York S corporations. (1) General. The amount prescribed by  
8 this paragraph shall be, in the case of each New York S corporation, (i)  
9 the higher of the amounts prescribed in paragraphs (a) and (d) of this  
10 subdivision (other than the amount prescribed in the final clause of  
11 subparagraph one of that paragraph (d)) (ii) reduced by the article  
12 twenty-two tax equivalent; provided, however, that the amount thus  
13 determined shall not be less than the lowest of the amounts prescribed  
14 in subparagraph one of that paragraph (d) (applying the provisions of  
15 subparagraph three of that paragraph as necessary). Provided, however,  
16 notwithstanding any provision of this paragraph, in taxable years begin-  
17 ning in two thousand three and before two thousand eight, the amount  
18 prescribed by this paragraph shall be the amount prescribed in subpara-  
19 graph one of that paragraph (d) (applying the provisions of subparagraph  
20 three of that paragraph as necessary) and applying the calculation of  
21 that amount in the case of a termination year as set forth in subpara-  
22 graph four of this paragraph as necessary. In taxable years beginning in  
23 two thousand eight and thereafter, the amount prescribed by this para-  
24 graph is the amount prescribed in subparagraph four of that paragraph  
25 (d) (applying the provisions of subparagraph three of that paragraph as  
26 necessary) and applying the calculation of that amount in the case of a  
27 termination year as set forth in subparagraph four of this paragraph as  
28 necessary.

29 (2) Article twenty-two tax equivalent. For taxable years beginning  
30 before July first, nineteen hundred ninety-nine, the article twenty-two  
31 tax equivalent is the amount computed under paragraph (a) of this subdivi-  
32 sion by substituting for the rate therein the rate of 7.875 percent.  
33 For taxable years beginning after June thirtieth, nineteen hundred nine-  
34 ty-nine and before July first, two thousand, the article twenty-two tax  
35 equivalent is the amount computed under paragraph (a) of this subdivi-  
36 sion by substituting for the rate therein the rate of 7.525 percent. For  
37 taxable years beginning after June thirtieth, two thousand and before  
38 July first, two thousand one, the article twenty-two tax equivalent is  
39 the amount computed under paragraph (a) of this subdivision by substi-  
40 tuting for the rate therein the rate of 7.175 percent. For taxable years  
41 beginning after June thirtieth, two thousand one and before July first,  
42 two thousand three, the article twenty-two tax equivalent is the amount  
43 computed under paragraph (a) of this subdivision by substituting for the  
44 rate therein the rate of 6.85 percent. For taxable years beginning after  
45 June thirtieth, two thousand three, the article twenty-two tax equiv-  
46 alent is the amount computed under paragraph (a) of this subdivision by  
47 substituting for the rate therein the rate of 7.1425 percent.

48 (3) Small business taxpayers. Notwithstanding the provisions of  
49 subparagraphs one and two of this paragraph, in the case of a New York S  
50 corporation which is a small business taxpayer, as defined in paragraph  
51 (f) of this subdivision, the following provisions shall apply:

52 (A) For taxable years beginning before July first, nineteen hundred  
53 ninety-nine, the article twenty-two tax equivalent is the amount  
54 computed under paragraph (a) of this subdivision by substituting for the  
55 rate therein the rate of 7.875 percent.

(B) For taxable years beginning after June thirtieth, nineteen hundred ninety-nine and before July first, two thousand three, the amount computed under paragraph (a) of this subdivision, as referred to in subparagraph one of this paragraph, shall be computed by substituting for the rate therein the rate of 7.5 percent, and the article twenty-two tax equivalent under paragraph (a) of this subdivision shall be computed as follows:

(i) if the entire net income base is not more than two hundred thousand dollars, the article twenty-two tax equivalent is the amount computed under paragraph (a) of this subdivision by substituting for the rate therein the rate of 7.45 percent;

(ii) if the entire net income base is more than two hundred thousand dollars but not over two hundred ninety thousand dollars, the article twenty-two tax equivalent shall be computed as the sum of (I) fourteen thousand nine hundred dollars, (II) six and eighty-five hundredths percent of the first fifty thousand dollars in excess of the entire net income base over two hundred thousand dollars, and (III) three and eighty-five hundredths percent of the excess, if any, of the entire net income base over two hundred fifty thousand dollars.

(C) For taxable years beginning after June thirtieth, two thousand three, the amount computed under paragraph (a) of this subdivision, as referred to in subparagraph one of this paragraph, shall be computed by substituting for the rate therein the rate of 7.5 percent, and the article twenty-two tax equivalent under paragraph (a) of this subdivision shall be computed as follows:

(i) if the entire net income base is not more than two hundred thousand dollars, the article twenty-two tax equivalent is the amount computed under paragraph (a) of this subdivision by substituting for the rate therein the rate of 7.4725 percent;

(ii) if the entire net income base is more than two hundred thousand dollars but not over two hundred ninety thousand dollars, the article twenty-two tax equivalent shall be computed as the sum of (I) fourteen thousand nine hundred forty-five dollars, (II) 7.1425 percent of the first fifty thousand dollars in excess of the entire net income base over two hundred thousand dollars, and (III) 5.4925 percent of the excess, if any, of the entire net income base over two hundred fifty thousand dollars.

(4) Termination year. In the case of a termination year, the tax for the S short year shall be computed under this paragraph without regard to the fixed dollar minimum tax prescribed in paragraph (d) of this subdivision, and the tax for the C short year shall be computed under the opening paragraph of this subdivision without regard to the fixed dollar minimum tax prescribed under such paragraph (d), but in no event shall the sum of the tax for the S short year and the tax for the C short year be less than the fixed dollar minimum tax under paragraph (d) of this subdivision computed as if the corporation were a New York C corporation for the entire taxable year.]

S 13. Subdivision 1-c of section 210 of the tax law, as amended by chapter 1043 of the laws of 1981, the opening paragraph and paragraph (a) as amended by chapter 817 of the laws of 1987, and paragraph (b) as amended by section 12 of part Y of chapter 63 of the laws of 2000, is amended to read as follows:

1-c. The computations specified in paragraph (b) of subdivision one of this section shall not apply to the first two taxable years of a taxpayer which, for one or both such years, is a small business [concern. A small business concern:

(a) is a taxpayer which is a small business corporation as defined in paragraph three of subsection (c) of section twelve hundred forty-four of the internal revenue code (without regard to the second sentence of subparagraph (A) thereof) as of the last day of the taxable year,

(b) is not a corporation over fifty percent of the number of shares of stock of which entitling the holders thereof to vote for the election of directors or trustees is owned by a taxpayer which (1) is subject to tax under this article; section one hundred eighty-three, one hundred eighty-four or one hundred eighty-five of article nine; article thirty-two or thirty-three of this chapter, and (2) does not qualify as a small business corporation as defined in paragraph three of subsection (c) of section twelve hundred forty-four of the internal revenue code (without regard to the second sentence of subparagraph (A) thereof) as of the last day of its taxable year ending within or with the taxable year of the taxpayer,

(c) is not a corporation which is substantially similar in operation and in ownership to a business entity (or entities) taxable, or previously taxable, under this article; section one hundred eighty-three, one hundred eighty-four, one hundred eighty-five or one hundred eighty-six of article nine; article thirty-two or thirty-three of this chapter; article twenty-three of this chapter or which would have been subject to tax under such article twenty-three (as such article was in effect on January first, nineteen hundred eighty) or the income (or losses) of which is (or was) includable under article twenty-two of this chapter, and

(d) at least ninety percent of the assets of such corporation (valued at original cost) were located and employed in this state during the taxable year and eighty percent of the employees of such corporation (as ascertained within the meaning and intent of subparagraph three of paragraph (a) of subdivision three of this section) were principally employed in this state during the taxable year] TAXPAYER AS DEFINED IN PARAGRAPH (F) OF SUBDIVISION ONE OF THIS SECTION.

S 14. Subdivision 2 of section 210 of the tax law, as amended by chapter 760 of the laws of 1992, is amended to read as follows:

2. The amount of [subsidiary capital,] investment capital and business capital shall each be determined by taking the average value of the assets included therein (less liabilities deductible therefrom pursuant to the provisions of subdivisions [four,] five and seven of section two hundred eight), and, if the period covered by the report is other than a period of twelve calendar months, by multiplying such value by the number of calendar months or major parts thereof included in such period, and dividing the product thus obtained by twelve. For purposes of this subdivision, real property and marketable securities shall be valued at fair market value and the value of personal property other than marketable securities shall be the value thereof shown on the books and records of the taxpayer in accordance with generally accepted accounting principles.

S 15. Subdivisions 3, 3-a, 4, 5, 6, 7, 8, 9, 10, 11, 12, 12-A, 12-B, 12-C, 12-D, 12-E, 12-F, 12-G, 13, 14, 15, 16, 17, 18, 19, 20, 21, 21-a, 22, 23, 23-a, 24, 25, 25-a, 26, 26-a, 27, 28, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, and 47 of section 210 of the tax law are REPEALED.

S 15-a. Section 210 of the tax law is amended by adding a new subdivision 3 to read as follows:

3. A CORPORATION THAT IS A PARTNER IN A PARTNERSHIP SHALL COMPUTE TAX UNDER THIS ARTICLE USING THE AGGREGATE METHOD AS DEFINED IN THE REGU-

LATIONS OF THE COMMISSIONER, UNLESS ANOTHER METHOD FOR COMPUTING SUCH TAX IS REQUIRED OR ALLOWED BY SUCH REGULATIONS. UNDER THE AGGREGATE METHOD, A CORPORATION THAT IS A PARTNER IN A PARTNERSHIP IS VIEWED AS HAVING AN UNDIVIDED INTEREST IN THE PARTNERSHIP'S ASSETS, LIABILITIES, AND ITEMS OF RECEIPTS, INCOME, GAIN, LOSS AND DEDUCTION. UNDER THE AGGREGATE METHOD, THE CORPORATION THAT IS A PARTNER IN A PARTNERSHIP IS TREATED AS PARTICIPATING IN THE PARTNERSHIP'S TRANSACTIONS AND ACTIVITIES.

S 16. The tax law is amended by adding a new section 210-A to read as follows:

S 210-A. APPORTIONMENT. 1. GENERAL. BUSINESS INCOME AND CAPITAL SHALL BE APPORTIONED TO THE STATE BY THE APPORTIONMENT FACTOR DETERMINED PURSUANT TO THIS SECTION. THE APPORTIONMENT FACTOR IS A FRACTION, DETERMINED BY INCLUDING ONLY THOSE RECEIPTS, NET INCOME, NET GAINS, AND OTHER ITEMS DESCRIBED IN THIS SECTION THAT ARE INCLUDED IN THE COMPUTATION OF THE TAXPAYER'S BUSINESS INCOME FOR THE TAXABLE YEAR. THE NUMERATOR OF THE APPORTIONMENT FRACTION SHALL BE EQUAL TO THE SUM OF ALL THE AMOUNTS REQUIRED TO BE INCLUDED IN THE NUMERATOR PURSUANT TO THE PROVISIONS OF THIS SECTION AND THE DENOMINATOR OF THE APPORTIONMENT FRACTION SHALL BE EQUAL TO THE SUM OF ALL THE AMOUNTS REQUIRED TO BE INCLUDED IN THE DENOMINATOR PURSUANT TO THE PROVISIONS OF THIS SECTION.

2. SALES OF TANGIBLE PERSONAL PROPERTY, ELECTRICITY, AND REAL PROPERTY. (A) RECEIPTS FROM SALES OF TANGIBLE PERSONAL PROPERTY WHERE SHIPMENTS ARE MADE TO POINTS WITHIN THE STATE OR THE DESTINATION OF THE PROPERTY IS A POINT IN THE STATE SHALL BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. RECEIPTS FROM SALES OF TANGIBLE PERSONAL PROPERTY WHERE SHIPMENTS ARE MADE TO POINTS WITHIN AND WITHOUT THE STATE OR THE DESTINATION IS WITHIN AND WITHOUT THE STATE SHALL BE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

(B) RECEIPTS FROM SALES OF ELECTRICITY DELIVERED TO POINTS WITHIN THE STATE SHALL BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. RECEIPTS FROM SALES OF ELECTRICITY DELIVERED TO POINTS WITHIN AND WITHOUT THE STATE SHALL BE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

(C) RECEIPTS FROM SALES OF TANGIBLE PERSONAL PROPERTY AND ELECTRICITY THAT ARE TRADED AS COMMODITIES AS DESCRIBED IN SECTION 475 OF THE INTERNAL REVENUE CODE ARE INCLUDED IN THE APPORTIONMENT FRACTION IN ACCORDANCE WITH CLAUSE (I) OF SUBPARAGRAPH TWO OF PARAGRAPH (A) OF SUBDIVISION FIVE OF THIS SECTION.

(D) NET GAINS (NOT LESS THAN ZERO) FROM THE SALES OF REAL PROPERTY LOCATED WITHIN THE STATE SHALL BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. NET GAINS (NOT LESS THAN ZERO) FROM THE SALES OF REAL PROPERTY LOCATED WITHIN AND WITHOUT THE STATE SHALL BE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

3. RENTALS AND ROYALTIES. (A) RECEIPTS FROM RENTALS OF REAL AND TANGIBLE PERSONAL PROPERTY LOCATED WITHIN THE STATE ARE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. RECEIPTS FROM RENTALS OF REAL AND TANGIBLE PERSONAL PROPERTY LOCATED WITHIN AND WITHOUT THE STATE SHALL BE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

(B) RECEIPTS OF ROYALTIES FROM THE USE OF PATENTS, COPYRIGHTS, TRADEMARKS, AND SIMILAR INTANGIBLE PERSONAL PROPERTY WITHIN THE STATE ARE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. RECEIPTS OF ROYALTIES FROM THE USE OF PATENTS, COPYRIGHTS, TRADEMARKS AND SIMILAR INTANGIBLES WITHIN AND WITHOUT THE STATE ARE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION. A PATENT, COPYRIGHT, TRADEMARK OR SIMILAR

1 INTANGIBLE PROPERTY IS USED IN THE STATE TO THE EXTENT THAT THE ACTIV-  
2 ITIES THEREUNDER ARE CARRIED ON IN THE STATE.

3 (C) RECEIPTS FROM THE SALES OF RIGHTS FOR CLOSED-CIRCUIT AND CABLE  
4 TELEVISION TRANSMISSIONS OF AN EVENT (OTHER THAN EVENTS OCCURRING ON A  
5 REGULARLY SCHEDULED BASIS) TAKING PLACE WITHIN THE STATE AS A RESULT OF  
6 THE RENDITION OF SERVICES BY EMPLOYEES OF THE CORPORATION, AS ATHLETES,  
7 ENTERTAINERS OR PERFORMING ARTISTS ARE INCLUDED IN THE NUMERATOR OF THE  
8 APPORTIONMENT FRACTION TO THE EXTENT THAT SUCH RECEIPTS ARE ATTRIBUTABLE  
9 TO SUCH TRANSMISSIONS RECEIVED OR EXHIBITED WITHIN THE STATE. RECEIPTS  
10 FROM ALL SALES OF RIGHTS FOR CLOSED-CIRCUIT AND CABLE TELEVISION TRANS-  
11 MISSIONS OF AN EVENT ARE INCLUDED IN THE DENOMINATOR OF THE APPORTION-  
12 MENT FRACTION.

13 4. DIGITAL PRODUCTS. (A) FOR PURPOSES OF DETERMINING THE APPORTIONMENT  
14 FRACTION UNDER THIS SECTION, THE TERM "DIGITAL PRODUCT" MEANS ANY PROP-  
15 erty OR SERVICE, OR COMBINATION THEREOF, OF WHATEVER NATURE DELIVERED TO  
16 THE PURCHASER THROUGH THE USE OF WIRE, CABLE, FIBER-OPTIC, LASER, MICRO-  
17 WAVE, RADIO WAVE, SATELLITE OR SIMILAR SUCCESSOR MEDIA, OR ANY COMBINA-  
18 TION THEREOF. DIGITAL PRODUCT INCLUDES, BUT IS NOT LIMITED TO, AN AUDIO  
19 WORK, AUDIOVISUAL WORK, VISUAL WORK, BOOK OR LITERARY WORK, GRAPHIC  
20 WORK, GAME, INFORMATION OR ENTERTAINMENT SERVICE, STORAGE OF DIGITAL  
21 PRODUCTS AND COMPUTER SOFTWARE BY WHATEVER MEANS DELIVERED. THE TERM  
22 "DELIVERED TO" INCLUDES FURNISHED OR PROVIDED TO OR ACCESSED BY. A  
23 DIGITAL PRODUCT DOES NOT INCLUDE LEGAL, MEDICAL, ACCOUNTING, ARCHITEC-  
24 TURAL, RESEARCH, ANALYTICAL, ENGINEERING OR CONSULTING SERVICES PROVIDED  
25 BY THE TAXPAYER.

26 (B) RECEIPTS FROM THE SALE OF, LICENCE TO USE, OR GRANTING OF REMOTE  
27 ACCESS TO DIGITAL PRODUCTS WITHIN THE STATE, DETERMINED ACCORDING TO THE  
28 HIERARCHY OF METHODS SET FORTH IN SUBPARAGRAPHS ONE THROUGH FOUR OF  
29 PARAGRAPH (C) OF THIS SUBDIVISION, SHALL BE INCLUDED IN THE NUMERATOR OF  
30 THE APPORTIONMENT FRACTION. RECEIPTS FROM THE SALE OF, LICENSE TO USE,  
31 OR GRANTING OF REMOTE ACCESS TO DIGITAL PRODUCTS WITHIN AND WITHOUT THE  
32 STATE SHALL BE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRAC-  
33 TION. THE TAXPAYER MUST EXERCISE DUE DILIGENCE UNDER EACH METHOD  
34 DESCRIBED IN PARAGRAPH (C) OF THIS SUBDIVISION BEFORE REJECTING IT AND  
35 PROCEEDING TO THE NEXT METHOD IN THE HIERARCHY, AND MUST BASE ITS DETER-  
36 MINATION ON INFORMATION KNOWN TO THE TAXPAYER OR INFORMATION THAT WOULD  
37 BE KNOWN TO THE TAXPAYER UPON REASONABLE INQUIRY. IF THE RECEIPT FOR A  
38 DIGITAL PRODUCT IS COMPRISED OF A COMBINATION OF PROPERTY AND SERVICES,  
39 IT CANNOT BE DIVIDED INTO SEPARATE COMPONENTS AND IS CONSIDERED TO BE  
40 ONE RECEIPT REGARDLESS OF WHETHER IT IS SEPARATELY STATED FOR BILLING  
41 PURPOSES. THE ENTIRE RECEIPT MUST BE ALLOCATED BY THIS HIERARCHY.

42 (C) HIERARCHY OF SOURCING METHODS. (1) THE CUSTOMER'S PRIMARY USE  
43 LOCATION OF THE DIGITAL PRODUCT;

44 (2) THE LOCATION WHERE THE DIGITAL PRODUCT IS RECEIVED BY THE CUSTOM-  
45 ER, OR IS RECEIVED BY A PERSON DESIGNATED FOR RECEIPT BY THE CUSTOMER;

46 (3) THE APPORTIONMENT FRACTION DETERMINED PURSUANT TO THIS SUBDIVISION  
47 FOR THE PRECEDING TAXABLE YEAR FOR SUCH DIGITAL PRODUCT; OR

48 (4) THE APPORTIONMENT FRACTION IN THE CURRENT TAXABLE YEAR FOR THOSE  
49 DIGITAL PRODUCTS THAT CAN BE SOURCED USING THE HIERARCHY OF SOURCING  
50 METHODS IN SUBPARAGRAPHS ONE AND TWO OF THIS PARAGRAPH.

51 5. FINANCIAL TRANSACTIONS. (A) FINANCIAL INSTRUMENTS. A FINANCIAL  
52 INSTRUMENT IS A "QUALIFIED FINANCIAL INSTRUMENT" IF IT IS MARKED TO  
53 MARKET UNDER SECTION 475 OR SECTION 1256 OF THE INTERNAL REVENUE CODE,  
54 PROVIDED THAT LOANS SECURED BY REAL PROPERTY SHALL NOT BE QUALIFIED  
55 FINANCIAL INSTRUMENTS. A FINANCIAL INSTRUMENT IS A "NONQUALIFIED FINAN-  
56 CIAL INSTRUMENT" IF IT IS NOT A QUALIFIED FINANCIAL INSTRUMENT.

1 (1) FIXED PERCENTAGE METHOD FOR QUALIFIED FINANCIAL INSTRUMENTS. IN  
2 DETERMINING THE INCLUSION OF RECEIPTS AND NET GAINS FROM QUALIFIED  
3 FINANCIAL INSTRUMENTS IN THE APPORTIONMENT FRACTION, TAXPAYERS MAY ELECT  
4 TO USE THE FIXED PERCENTAGE METHOD DESCRIBED IN THIS SUBPARAGRAPH FOR  
5 QUALIFIED FINANCIAL INSTRUMENTS. THE ELECTION IS IRREVOCABLE, APPLIES TO  
6 ALL QUALIFIED FINANCIAL INSTRUMENTS, AND MUST BE MADE ON AN ANNUAL BASIS  
7 ON THE TAXPAYER'S ORIGINAL, TIMELY FILED RETURN. IF THE TAXPAYER ELECTS  
8 THE FIXED PERCENTAGE METHOD, THEN ALL INCOME, GAIN OR LOSS, FROM QUALI-  
9 FIED FINANCIAL INSTRUMENTS CONSTITUTES BUSINESS INCOME, GAIN OR LOSS. IF  
10 THE TAXPAYER DOES NOT ELECT TO USE THE FIXED PERCENTAGE METHOD, THEN  
11 RECEIPTS AND NET GAINS ARE INCLUDED IN THE APPORTIONMENT FRACTION IN  
12 ACCORDANCE WITH THE CUSTOMER SOURCING METHOD DESCRIBED IN SUBPARAGRAPH  
13 TWO OF THIS PARAGRAPH. UNDER THE FIXED PERCENTAGE METHOD, EIGHT PERCENT  
14 OF ALL NET INCOME (NOT LESS THAN ZERO) FROM QUALIFIED FINANCIAL INSTRU-  
15 MENTS IS INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. ALL  
16 NET INCOME (NOT LESS THAN ZERO) FROM QUALIFIED FINANCIAL INSTRUMENTS IS  
17 INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

18 (2) CUSTOMER SOURCING METHOD. RECEIPTS AND NET GAINS FROM QUALIFIED  
19 FINANCIAL INSTRUMENTS, IN CASES WHERE THE TAXPAYER DID NOT ELECT TO USE  
20 THE FIXED PERCENTAGE METHOD DESCRIBED IN SUBPARAGRAPH ONE OF THIS PARA-  
21 GRAPH, AND FROM NONQUALIFIED FINANCIAL INSTRUMENTS ARE INCLUDED IN THE  
22 APPORTIONMENT FRACTION IN ACCORDANCE WITH THIS SUBPARAGRAPH. FOR  
23 PURPOSES OF THIS PARAGRAPH, AN INDIVIDUAL IS DEEMED TO BE LOCATED IN THE  
24 STATE IF HIS OR HER BILLING ADDRESS IS IN THE STATE. A BUSINESS ENTITY  
25 IS DEEMED TO BE LOCATED IN THE STATE IF ITS COMMERCIAL DOMICILE IS  
26 LOCATED IN THE STATE.

27 (A) LOANS. (I) RECEIPTS CONSTITUTING INTEREST FROM LOANS SECURED BY  
28 REAL PROPERTY LOCATED WITHIN THE STATE SHALL BE INCLUDED IN THE NUMERA-  
29 TOR OF THE APPORTIONMENT FRACTION. RECEIPTS CONSTITUTING INTEREST FROM  
30 LOANS SECURED BY REAL PROPERTY LOCATED WITHIN AND WITHOUT THE STATE  
31 SHALL BE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

32 (II) RECEIPTS CONSTITUTING INTEREST FROM LOANS NOT SECURED BY REAL  
33 PROPERTY SHALL BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRAC-  
34 TION IF THE BORROWER IS LOCATED IN THE STATE. RECEIPTS CONSTITUTING  
35 INTEREST FROM LOANS NOT SECURED BY REAL PROPERTY, WHETHER THE BORROWER  
36 IS LOCATED WITHIN OR WITHOUT THE STATE, SHALL BE INCLUDED IN THE DENOMI-  
37 NATOR OF THE APPORTIONMENT FRACTION.

38 (III) NET GAINS (NOT LESS THAN ZERO) FROM SALES OF LOANS SECURED BY  
39 REAL PROPERTY ARE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRAC-  
40 TION AS PROVIDED IN THIS SUBCLAUSE. THE AMOUNT OF NET GAINS FROM THE  
41 SALE OF LOANS SECURED BY REAL PROPERTY INCLUDED IN THE NUMERATOR OF THE  
42 APPORTIONMENT FRACTION IS DETERMINED BY MULTIPLYING THE NET GAINS BY A  
43 FRACTION THE NUMERATOR OF WHICH IS THE AMOUNT OF GROSS PROCEEDS FROM  
44 SALES OF LOANS SECURED BY REAL PROPERTY LOCATED WITHIN THE STATE AND THE  
45 DENOMINATOR OF WHICH IS THE GROSS PROCEEDS FROM SALES OF LOANS SECURED  
46 BY REAL PROPERTY WITHIN AND WITHOUT THE STATE. GROSS PROCEEDS SHALL BE  
47 DETERMINED AFTER THE DEDUCTION OF ANY COST INCURRED TO ACQUIRE THE LOANS  
48 BUT SHALL NOT BE LESS THAN ZERO. NET GAINS (NOT LESS THAN ZERO) FROM  
49 SALES OF LOANS SECURED BY REAL PROPERTY WITHIN AND WITHOUT THE STATE ARE  
50 INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

51 (IV) NET GAINS (NOT LESS THAN ZERO) FROM SALES OF LOANS NOT SECURED BY  
52 REAL PROPERTY ARE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRAC-  
53 TION AS PROVIDED IN THIS SUBCLAUSE. THE AMOUNT OF NET GAINS FROM THE  
54 SALE OF LOANS NOT SECURED BY REAL PROPERTY INCLUDED IN THE NUMERATOR OF  
55 THE APPORTIONMENT FRACTION IS DETERMINED BY MULTIPLYING THE NET GAINS BY  
56 A FRACTION, THE NUMERATOR OF WHICH IS THE AMOUNT OF GROSS PROCEEDS FROM

1 SALES OF LOANS NOT SECURED BY REAL PROPERTY TO PURCHASERS LOCATED WITHIN  
2 THE STATE AND THE DENOMINATOR OF WHICH IS THE AMOUNT OF GROSS RECEIPTS  
3 FROM SALES OF LOANS NOT SECURED BY REAL PROPERTY TO PURCHASERS LOCATED  
4 WITHIN AND WITHOUT THE STATE. GROSS PROCEEDS SHALL BE DETERMINED AFTER  
5 THE DEDUCTION OF ANY COST INCURRED TO ACQUIRE THE LOANS BUT SHALL NOT BE  
6 LESS THAN ZERO. NET GAINS (NOT LESS THAN ZERO) FROM SALES OF LOANS NOT  
7 SECURED BY REAL PROPERTY ARE INCLUDED IN THE DENOMINATOR OF THE APPOR-  
8 TIONMENT FRACTION.

9 (B) FEDERAL, STATE, AND MUNICIPAL DEBT. RECEIPTS CONSTITUTING INTEREST  
10 AND NET GAINS FROM SALES OF DEBT INSTRUMENTS ISSUED BY THE UNITED  
11 STATES, ANY STATE, OR POLITICAL SUBDIVISION OF A STATE SHALL NOT BE  
12 INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. RECEIPTS  
13 CONSTITUTING INTEREST AND NET GAINS (NOT LESS THAN ZERO) FROM SALES OF  
14 DEBT INSTRUMENTS ISSUED BY THE UNITED STATES AND THE STATE OF NEW YORK  
15 OR ITS POLITICAL SUBDIVISIONS SHALL BE INCLUDED IN THE DENOMINATOR OF  
16 THE APPORTIONMENT FRACTION. FIFTY PERCENT OF THE RECEIPTS CONSTITUTING  
17 INTEREST AND NET GAINS (NOT LESS THAN ZERO) FROM SALES OF DEBT INSTRU-  
18 MENTS ISSUED BY OTHER STATES OR THEIR POLITICAL SUBDIVISIONS SHALL BE  
19 INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

20 (C) ASSET BACKED SECURITIES AND OTHER GOVERNMENT AGENCY DEBT. EIGHT  
21 PERCENT OF THE INTEREST INCOME FROM ASSET BACKED SECURITIES OR OTHER  
22 SECURITIES ISSUED BY GOVERNMENT AGENCIES, INCLUDING BUT NOT LIMITED TO  
23 SECURITIES ISSUED BY THE GOVERNMENT NATIONAL MORTGAGE ASSOCIATION  
24 (GNMA), THE FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA), THE FEDERAL  
25 HOME LOAN MORTGAGE CORPORATION (FHLMC), OR THE SMALL BUSINESS ADMINIS-  
26 TRATION, OR ASSET BACKED SECURITIES ISSUED BY OTHER ENTITIES SHALL BE  
27 INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. EIGHT PERCENT  
28 OF THE NET GAINS (NOT LESS THAN ZERO) FROM (I) SALES OF ASSET BACKED  
29 SECURITIES OR OTHER SECURITIES ISSUED BY GOVERNMENT AGENCIES, INCLUDING  
30 BUT NOT LIMITED TO SECURITIES ISSUED BY GNMA, FNMA, OR FHLMC, THE SMALL  
31 BUSINESS ADMINISTRATION, OR (II) SALES OF OTHER ASSET BACKED SECURITIES  
32 THAT ARE SOLD THROUGH A REGISTERED SECURITIES BROKER OR DEALER OR  
33 THROUGH A LICENSED EXCHANGE, SHALL BE INCLUDED IN THE NUMERATOR OF THE  
34 APPORTIONMENT FRACTION. THE AMOUNT OF NET GAINS (NOT LESS THAN ZERO)  
35 FROM SALES OF OTHER ASSET BACKED SECURITIES NOT REFERENCED IN SUBCLAUSE  
36 (I) OR (II) OF THIS CLAUSE INCLUDED IN THE NUMERATOR OF THE APPORTION-  
37 MENT FRACTION IS DETERMINED BY MULTIPLYING SUCH NET GAINS BY A FRACTION,  
38 THE NUMERATOR OF WHICH IS THE AMOUNT OF GROSS PROCEEDS FROM SUCH SALES  
39 TO PURCHASERS LOCATED IN THE STATE AND THE DENOMINATOR OF WHICH IS THE  
40 AMOUNT OF GROSS PROCEEDS FROM SUCH SALES TO PURCHASERS LOCATED WITHIN  
41 AND WITHOUT THE STATE. RECEIPTS CONSTITUTING INTEREST FROM ASSET BACKED  
42 SECURITIES AND OTHER SECURITIES REFERENCED IN THIS CLAUSE AND NET GAINS  
43 (NOT LESS THAN ZERO) FROM SALES OF ASSET BACKED SECURITIES AND OTHER  
44 SECURITIES REFERENCED IN THIS CLAUSE ARE INCLUDED IN THE DENOMINATOR OF  
45 THE APPORTIONMENT FRACTION. GROSS PROCEEDS SHALL BE DETERMINED AFTER THE  
46 DEDUCTION OF ANY COST TO ACQUIRE THE SECURITIES BUT SHALL NOT BE LESS  
47 THAN ZERO.

48 (D) CORPORATE BONDS. RECEIPTS CONSTITUTING INTEREST FROM CORPORATE  
49 BONDS ARE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION IF THE  
50 COMMERCIAL DOMICILE OF THE ISSUING CORPORATION IS IN THE STATE. EIGHT  
51 PERCENT OF THE NET GAINS (NOT LESS THAN ZERO) FROM SALES OF CORPORATE  
52 BONDS SOLD THROUGH A REGISTERED SECURITIES BROKER OR DEALER OR THROUGH A  
53 LICENSED EXCHANGE IS INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT  
54 FRACTION. THE AMOUNT OF NET GAINS (NOT LESS THAN ZERO) FROM OTHER SALES  
55 OF CORPORATE BONDS INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRAC-  
56 TION IS DETERMINED BY MULTIPLYING SUCH NET GAINS BY A FRACTION, THE



1 NUMERATOR OF WHICH IS THE AMOUNT OF GROSS PROCEEDS FROM SUCH SALES TO  
2 PURCHASERS LOCATED IN THE STATE AND THE DENOMINATOR OF WHICH IS THE  
3 AMOUNT OF GROSS PROCEEDS FROM SALES TO PURCHASERS LOCATED WITHIN AND  
4 WITHOUT THE STATE. RECEIPTS CONSTITUTING INTEREST FROM CORPORATE BONDS,  
5 WHETHER THE ISSUING CORPORATION'S COMMERCIAL DOMICILE IS WITHIN OR WITH-  
6 OUT THE STATE, AND NET GAINS (NOT LESS THAN ZERO) FROM SALES OF CORPO-  
7 RATE BONDS TO PURCHASERS WITHIN AND WITHOUT THE STATE ARE INCLUDED IN  
8 THE DENOMINATOR OF THE APPORTIONMENT FRACTION. GROSS PROCEEDS SHALL BE  
9 DETERMINED AFTER THE DEDUCTION OF ANY COST TO ACQUIRE THE BONDS BUT  
10 SHALL NOT BE LESS THAN ZERO.

11 (E) REVERSE REPURCHASE AGREEMENTS AND SECURITIES BORROWING AGREEMENTS.  
12 EIGHT PERCENT OF NET INTEREST INCOME (NOT LESS THAN ZERO) FROM REVERSE  
13 REPURCHASE AGREEMENTS AND SECURITIES BORROWING AGREEMENTS SHALL BE  
14 INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. NET INTEREST  
15 INCOME (NOT LESS THAN ZERO) FROM REVERSE REPURCHASE AGREEMENTS AND SECU-  
16 RITIES BORROWING AGREEMENTS IS INCLUDED IN THE DENOMINATOR OF THE APPOR-  
17 TIONMENT FRACTION. NET INTEREST INCOME FROM REVERSE REPURCHASE AGREE-  
18 MENTS AND SECURITIES BORROWING AGREEMENTS IS DETERMINED FOR PURPOSES OF  
19 THIS SUBDIVISION AFTER THE DEDUCTION OF THE INTEREST EXPENSE FROM THE  
20 TAXPAYER'S REPURCHASE AGREEMENTS AND SECURITIES LENDING AGREEMENTS BUT  
21 CANNOT BE LESS THAN ZERO. FOR THIS CALCULATION, THE AMOUNT OF SUCH  
22 INTEREST EXPENSE IS THE INTEREST EXPENSE ASSOCIATED WITH THE SUM OF THE  
23 VALUE OF THE TAXPAYER'S REPURCHASE AGREEMENTS WHERE IT IS THE  
24 SELLER/BORROWER PLUS THE VALUE OF THE TAXPAYER'S SECURITIES LENDING  
25 AGREEMENTS WHERE IT IS THE SECURITIES LENDER, PROVIDED SUCH SUM IS  
26 LIMITED TO THE SUM OF THE VALUE OF THE TAXPAYER'S REVERSE REPURCHASE  
27 AGREEMENTS WHERE IT IS THE PURCHASER/LENDER PLUS THE VALUE OF THE  
28 TAXPAYER'S SECURITIES LENDING AGREEMENTS WHERE IT IS THE SECURITIES  
29 BORROWER.

30 (F) FEDERAL FUNDS. EIGHT PERCENT OF THE NET INTEREST (NOT LESS THAN  
31 ZERO) FROM FEDERAL FUNDS IS INCLUDED IN THE NUMERATOR OF THE APPORTION-  
32 MENT FRACTION. THE NET INTEREST (NOT LESS THAN ZERO) FROM FEDERAL FUNDS  
33 IS INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION. NET INTER-  
34 EST FROM FEDERAL FUNDS IS DETERMINED AFTER DEDUCTION OF INTEREST EXPENSE  
35 FROM FEDERAL FUNDS.

36 (G) DIVIDENDS AND NET GAINS FROM SALES OF STOCK OR PARTNERSHIP INTER-  
37 ESTS. DIVIDENDS FROM STOCK, NET GAINS (NOT LESS THAN ZERO) FROM SALES OF  
38 STOCK AND NET GAINS (NOT LESS THAN ZERO) FROM THE SALE OF PARTNERSHIP  
39 INTERESTS ARE NOT INCLUDED IN EITHER THE NUMERATOR OR DENOMINATOR OF THE  
40 APPORTIONMENT FRACTION UNLESS THE COMMISSIONER DETERMINES PURSUANT TO  
41 SUBDIVISION ELEVEN OF THIS SECTION THAT INCLUSION OF SUCH DIVIDENDS AND  
42 NET GAINS (NOT LESS THAN ZERO) IS NECESSARY TO PROPERLY REFLECT THE  
43 BUSINESS INCOME OR CAPITAL OF THE TAXPAYER.

44 (H) OTHER FINANCIAL INSTRUMENTS. (I) RECEIPTS CONSTITUTING INTEREST  
45 FROM OTHER FINANCIAL INSTRUMENTS SHALL BE INCLUDED IN THE NUMERATOR OF  
46 THE APPORTIONMENT FRACTION IF THE PAYOR IS LOCATED IN THE STATE.  
47 RECEIPTS CONSTITUTING INTEREST FROM OTHER FINANCIAL INSTRUMENTS, WHETHER  
48 THE PAYOR IS WITHIN OR WITHOUT THE STATE, ARE INCLUDED IN THE DENOMINA-  
49 TOR OF THE APPORTIONMENT FRACTION.

50 (II) NET GAINS (NOT LESS THAN ZERO) FROM SALES OF OTHER FINANCIAL  
51 INSTRUMENTS AND OTHER INCOME (NOT LESS THAN ZERO) FROM OTHER FINANCIAL  
52 INSTRUMENTS WHERE THE PURCHASER OR PAYOR IS LOCATED IN THE STATE ARE  
53 INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION, PROVIDED THAT,  
54 IF THE PURCHASER OR PAYOR IS A REGISTERED SECURITIES BROKER OR DEALER OR  
55 THE TRANSACTION IS MADE THROUGH A LICENSED EXCHANGE, THEN EIGHT PERCENT  
56 OF THE NET GAINS (NOT LESS THAN ZERO) OR OTHER INCOME (NOT LESS THAN

1 ZERO) IS INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. NET  
2 GAINS (NOT LESS THAN ZERO) FROM SALES OF OTHER FINANCIAL INSTRUMENTS AND  
3 OTHER INCOME (NOT LESS THAN ZERO) FROM OTHER FINANCIAL INSTRUMENTS ARE  
4 INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

5 (I) PHYSICAL COMMODITIES. NET INCOME (NOT LESS THAN ZERO) FROM SALES  
6 OF PHYSICAL COMMODITIES ARE INCLUDED IN THE NUMERATOR OF THE APPORTION-  
7 MENT FRACTION AS PROVIDED IN THIS SUBPARAGRAPH. THE AMOUNT OF NET INCOME  
8 FROM SALES OF PHYSICAL COMMODITIES INCLUDED IN THE NUMERATOR OF THE  
9 APPORTIONMENT FRACTION IS DETERMINED BY MULTIPLYING THE NET INCOME FROM  
10 SALES OF PHYSICAL COMMODITIES BY A FRACTION, THE NUMERATOR OF WHICH IS  
11 THE AMOUNT OF RECEIPTS FROM SALES OF PHYSICAL COMMODITIES ACTUALLY  
12 DELIVERED TO POINTS WITHIN THE STATE OR, IF THERE IS NO ACTUAL DELIVERY  
13 OF THE PHYSICAL COMMODITY, SOLD TO PURCHASERS LOCATED IN THE STATE, AND  
14 THE DENOMINATOR OF WHICH IS THE AMOUNT OF RECEIPTS FROM SALES OF PHYS-  
15 ICAL COMMODITIES ACTUALLY DELIVERED TO POINTS WITHIN AND WITHOUT THE  
16 STATE OR SOLD TO PURCHASERS LOCATED WITHIN AND WITHOUT THE STATE. NET  
17 INCOME (NOT LESS THAN ZERO) FROM SALES OF PHYSICAL COMMODITIES IS  
18 INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION. NET INCOME  
19 (NOT LESS THAN ZERO) FROM SALES OF PHYSICAL COMMODITIES IS DETERMINED  
20 AFTER THE DEDUCTION OF THE COST TO ACQUIRE OR PRODUCE THE PHYSICAL  
21 COMMODITIES.

22 (B) OTHER RECEIPTS FROM BROKER OR DEALER ACTIVITIES. RECEIPTS OF A  
23 REGISTERED SECURITIES BROKER OR DEALER FROM SECURITIES OR COMMODITIES  
24 BROKER OR DEALER ACTIVITIES DESCRIBED IN THIS PARAGRAPH SHALL BE DEEMED  
25 TO BE GENERATED WITHIN THE STATE AS DESCRIBED IN SUBPARAGRAPHS ONE  
26 THROUGH EIGHT OF THIS PARAGRAPH. RECEIPTS FROM SUCH ACTIVITIES GENERATED  
27 WITHIN THE STATE SHALL BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT  
28 FRACTION. RECEIPTS FROM SUCH ACTIVITIES GENERATED WITHIN AND WITHOUT THE  
29 STATE SHALL BE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRAC-  
30 TION. FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM "SECURITIES" SHALL  
31 HAVE THE SAME MEANING AS IN SECTION 475(C)(2) OF THE INTERNAL REVENUE  
32 CODE AND THE TERM "COMMODITIES" SHALL HAVE THE SAME MEANING AS IN  
33 SECTION 475(E)(2) OF THE INTERNAL REVENUE CODE.

34 (1) RECEIPTS CONSTITUTING BROKERAGE COMMISSIONS DERIVED FROM THE  
35 EXECUTION OF SECURITIES OR COMMODITIES PURCHASE OR SALES ORDERS FOR THE  
36 ACCOUNTS OF CUSTOMERS SHALL BE DEEMED TO BE GENERATED WITHIN THE STATE  
37 IF THE MAILING ADDRESS IN THE RECORDS OF THE TAXPAYER OF THE CUSTOMER  
38 WHO IS RESPONSIBLE FOR PAYING SUCH COMMISSIONS IS WITHIN THE STATE.

39 (2) RECEIPTS CONSTITUTING MARGIN INTEREST EARNED ON BEHALF OF BROKER-  
40 AGE ACCOUNTS SHALL BE DEEMED TO BE GENERATED WITHIN THE STATE IF THE  
41 MAILING ADDRESS IN THE RECORDS OF THE TAXPAYER OF THE CUSTOMER WHO IS  
42 RESPONSIBLE FOR PAYING SUCH MARGIN INTEREST IS WITHIN THE STATE.

43 (3)(A) RECEIPTS CONSTITUTING FEES EARNED BY THE TAXPAYER FOR ADVISORY  
44 SERVICES TO A CUSTOMER IN CONNECTION WITH THE UNDERWRITING OF SECURITIES  
45 FOR SUCH CUSTOMER (SUCH CUSTOMER BEING THE ENTITY THAT IS CONTEMPLATING  
46 ISSUING OR IS ISSUING SECURITIES) OR FEES EARNED BY THE TAXPAYER FOR  
47 MANAGING AN UNDERWRITING SHALL BE DEEMED TO BE GENERATED WITHIN THE  
48 STATE IF THE MAILING ADDRESS IN THE RECORDS OF THE TAXPAYER OF SUCH  
49 CUSTOMER WHO IS RESPONSIBLE FOR PAYING SUCH FEES IS WITHIN THE STATE.

50 (B) RECEIPTS CONSTITUTING THE PRIMARY SPREAD OF SELLING CONCESSION  
51 FROM UNDERWRITTEN SECURITIES SHALL BE DEEMED TO BE GENERATED WITHIN THE  
52 STATE IF THE CUSTOMER IS LOCATED IN THE STATE.

53 (C) THE TERM "PRIMARY SPREAD" MEANS THE DIFFERENCE BETWEEN THE PRICE  
54 PAID BY THE TAXPAYER TO THE ISSUER OF THE SECURITIES BEING MARKETED AND  
55 THE PRICE RECEIVED FROM THE SUBSEQUENT SALE OF THE UNDERWRITTEN SECURI-  
56 TIES AT THE INITIAL PUBLIC OFFERING PRICE, LESS ANY SELLING CONCESSION

1 AND ANY FEES PAID TO THE TAXPAYER FOR ADVISORY SERVICES OR ANY MANAGER'S  
2 FEES, IF SUCH FEES ARE NOT PAID BY THE CUSTOMER TO THE TAXPAYER SEPA-  
3 RATELY. THE TERM "PUBLIC OFFERING PRICE" MEANS THE PRICE AGREED UPON BY  
4 THE TAXPAYER AND THE ISSUER AT WHICH THE SECURITIES ARE TO BE OFFERED TO  
5 THE PUBLIC. THE TERM "SELLING CONCESSION" MEANS THE AMOUNT PAID TO THE  
6 TAXPAYER FOR PARTICIPATING IN THE UNDERWRITING OF A SECURITY WHERE THE  
7 TAXPAYER IS NOT THE LEAD UNDERWRITER.

8 (4) RECEIPTS CONSTITUTING ACCOUNT MAINTENANCE FEES SHALL BE DEEMED TO  
9 BE GENERATED WITHIN THE STATE IF THE MAILING ADDRESS IN THE RECORD OF  
10 THE TAXPAYER OF THE CUSTOMER WHO IS RESPONSIBLE FOR PAYING SUCH ACCOUNT  
11 MAINTENANCE FEES IS WITHIN THE STATE.

12 (5) RECEIPTS CONSTITUTING FEES FOR MANAGEMENT OR ADVISORY SERVICES,  
13 INCLUDING FEES FOR ADVISORY SERVICES IN RELATION TO MERGER OR ACQUISI-  
14 TION ACTIVITIES, BUT EXCLUDING FEES PAID FOR SERVICES DESCRIBED IN PARA-  
15 GRAPH (D) OF THIS SUBDIVISION, SHALL BE DEEMED TO BE GENERATED WITHIN  
16 THE STATE IF THE MAILING ADDRESS IN THE RECORDS OF THE TAXPAYER OF THE  
17 CUSTOMER WHO IS RESPONSIBLE FOR PAYING SUCH FEES IS WITHIN THE STATE.

18 (6) RECEIPTS CONSTITUTING INTEREST EARNED BY THE TAXPAYER ON LOANS AND  
19 ADVANCES MADE BY THE TAXPAYER TO A CORPORATION AFFILIATED WITH THE  
20 TAXPAYER BUT WITH WHICH THE TAXPAYER IS NOT PERMITTED OR REQUIRED TO  
21 FILE A COMBINED REPORT PURSUANT TO SECTION TWO HUNDRED TEN-C OF THIS  
22 ARTICLE SHALL BE DEEMED TO ARISE FROM SERVICES PERFORMED AT THE PRINCI-  
23 PAL PLACE OF BUSINESS OF SUCH AFFILIATED CORPORATION.

24 (7) IF THE TAXPAYER RECEIVES ANY OF THE RECEIPTS ENUMERATED IN SUBPAR-  
25 AGRAPHS ONE THROUGH FOUR OF THIS PARAGRAPH AS A RESULT OF A SECURITIES  
26 CORRESPONDENT RELATIONSHIP SUCH TAXPAYER HAS WITH ANOTHER BROKER OR  
27 DEALER WITH THE TAXPAYER ACTING IN THIS RELATIONSHIP AS THE CLEARING  
28 FIRM, SUCH RECEIPTS SHALL BE DEEMED TO BE GENERATED WITHIN THE STATE TO  
29 EXTENT SET FORTH IN EACH OF SUCH SUBPARAGRAPHS. THE AMOUNT OF SUCH  
30 RECEIPTS SHALL EXCLUDE THE AMOUNT THE TAXPAYER IS REQUIRED TO PAY TO THE  
31 CORRESPONDENT FIRM FOR SUCH CORRESPONDENT RELATIONSHIP. IF THE TAXPAYER  
32 RECEIVES ANY OF THE RECEIPTS ENUMERATED IN SUBPARAGRAPHS ONE THROUGH  
33 FOUR OF THIS PARAGRAPH AS AS RESULT OF A SECURITIES CORRESPONDENT  
34 RELATIONSHIP SUCH TAXPAYER HAS WITH ANOTHER BROKER OR DEALER WITH THE  
35 TAXPAYER ACTING IN THIS RELATIONSHIP AS THE INTRODUCING FIRM, SUCH  
36 RECEIPTS SHALL BE DEEMED TO BE GENERATED WITHIN THE STATE TO THE EXTENT  
37 SET FORTH IN EACH OF SUCH SUBPARAGRAPHS.

38 (8) IF, FOR PURPOSES OF SUBPARAGRAPHS ONE, TWO, CLAUSE (A) OF SUBPARA-  
39 GRAPH THREE, FOUR, OR FIVE OF THIS PARAGRAPH THE TAXPAYER IS UNABLE FROM  
40 ITS RECORDS TO DETERMINE THE MAILING ADDRESS OF THE CUSTOMER, EIGHT  
41 PERCENT OF THE RECEIPTS IS INCLUDED IN THE NUMERATOR OF THE APPORTION-  
42 MENT FRACTION.

43 (C) RECEIPTS FROM CREDIT CARD AND SIMILAR ACTIVITIES. RECEIPTS RELAT-  
44 ING TO THE BANK, CREDIT, TRAVEL AND ENTERTAINMENT CARD ACTIVITIES  
45 DESCRIBED IN THIS PARAGRAPH SHALL BE DEEMED TO BE GENERATED WITHIN THE  
46 STATE AS DESCRIBED IN SUBPARAGRAPHS ONE THROUGH FOUR OF THIS PARAGRAPH.  
47 RECEIPTS FROM SUCH ACTIVITIES GENERATED WITHIN THE STATE SHALL BE  
48 INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. RECEIPTS FROM  
49 SUCH ACTIVITIES GENERATED WITHIN AND WITHOUT THE STATE SHALL BE INCLUDED  
50 IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

51 (1) RECEIPTS CONSTITUTING INTEREST, AND FEES AND PENALTIES IN THE  
52 NATURE OF INTEREST, FROM BANK, CREDIT, TRAVEL AND ENTERTAINMENT CARD  
53 RECEIVABLES SHALL BE DEEMED TO BE GENERATED WITHIN THE STATE IF THE  
54 MAILING ADDRESS OF THE CARD HOLDER IN THE RECORDS OF THE TAXPAYER IS IN  
55 THE STATE;

1 (2) RECEIPTS FROM SERVICE CHARGES AND FEES FROM SUCH CARDS SHALL BE  
2 DEEMED TO BE GENERATED WITHIN THE STATE IF THE MAILING ADDRESS OF THE  
3 CARD HOLDER IN THE RECORDS OF THE TAXPAYER IS IN THE STATE; AND

4 (3) RECEIPTS FROM MERCHANT DISCOUNTS SHALL BE DEEMED TO BE GENERATED  
5 WITHIN THE STATE IF THE MERCHANT IS LOCATED WITHIN THE STATE. IN THE  
6 CASE OF A MERCHANT WITH LOCATIONS BOTH WITHIN AND WITHOUT NEW YORK  
7 STATE, ONLY RECEIPTS FROM MERCHANT DISCOUNTS ATTRIBUTABLE TO SALES MADE  
8 FROM LOCATIONS WITHIN NEW YORK STATE ARE ALLOCATED TO NEW YORK STATE. IT  
9 SHALL BE PRESUMED THAT THE LOCATION OF THE MERCHANT IS THE ADDRESS OF  
10 THE MERCHANT SHOWN ON THE INVOICE SUBMITTED BY THE MERCHANT TO THE  
11 TAXPAYER.

12 (4) RECEIPTS FROM CREDIT CARD AUTHORIZATION PROCESSING, AND CLEARING  
13 AND SETTLEMENT PROCESSING RECEIVED BY CREDIT CARD PROCESSORS SHALL BE  
14 DEEMED TO BE GENERATED WITHIN THE STATE IF THE LOCATION WHERE THE CREDIT  
15 CARD PROCESSOR'S CUSTOMER ACCESSES THE CREDIT CARD PROCESSOR'S NETWORK  
16 IS LOCATED WITHIN THE STATE. THE AMOUNT OF ALL OTHER RECEIPTS RECEIVED  
17 BY CREDIT CARD PROCESSORS NOT SPECIFICALLY ADDRESSED IN SUBDIVISIONS ONE  
18 THROUGH NINE OF THIS SECTION DEEMED TO BE GENERATED WITHIN THE STATE  
19 SHALL BE DETERMINED BY MULTIPLYING THE TOTAL AMOUNT OF SUCH OTHER  
20 RECEIPTS BY THE AVERAGE OF (I) EIGHT PERCENT AND (II) THE PERCENT OF ITS  
21 NEW YORK ACCESS POINTS. THE PERCENT OF NEW YORK ACCESS POINTS IS THE  
22 NUMBER OF LOCATIONS IN NEW YORK FROM WHICH THE CREDIT CARD PROCESSOR'S  
23 CUSTOMERS ACCESS THE CREDIT CARD PROCESSOR'S NETWORK DIVIDED BY THE  
24 TOTAL NUMBER OF LOCATIONS IN THE UNITED STATES WHERE THE CREDIT CARD  
25 PROCESSOR'S CUSTOMERS ACCESS THE CREDIT CARD PROCESSOR'S NETWORK.

26 (D) RECEIPTS FROM CERTAIN SERVICES TO INVESTMENT COMPANIES. RECEIPTS  
27 RECEIVED FROM AN INVESTMENT COMPANY ARISING FROM THE SALE OF MANAGEMENT,  
28 ADMINISTRATION OR DISTRIBUTION SERVICES TO SUCH INVESTMENT COMPANY ARE  
29 INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION. THE PORTION  
30 OF SUCH RECEIPTS INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION  
31 (SUCH PORTION REFERRED TO HEREIN AS THE NEW YORK PORTION) SHALL BE  
32 DETERMINED AS PROVIDED IN THIS PARAGRAPH.

33 (1) THE NEW YORK PORTION SHALL BE THE PRODUCT OF THE TOTAL OF SUCH  
34 RECEIPTS FROM THE SALE OF SUCH SERVICES AND A FRACTION. THE NUMERATOR OF  
35 THAT FRACTION IS THE SUM OF THE MONTHLY PERCENTAGES (AS DEFINED HEREIN-  
36 AFTER) DETERMINED FOR EACH MONTH OF THE INVESTMENT COMPANY'S TAXABLE  
37 YEAR FOR FEDERAL INCOME TAX PURPOSES WHICH TAXABLE YEAR ENDS WITHIN THE  
38 TAXABLE YEAR OF THE TAXPAYER (BUT EXCLUDING ANY MONTH DURING WHICH THE  
39 INVESTMENT COMPANY HAD NO OUTSTANDING SHARES). THE MONTHLY PERCENTAGE  
40 FOR EACH SUCH MONTH IS DETERMINED BY DIVIDING THE NUMBER OF SHARES IN  
41 THE INVESTMENT COMPANY THAT ARE OWNED ON THE LAST DAY OF THE MONTH BY  
42 SHAREHOLDERS THAT ARE LOCATED IN THE STATE BY THE TOTAL NUMBER OF SHARES  
43 IN THE INVESTMENT COMPANY OUTSTANDING ON THAT DATE. THE DENOMINATOR OF  
44 THE FRACTION IS THE NUMBER OF SUCH MONTHLY PERCENTAGES.

45 (2)(A) FOR PURPOSES OF THIS PARAGRAPH, AN INDIVIDUAL, ESTATE OR TRUST  
46 IS DEEMED TO BE LOCATED IN THE STATE IF HIS, HER OR ITS MAILING ADDRESS  
47 ON THE RECORDS OF THE INVESTMENT COMPANY IS IN THE STATE. A BUSINESS  
48 ENTITY IS DEEMED TO BE LOCATED IN THE STATE IF ITS COMMERCIAL DOMICILE  
49 IS LOCATED IN THE STATE.

50 (B) FOR PURPOSES OF THIS PARAGRAPH, THE TERM "INVESTMENT COMPANY"  
51 MEANS A REGULATED INVESTMENT COMPANY, AS DEFINED IN SECTION 851 OF THE  
52 INTERNAL REVENUE CODE, AND A PARTNERSHIP TO WHICH SECTION 7704(A) OF THE  
53 INTERNAL REVENUE CODE APPLIES (BY VIRTUE OF SECTION 7704(C)(3) OF SUCH  
54 CODE) AND THAT MEETS THE REQUIREMENTS OF SECTION 851(B) OF SUCH CODE.  
55 THE PRECEDING SENTENCE SHALL BE APPLIED TO THE TAXABLE YEAR FOR FEDERAL  
56 INCOME TAX PURPOSES OF THE BUSINESS ENTITY THAT IS ASSERTED TO CONSTI-

1 TUTE AN INVESTMENT COMPANY THAT ENDS WITHIN THE TAXABLE YEAR OF THE  
2 TAXPAYER.

3 (C) FOR PURPOSES OF THIS PARAGRAPH THE TERM "RECEIPTS FROM AN INVEST-  
4 MENT COMPANY" INCLUDES AMOUNTS RECEIVED DIRECTLY FROM AN INVESTMENT  
5 COMPANY AS WELL AS AMOUNTS RECEIVED FROM THE SHAREHOLDERS IN SUCH  
6 INVESTMENT COMPANY, IN THEIR CAPACITY AS SUCH.

7 (D) FOR PURPOSES OF THIS PARAGRAPH, THE TERM "MANAGEMENT SERVICES"  
8 MEANS THE RENDERING OF INVESTMENT ADVICE TO AN INVESTMENT COMPANY,  
9 MAKING DETERMINATIONS AS TO WHEN SALES AND PURCHASES OF SECURITIES ARE  
10 TO BE MADE ON BEHALF OF AN INVESTMENT COMPANY, OR THE SELLING OR  
11 PURCHASING OF SECURITIES CONSTITUTING ASSETS OF AN INVESTMENT COMPANY,  
12 AND RELATED ACTIVITIES, BUT ONLY WHERE SUCH ACTIVITY OR ACTIVITIES ARE  
13 PERFORMED PURSUANT TO A CONTRACT WITH THE INVESTMENT COMPANY ENTERED  
14 INTO PURSUANT TO SECTION 15(A) OF THE FEDERAL INVESTMENT COMPANY ACT OF  
15 NINETEEN HUNDRED FORTY, AS AMENDED.

16 (E) FOR PURPOSES OF THIS PARAGRAPH, THE TERM "DISTRIBUTION SERVICES"  
17 MEANS THE SERVICES OF ADVERTISING, SERVICING INVESTOR ACCOUNTS (INCLUD-  
18 ING REDEMPTIONS), MARKETING SHARES OR SELLING SHARES OF AN INVESTMENT  
19 COMPANY, BUT, IN THE CASE OF ADVERTISING, SERVICING INVESTOR ACCOUNTS  
20 (INCLUDING REDEMPTIONS) OR MARKETING SHARES, ONLY WHERE SUCH SERVICE IS  
21 PERFORMED BY A PERSON WHO IS (OR WAS, IN THE CASE OF A CLOSED END COMPA-  
22 NY) ALSO ENGAGED IN THE SERVICE OF SELLING SUCH SHARES. IN THE CASE OF  
23 AN OPEN END COMPANY, SUCH SERVICE OF SELLING SHARES MUST BE PERFORMED  
24 PURSUANT TO A CONTRACT ENTERED INTO PURSUANT TO SECTION 15(B) OF THE  
25 FEDERAL INVESTMENT COMPANY ACT OF NINETEEN HUNDRED FORTY, AS AMENDED.

26 (F) FOR PURPOSES OF THIS PARAGRAPH, THE TERM "ADMINISTRATION SERVICES"  
27 INCLUDES CLERICAL, ACCOUNTING, BOOKKEEPING, DATA PROCESSING, INTERNAL  
28 AUDITING, LEGAL AND TAX SERVICES PERFORMED FOR AN INVESTMENT COMPANY BUT  
29 ONLY IF THE PROVIDER OF SUCH SERVICE OR SERVICES DURING THE TAXABLE YEAR  
30 IN WHICH SUCH SERVICE OR SERVICES ARE SOLD ALSO SELLS MANAGEMENT OR  
31 DISTRIBUTION SERVICES, AS DEFINED HEREINABOVE, TO SUCH INVESTMENT COMPA-  
32 NY.

33 (E) FOR PURPOSES OF THIS SUBDIVISION, A TAXPAYER SHALL USE THE FOLLOW-  
34 ING HIERARCHY TO DETERMINE THE COMMERCIAL DOMICILE OF A BUSINESS ENTITY,  
35 BASED ON THE INFORMATION KNOWN TO THE TAXPAYER OR INFORMATION THAT WOULD  
36 BE KNOWN UPON REASONABLE INQUIRY: (I) THE LOCATION OF THE TREASURY FUNC-  
37 TION OF THE BUSINESS ENTITY; (II) THE SEAT OF MANAGEMENT AND CONTROL OF  
38 THE BUSINESS ENTITY; AND (III) THE BILLING ADDRESS OF THE BUSINESS ENTI-  
39 TY IN THE TAXPAYER'S RECORDS. THE TAXPAYER MUST EXERCISE DUE DILIGENCE  
40 BEFORE REJECTING A METHOD IN THIS HIERARCHY AND PROCEEDING TO THE NEXT  
41 METHOD.

42 (F) FOR PURPOSES OF THIS SUBDIVISION, THE TERM "REGISTERED SECURITIES  
43 BROKER OR DEALER" MEANS A BROKER OR DEALER REGISTERED AS SUCH BY THE  
44 SECURITIES AND EXCHANGE COMMISSION OR A BROKER OR DEALER REGISTERED AS  
45 SUCH BY THE COMMODITIES FUTURES TRADING COMMISSION, AND SHALL INCLUDE AN  
46 OTC DERIVATIVES DEALER AS DEFINED UNDER REGULATIONS OF THE SECURITIES  
47 AND EXCHANGE COMMISSION AT TITLE 17, PART 240, SECTION 3B-12 OF THE CODE  
48 OF FEDERAL REGULATIONS (17 CFR 240.3B-12).

49 6. RECEIPTS FROM RAILROAD AND TRUCKING BUSINESS. RECEIPTS FROM THE  
50 CONDUCT OF A RAILROAD BUSINESS (INCLUDING SURFACE RAILROAD, WHETHER OR  
51 NOT OPERATED BY STEAM, SUBWAY RAILROAD, ELEVATED RAILROAD, PALACE CAR OR  
52 SLEEPING CAR BUSINESS) OR A TRUCKING BUSINESS ARE INCLUDED IN THE NUMER-  
53 ATOR OF THE APPORTIONMENT FRACTION AS FOLLOWS. THE AMOUNT OF RECEIPTS  
54 FROM THE CONDUCT OF A RAILROAD BUSINESS OR A TRUCKING BUSINESS INCLUDED  
55 IN THE NUMERATOR OF THE APPORTIONMENT FRACTION IS DETERMINED BY MULTI-  
56 PLYING THE AMOUNT OF RECEIPTS FROM SUCH BUSINESS BY A FRACTION, THE

NUMERATOR OF WHICH IS THE MILES IN SUCH BUSINESS WITHIN THE STATE DURING THE PERIOD COVERED BY THE TAXPAYER'S REPORT AND THE DENOMINATOR OF WHICH IS THE MILES IN SUCH BUSINESS WITHIN AND WITHOUT THE STATE DURING SUCH PERIOD. RECEIPTS FROM THE CONDUCT OF THE RAILROAD BUSINESS OR A TRUCKING BUSINESS ARE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

7. RECEIPTS FROM AVIATION SERVICES. (A) AIR FREIGHT FORWARDING. RECEIPTS OF A TAXPAYER FROM THE ACTIVITY OF AIR FREIGHT FORWARDING ACTING AS PRINCIPAL AND LIKE INDIRECT AIR CARRIER RECEIPTS ARISING FROM SUCH ACTIVITY SHALL BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION AS FOLLOWS: ONE HUNDRED PERCENT OF SUCH RECEIPTS IF BOTH THE PICKUP AND DELIVERY ASSOCIATED WITH SUCH RECEIPTS ARE MADE IN THE STATE AND FIFTY PERCENT OF SUCH RECEIPTS IF EITHER THE PICKUP OR DELIVERY ASSOCIATED WITH SUCH RECEIPTS IS MADE IN THIS STATE. SUCH RECEIPTS, WHETHER THE PICKUP OR DELIVERY ASSOCIATED WITH THE RECEIPTS IS WITHIN OR WITHOUT THE STATE, SHALL BE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

(B) OTHER AVIATION SERVICES. (1)(A) THE PORTION OF RECEIPTS OF A TAXPAYER FROM AVIATION SERVICES (OTHER THAN SERVICES DESCRIBED IN PARAGRAPH (A) OF THIS SUBDIVISION) TO BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION SHALL BE DETERMINED BY MULTIPLYING ITS RECEIPTS FROM SUCH AVIATION SERVICES BY A PERCENTAGE WHICH IS EQUAL TO THE ARITHMETIC AVERAGE OF THE FOLLOWING THREE PERCENTAGES:

(I) THE PERCENTAGE DETERMINED BY DIVIDING SIXTY PERCENT OF THE AIRCRAFT ARRIVALS AND DEPARTURES WITHIN THIS STATE BY THE TAXPAYER DURING THE PERIOD COVERED BY ITS REPORT BY THE TOTAL AIRCRAFT ARRIVALS AND DEPARTURES WITHIN AND WITHOUT THIS STATE DURING SUCH PERIOD; PROVIDED, HOWEVER, ARRIVALS AND DEPARTURES SOLELY FOR MAINTENANCE OR REPAIR, REFUELING (WHERE NO DEBARKATION OR EMBARKATION OF TRAFFIC OCCURS), ARRIVALS AND DEPARTURES OF FERRY AND PERSONNEL TRAINING FLIGHTS OR ARRIVALS AND DEPARTURES IN THE EVENT OF EMERGENCY SITUATIONS SHALL NOT BE INCLUDED IN COMPUTING SUCH ARRIVAL AND DEPARTURE PERCENTAGE; PROVIDED, FURTHER, THE COMMISSIONER MAY ALSO EXEMPT FROM SUCH PERCENTAGE AIRCRAFT ARRIVALS AND DEPARTURES OF ALL NON-REVENUE FLIGHTS INCLUDING FLIGHTS INVOLVING THE TRANSPORTATION OF OFFICERS OR EMPLOYEES RECEIVING AIR TRANSPORTATION TO PERFORM MAINTENANCE OR REPAIR SERVICES OR WHERE SUCH OFFICERS OR EMPLOYEES ARE TRANSPORTED IN CONJUNCTION WITH AN EMERGENCY SITUATION OR THE INVESTIGATION OF AN AIR DISASTER (OTHER THAN ON A SCHEDULED FLIGHT); PROVIDED, HOWEVER, THAT ARRIVALS AND DEPARTURES OF FLIGHTS TRANSPORTING OFFICERS AND EMPLOYEES RECEIVING AIR TRANSPORTATION FOR PURPOSES OTHER THAN SPECIFIED ABOVE (WITHOUT REGARD TO REMUNERATION) SHALL BE INCLUDED IN COMPUTING SUCH ARRIVAL AND DEPARTURE PERCENTAGE;

(II) THE PERCENTAGE DETERMINED BY DIVIDING SIXTY PERCENT OF THE REVENUE TONS HANDLED BY THE TAXPAYER AT AIRPORTS WITHIN THIS STATE DURING SUCH PERIOD BY THE TOTAL REVENUE TONS HANDLED BY IT AT AIRPORTS WITHIN AND WITHOUT THIS STATE DURING SUCH PERIOD; AND

(III) THE PERCENTAGE DETERMINED BY DIVIDING SIXTY PERCENT OF THE TAXPAYER'S ORIGINATING REVENUE WITHIN THIS STATE FOR SUCH PERIOD BY ITS TOTAL ORIGINATING REVENUE WITHIN AND WITHOUT THIS STATE FOR SUCH PERIOD.

(B) AS USED HEREIN THE TERM "AIRCRAFT ARRIVALS AND DEPARTURES" MEANS THE NUMBER OF LANDINGS AND TAKEOFFS OF THE AIRCRAFT OF THE TAXPAYER AND THE NUMBER OF AIR PICKUPS AND DELIVERIES BY THE AIRCRAFT OF SUCH TAXPAYER; THE TERM "ORIGINATING REVENUE" MEANS REVENUE TO THE TAXPAYER FROM THE TRANSPORTATION OR REVENUE PASSENGERS AND REVENUE PROPERTY FIRST RECEIVED BY THE TAXPAYER EITHER AS ORIGINATING OR CONNECTING TRAFFIC AT AIRPORTS; AND THE TERM "REVENUE TONS HANDLED" BY THE TAXPAYER AT

1 AIRPORTS MEANS THE WEIGHT IN TONS OF REVENUE PASSENGERS (AT TWO HUNDRED  
2 POUNDS PER PASSENGER) AND REVENUE CARGO FIRST RECEIVED EITHER AS ORIGI-  
3 NATING OR CONNECTING TRAFFIC OR FINALLY DISCHARGED BY THE TAXPAYER AT  
4 AIRPORTS;

5 (2) ALL SUCH RECEIPTS OF A TAXPAYER FROM AVIATION SERVICES DESCRIBED  
6 IN THIS PARAGRAPH ARE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT  
7 FRACTION.

8 8. RECEIPTS FROM SALES OF ADVERTISING. (A) THE AMOUNT OF RECEIPTS FROM  
9 SALES OF ADVERTISING IN NEWSPAPERS OR PERIODICALS INCLUDED IN THE NUMER-  
10 ATOR OF THE APPORTIONMENT FRACTION IS DETERMINED BY MULTIPLYING THE  
11 TOTAL OF SUCH RECEIPTS BY A FRACTION, THE NUMERATOR OF WHICH IS THE  
12 NUMBER OF NEWSPAPERS AND PERIODICALS DELIVERED TO POINTS WITHIN THE  
13 STATE AND THE DENOMINATOR OF WHICH IS THE NUMBER OF NEWSPAPERS AND PERI-  
14 ODICALS DELIVERED TO POINTS WITHIN AND WITHOUT THE STATE. THE TOTAL OF  
15 SUCH RECEIPTS FROM SALES OF ADVERTISING IN NEWSPAPERS OR PERIODICALS IS  
16 INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

17 (B) THE AMOUNT OF RECEIPTS FROM SALES OF ADVERTISING ON TELEVISION OR  
18 RADIO INCLUDED IN THE APPORTIONMENT FRACTION IS DETERMINED BY MULTIPLY-  
19 ING THE TOTAL OF SUCH RECEIPTS BY A FRACTION, THE NUMERATOR OF WHICH IS  
20 THE NUMBER OF VIEWERS OR LISTENERS WITHIN THE STATE AND THE DENOMINATOR  
21 OF WHICH IS THE NUMBER OF VIEWERS OR LISTENERS WITHIN AND WITHOUT THE  
22 STATE. THE TOTAL OF SUCH RECEIPTS FROM SALES OF ADVERTISING ON TELE-  
23 VISION AND RADIO IS INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT  
24 FRACTION.

25 (C) THE AMOUNT OF RECEIPTS FROM SALES OF ADVERTISING NOT DESCRIBED IN  
26 PARAGRAPH (A) OR (B) OF THIS SUBDIVISION THAT IS FURNISHED, PROVIDED OR  
27 DELIVERED TO, OR ACCESSED BY THE VIEWER OR LISTENER THROUGH THE USE OF  
28 WIRE, CABLE, FIBER-OPTIC, LASER, MICROWAVE, RADIO WAVE, SATELLITE OR  
29 SIMILAR SUCCESSOR MEDIA OR ANY COMBINATION THEREOF, INCLUDED IN THE  
30 NUMERATOR OF THE APPORTIONMENT FRACTION IS DETERMINED BY MULTIPLYING THE  
31 TOTAL OF SUCH RECEIPTS BY A FRACTION, THE NUMERATOR OF WHICH IS THE  
32 NUMBER OF VIEWERS OR LISTENERS WITHIN THE STATE AND THE DENOMINATOR OF  
33 WHICH IS THE NUMBER OF VIEWERS OR LISTENERS WITHIN AND WITHOUT THE  
34 STATE. THE TOTAL OF SUCH RECEIPTS FROM SALES OF ADVERTISING DESCRIBED IN  
35 THIS PARAGRAPH IS INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRAC-  
36 TION.

37 9. RECEIPTS FROM TRANSPORTATION OR TRANSMISSION OF GAS THROUGH PIPES.  
38 RECEIPTS FROM THE TRANSPORTATION OR TRANSMISSION OF GAS THROUGH PIPES  
39 ARE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION AS FOLLOWS.  
40 THE AMOUNT OF RECEIPTS FROM THE TRANSPORTATION OR TRANSMISSION OF GAS  
41 THROUGH PIPES INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION IS  
42 DETERMINED BY MULTIPLYING THE TOTAL AMOUNT OF SUCH RECEIPTS BY A FRAC-  
43 TION, THE NUMERATOR OF WHICH IS THE TAXPAYER'S TRANSPORTATION UNITS  
44 WITHIN THE STATE AND THE DENOMINATOR OF WHICH IS THE TAXPAYER'S TRANS-  
45 PORTATION UNITS WITHIN AND WITHOUT THE STATE. A TRANSPORTATION UNIT IS  
46 THE TRANSPORTATION OF ONE CUBIC FOOT OF GAS OVER A DISTANCE OF ONE MILE.  
47 THE TOTAL AMOUNT OF RECEIPTS FROM THE TRANSPORTATION OR TRANSMISSION OF  
48 GAS THROUGH PIPES IS INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT  
49 FRACTION.

50 10. (A) RECEIPTS FROM OTHER SERVICES AND OTHER BUSINESS RECEIPTS.  
51 RECEIPTS FROM SERVICES NOT ADDRESSED IN SUBDIVISIONS ONE THROUGH NINE OF  
52 THIS SECTION AND OTHER BUSINESS RECEIPTS NOT ADDRESSED IN SUCH SUBDIVI-  
53 SIONS SHALL BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION  
54 IF THE LOCATION OF THE CUSTOMER IS WITHIN THE STATE. SUCH RECEIPTS FROM  
55 CUSTOMERS WITHIN AND WITHOUT THE STATE ARE INCLUDED IN THE DENOMINATOR  
56 OF THE APPORTIONMENT FRACTION. WHETHER THE RECEIPTS ARE INCLUDED IN THE

NUMERATOR OF THE APPORTIONMENT FRACTION IS DETERMINED ACCORDING TO THE HIERARCHY OF METHOD SET FORTH IN PARAGRAPH (B) OF THIS SUBDIVISION. THE TAXPAYER MUST EXERCISE DUE DILIGENCE UNDER EACH METHOD DESCRIBED IN SUCH PARAGRAPH (B) BEFORE REJECTING IT AND PROCEEDING TO THE NEXT METHOD IN THE HIERARCHY, AND MUST BASE ITS DETERMINATION ON INFORMATION KNOWN TO THE TAXPAYER OR INFORMATION THAT WOULD BE KNOWN TO THE TAXPAYER UPON REASONABLE INQUIRY.

(B) HIERARCHY OF METHODS. (1) THE BENEFIT IS RECEIVED IN THIS STATE;

(2) DELIVERY DESTINATION;

(3) THE APPORTIONMENT FRACTION FOR SUCH RECEIPTS WITHIN THE STATE DETERMINED PURSUANT TO THIS SUBDIVISION FOR THE PRECEDING TAXABLE YEAR; OR

(4) THE APPORTIONMENT FRACTION IN THE CURRENT TAXABLE YEAR DETERMINED PURSUANT TO THIS SUBDIVISION FOR THOSE RECEIPTS THAT CAN BE SOURCED USING THE HIERARCHY OF SOURCING METHODS IN SUBPARAGRAPHS ONE AND TWO OF THIS PARAGRAPH.

11. IF IT SHALL APPEAR THAT THE APPORTIONMENT FRACTION DETERMINED PURSUANT TO THIS SECTION DOES NOT RESULT IN A PROPER REFLECTION OF THE TAXPAYER'S BUSINESS INCOME OR CAPITAL WITHIN THE STATE, THE COMMISSIONER IS AUTHORIZED IN HIS OR HER DISCRETION TO ADJUST IT, OR THE TAXPAYER MAY REQUEST THAT THE COMMISSIONER ADJUST IT, BY (A) EXCLUDING ONE OR MORE ITEMS IN SUCH DETERMINATION, (B) INCLUDING ONE OR MORE OTHER ITEMS IN SUCH DETERMINATION, OR (C) ANY OTHER SIMILAR OR DIFFERENT METHOD CALCULATED TO EFFECT A FAIR AND PROPER APPORTIONMENT OF THE BUSINESS INCOME AND CAPITAL REASONABLY ATTRIBUTED TO THE STATE. THE PARTY SEEKING THE ADJUSTMENT SHALL BEAR THE BURDEN OF PROOF TO DEMONSTRATE THAT THE APPORTIONMENT FRACTION DETERMINED PURSUANT TO THIS SECTION DOES NOT RESULT IN A PROPER REFLECTION OF THE TAXPAYER'S BUSINESS INCOME OR CAPITAL WITHIN THE STATE AND THAT THE PROPOSED ADJUSTMENT IS APPROPRIATE.

S 17. The tax law is amended by adding a new section 210-B to read as follows:

S 210-B. CREDITS. 1. INVESTMENT TAX CREDIT (ITC). (A) A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE. THE AMOUNT OF THE CREDIT SHALL BE THE PERCENT PROVIDED FOR HEREINBELOW OF THE INVESTMENT CREDIT BASE. THE INVESTMENT CREDIT BASE IS THE COST OR OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES OF TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROPERTY, INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS, DESCRIBED IN PARAGRAPH (B) OF THIS SUBDIVISION, LESS THE AMOUNT OF THE NONQUALIFIED NONRECOURSE FINANCING WITH RESPECT TO SUCH PROPERTY TO THE EXTENT SUCH FINANCING WOULD BE EXCLUDIBLE FROM THE CREDIT BASE PURSUANT TO SECTION 46(C)(8) OF THE INTERNAL REVENUE CODE (TREATING SUCH PROPERTY AS SECTION THIRTY-EIGHT PROPERTY IRRESPECTIVE OF WHETHER OR NOT IT IN FACT CONSTITUTES SECTION THIRTY-EIGHT PROPERTY). IF, AT THE CLOSE OF A TAXABLE YEAR FOLLOWING THE TAXABLE YEAR IN WHICH SUCH PROPERTY WAS PLACED IN SERVICE, THERE IS A NET DECREASE IN THE AMOUNT OF NONQUALIFIED NONRECOURSE FINANCING WITH RESPECT TO SUCH PROPERTY, SUCH NET DECREASE SHALL BE TREATED AS IF IT WERE THE COST OR OTHER BASIS OF PROPERTY DESCRIBED IN PARAGRAPH (B) OF THIS SUBDIVISION ACQUIRED, CONSTRUCTED, RECONSTRUCTED OR ERECTED DURING THE YEAR OF THE DECREASE IN THE AMOUNT OF NONQUALIFIED NONRECOURSE FINANCING. IN THE CASE OF A COMBINED REPORT THE TERM INVESTMENT CREDIT BASE SHALL MEAN THE SUM OF THE INVESTMENT CREDIT BASE OF EACH CORPORATION INCLUDED ON SUCH REPORT. THE PERCENTAGE TO BE USED TO COMPUTE THE CREDIT ALLOWED PURSUANT TO THIS SUBDIVISION SHALL BE FIVE PERCENT WITH RESPECT TO THE FIRST THREE HUNDRED FIFTY MILLION DOLLARS OF THE INVESTMENT CREDIT BASE, AND FOUR PERCENT WITH RESPECT TO THE INVEST-



MENT CREDIT BASE IN EXCESS OF THREE HUNDRED FIFTY MILLION DOLLARS, EXCEPT THAT IN THE CASE OF RESEARCH AND DEVELOPMENT PROPERTY AT THE OPTION OF THE TAXPAYER THE APPLICABLE PERCENTAGE SHALL BE NINE.

(B) (I) A CREDIT SHALL BE ALLOWED UNDER THIS SUBDIVISION WITH RESPECT TO TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROPERTY, INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS, WHICH ARE: DEPRECIABLE PURSUANT TO SECTION ONE HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE CODE, HAVE A USEFUL LIFE OF FOUR YEARS OR MORE, ARE ACQUIRED BY PURCHASE AS DEFINED IN SECTION ONE HUNDRED SEVENTY-NINE (D) OF THE INTERNAL REVENUE CODE, HAVE A SITUS IN THIS STATE AND ARE (A) PRINCIPALLY USED BY THE TAXPAYER IN THE PRODUCTION OF GOODS BY MANUFACTURING, PROCESSING, ASSEMBLING, REFINING, MINING, EXTRACTING, FARMING, AGRICULTURE, HORTICULTURE, FLORICULTURE, VITICULTURE OR COMMERCIAL FISHING, (B) INDUSTRIAL WASTE TREATMENT FACILITIES OR AIR POLLUTION CONTROL FACILITIES, USED IN THE TAXPAYER'S TRADE OR BUSINESS, (C) RESEARCH AND DEVELOPMENT PROPERTY, OR (D) PRINCIPALLY USED IN THE ORDINARY COURSE OF THE TAXPAYER'S TRADE OR BUSINESS AS A BROKER OR DEALER IN CONNECTION WITH THE PURCHASE OR SALE (WHICH SHALL INCLUDE BUT NOT BE LIMITED TO THE ISSUANCE, ENTERING INTO, ASSUMPTION, OFFSET, ASSIGNMENT, TERMINATION, OR TRANSFER) OF STOCKS, BONDS OR OTHER SECURITIES AS DEFINED IN SECTION FOUR HUNDRED SEVENTY-FIVE (C)(2) OF THE INTERNAL REVENUE CODE, OR OF COMMODITIES AS DEFINED IN SECTION FOUR HUNDRED SEVENTY-FIVE (E) OF THE INTERNAL REVENUE CODE, (E) PRINCIPALLY USED IN THE ORDINARY COURSE OF THE TAXPAYER'S TRADE OR BUSINESS OF PROVIDING INVESTMENT ADVISORY SERVICES FOR A REGULATED INVESTMENT COMPANY AS DEFINED IN SECTION EIGHT HUNDRED FIFTY-ONE OF THE INTERNAL REVENUE CODE, OR LENDING, LOAN ARRANGEMENT OR LOAN ORIGINATION SERVICES TO CUSTOMERS IN CONNECTION WITH THE PURCHASE OR SALE (WHICH SHALL INCLUDE BUT NOT BE LIMITED TO THE ISSUANCE, ENTERING INTO, ASSUMPTION, OFFSET, ASSIGNMENT, TERMINATION, OR TRANSFER) OF SECURITIES AS DEFINED IN SECTION FOUR HUNDRED SEVENTY-FIVE (C)(2) OF THE INTERNAL REVENUE CODE, (F) ORIGINALLY USED IN THE ORDINARY COURSE OF THE TAXPAYER'S BUSINESS AS AN EXCHANGE REGISTERED AS A NATIONAL SECURITIES EXCHANGE WITHIN THE MEANING OF SECTIONS 3(A)(1) AND 6(A) OF THE SECURITIES EXCHANGE ACT OF 1934 OR A BOARD OF TRADE AS DEFINED IN SECTION 1410(A)(1) OF THE NEW YORK NOT-FOR-PROFIT CORPORATION LAW OR AS AN ENTITY THAT IS WHOLLY OWNED BY ONE OR MORE SUCH NATIONAL SECURITIES EXCHANGES OR BOARDS OF TRADE AND THAT PROVIDES AUTOMATION OR TECHNICAL SERVICES THERETO, OR (G) PRINCIPALLY USED AS A QUALIFIED FILM PRODUCTION FACILITY INCLUDING QUALIFIED FILM PRODUCTION FACILITIES HAVING A SITUS IN AN EMPIRE ZONE DESIGNATED AS SUCH PURSUANT TO ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW, WHERE THE TAXPAYER IS PROVIDING THREE OR MORE SERVICES TO ANY QUALIFIED FILM PRODUCTION COMPANY USING THE FACILITY, INCLUDING SUCH SERVICES AS A STUDIO LIGHTING GRID, LIGHTING AND GRIP EQUIPMENT, MULTI-LINE PHONE SERVICE, BROADBAND INFORMATION TECHNOLOGY ACCESS, INDUSTRIAL SCALE ELECTRICAL CAPACITY, FOOD SERVICES, SECURITY SERVICES, AND HEATING, VENTILATION AND AIR CONDITIONING. PROVIDED, HOWEVER, A TAXPAYER SHALL NOT BE ALLOWED THE CREDIT PROVIDED BY CLAUSES (D), (E) AND (F) OF THIS SUBPARAGRAPH UNLESS (I) EIGHTY PERCENT OR MORE OF THE EMPLOYEES PERFORMING THE ADMINISTRATIVE AND SUPPORT FUNCTIONS RESULTING FROM OR RELATED TO THE QUALIFYING USES OF SUCH EQUIPMENT ARE LOCATED IN THIS STATE OR (II) THE AVERAGE NUMBER OF EMPLOYEES THAT PERFORM THE ADMINISTRATIVE AND SUPPORT FUNCTIONS RESULTING FROM OR RELATED TO THE QUALIFYING USES OF SUCH EQUIPMENT AND ARE LOCATED IN THIS STATE DURING THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED IS EQUAL TO OR GREATER THAN NINETY-FIVE PERCENT OF THE AVERAGE NUMBER OF EMPLOYEES THAT PERFORM THESE FUNCTIONS AND ARE LOCATED IN THIS STATE DURING

1 THE THIRTY-SIX MONTHS IMMEDIATELY PRECEDING THE YEAR FOR WHICH THE CRED-  
2 IT IS CLAIMED, OR (III) THE NUMBER OF EMPLOYEES LOCATED IN THIS STATE  
3 DURING THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED IS EQUAL TO OR  
4 GREATER THAN NINETY PERCENT OF THE NUMBER OF EMPLOYEES LOCATED IN THIS  
5 STATE ON DECEMBER THIRTY-FIRST, NINETEEN HUNDRED NINETY-EIGHT OR, IF THE  
6 TAXPAYER WAS NOT A CALENDAR YEAR TAXPAYER IN NINETEEN HUNDRED  
7 NINETY-EIGHT, THE LAST DAY OF ITS FIRST TAXABLE YEAR ENDING AFTER DECEM-  
8 BER THIRTY-FIRST, NINETEEN HUNDRED NINETY-EIGHT. IF THE TAXPAYER BECOMES  
9 SUBJECT TO TAX IN THIS STATE AFTER THE TAXABLE YEAR BEGINNING IN NINE-  
10 TEEN HUNDRED NINETY-EIGHT, THEN THE TAXPAYER IS NOT REQUIRED TO SATISFY  
11 THE EMPLOYMENT TEST PROVIDED IN THE PRECEDING SENTENCE OF THIS SUBPARA-  
12 GRAPH FOR ITS FIRST TAXABLE YEAR. FOR PURPOSES OF CLAUSE (III) OF THIS  
13 SUBPARAGRAPH THE EMPLOYMENT TEST WILL BE BASED ON THE NUMBER OF EMPLOY-  
14 EES LOCATED IN THIS STATE ON THE LAST DAY OF THE FIRST TAXABLE YEAR THE  
15 TAXPAYER IS SUBJECT TO TAX IN THIS STATE. IF THE USES OF THE PROPERTY  
16 MUST BE AGGREGATED TO DETERMINE WHETHER THE PROPERTY IS PRINCIPALLY USED  
17 IN QUALIFYING USES, THEN EITHER EACH AFFILIATE USING THE PROPERTY MUST  
18 SATISFY THIS EMPLOYMENT TEST OR THIS EMPLOYMENT TEST MUST BE SATISFIED  
19 THROUGH THE AGGREGATION OF THE EMPLOYEES OF THE TAXPAYER, ITS AFFILIATED  
20 REGULATED BROKER, DEALER, AND REGISTERED INVESTMENT ADVISER USING THE  
21 PROPERTY. FOR PURPOSES OF THIS SUBDIVISION, THE TERM "GOODS" SHALL NOT  
22 INCLUDE ELECTRICITY.

23 (II) FOR PURPOSES OF THIS PARAGRAPH, THE FOLLOWING DEFINITIONS SHALL  
24 APPLY--

25 (A) MANUFACTURING SHALL MEAN THE PROCESS OF WORKING RAW MATERIALS INTO  
26 WARES SUITABLE FOR USE OR WHICH GIVES NEW SHAPES, NEW QUALITY OR NEW  
27 COMBINATIONS TO MATTER WHICH ALREADY HAS GONE THROUGH SOME ARTIFICIAL  
28 PROCESS BY THE USE OF MACHINERY, TOOLS, APPLIANCES AND OTHER SIMILAR  
29 EQUIPMENT. PROPERTY USED IN THE PRODUCTION OF GOODS SHALL INCLUDE  
30 MACHINERY, EQUIPMENT OR OTHER TANGIBLE PROPERTY WHICH IS PRINCIPALLY  
31 USED IN THE REPAIR AND SERVICE OF OTHER MACHINERY, EQUIPMENT OR OTHER  
32 TANGIBLE PROPERTY USED PRINCIPALLY IN THE PRODUCTION OF GOODS AND SHALL  
33 INCLUDE ALL FACILITIES USED IN THE PRODUCTION OPERATION, INCLUDING STOR-  
34 AGE OF MATERIAL TO BE USED IN PRODUCTION AND OF THE PRODUCTS THAT ARE  
35 PRODUCED.

36 (B) RESEARCH AND DEVELOPMENT PROPERTY SHALL MEAN PROPERTY WHICH IS  
37 USED FOR PURPOSES OF RESEARCH AND DEVELOPMENT IN THE EXPERIMENTAL OR  
38 LABORATORY SENSE. SUCH PURPOSES SHALL NOT BE DEEMED TO INCLUDE THE ORDI-  
39 NARY TESTING OR INSPECTION OF MATERIALS OR PRODUCTS FOR QUALITY CONTROL,  
40 EFFICIENCY SURVEYS, MANAGEMENT STUDIES, CONSUMER SURVEYS, ADVERTISING,  
41 PROMOTIONS, OR RESEARCH IN CONNECTION WITH LITERARY, HISTORICAL OR SIMI-  
42 LAR PROJECTS.

43 (C) INDUSTRIAL WASTE TREATMENT FACILITIES SHALL MEAN PROPERTY CONSTI-  
44 TUTING FACILITIES FOR THE TREATMENT, NEUTRALIZATION OR STABILIZATION OF  
45 INDUSTRIAL WASTE AND OTHER WASTES (AS THE TERMS "INDUSTRIAL WASTE" AND  
46 "OTHER WASTES" ARE DEFINED IN SECTION 17-0105 OF THE ENVIRONMENTAL  
47 CONSERVATION LAW) FROM A POINT IMMEDIATELY PRECEDING THE POINT OF SUCH  
48 TREATMENT, NEUTRALIZATION OR STABILIZATION TO THE POINT OF DISPOSAL,  
49 INCLUDING THE NECESSARY PUMPING AND TRANSMITTING FACILITIES, BUT EXCLUD-  
50 ING SUCH FACILITIES INSTALLED FOR THE PRIMARY PURPOSE OF SALVAGING MATE-  
51 RIALS WHICH ARE USABLE IN THE MANUFACTURING PROCESS OR ARE MARKETABLE.

52 (D) AIR POLLUTION CONTROL FACILITIES SHALL MEAN PROPERTY CONSTITUTING  
53 FACILITIES WHICH REMOVE, REDUCE, OR RENDER LESS NOXIOUS AIR CONTAMINANTS  
54 EMITTED FROM AN AIR CONTAMINATION SOURCE (AS THE TERMS "AIR CONTAMINANT"  
55 AND "AIR CONTAMINATION SOURCE" ARE DEFINED IN SECTION 19-0107 OF THE  
56 ENVIRONMENTAL CONSERVATION LAW) FROM A POINT IMMEDIATELY PRECEDING THE

1 POINT OF SUCH REMOVAL, REDUCTION OR RENDERING TO THE POINT OF DISCHARGE  
2 OF AIR, MEETING EMISSION STANDARDS AS ESTABLISHED BY THE DEPARTMENT OF  
3 ENVIRONMENTAL CONSERVATION, BUT EXCLUDING SUCH FACILITIES INSTALLED FOR  
4 THE PRIMARY PURPOSE OF SALVAGING MATERIALS WHICH ARE USABLE IN THE MANU-  
5 FACTURING PROCESS OR ARE MARKETABLE AND EXCLUDING THOSE FACILITIES WHICH  
6 RELY FOR THEIR EFFICACY ON DILUTION, DISPERSION OR ASSIMILATION OF AIR  
7 CONTAMINANTS IN THE AMBIENT AIR AFTER EMISSION. SUCH TERM SHALL FURTHER  
8 INCLUDE FLUE GAS DESULFURIZATION EQUIPMENT AND ATTENDANT SLUDGE DISPOSAL  
9 FACILITIES, FLUIDIZED BED BOILERS, PRECOMBUSTION COAL CLEANING FACILI-  
10 TIES OR OTHER FACILITIES THAT CONFORM WITH THIS SUBDIVISION AND WHICH  
11 COMPLY WITH THE PROVISIONS OF THE STATE ACID DEPOSITION CONTROL ACT SET  
12 FORTH IN TITLE NINE OF ARTICLE NINETEEN OF THE ENVIRONMENTAL CONSERVA-  
13 TION LAW.

14 (E) THE TERMS "QUALIFIED FILM PRODUCTION FACILITY" AND "QUALIFIED FILM  
15 PRODUCTION COMPANY" SHALL HAVE THE SAME MEANING AS IN SECTION  
16 TWENTY-FOUR OF THIS CHAPTER.

17 (III) HOWEVER, SUCH CREDIT SHALL BE ALLOWED WITH RESPECT TO INDUSTRIAL  
18 WASTE TREATMENT FACILITIES AND AIR POLLUTION CONTROL FACILITIES ONLY ON  
19 CONDITION THAT SUCH FACILITIES HAVE BEEN CERTIFIED BY THE STATE COMMIS-  
20 SIONER OF ENVIRONMENTAL CONSERVATION OR HIS DESIGNATED REPRESENTATIVE,  
21 PURSUANT TO SUBDIVISION ONE OF SECTION 17-0707 OR SUBDIVISION ONE OF  
22 SECTION 19-0309 OF THE ENVIRONMENTAL CONSERVATION LAW, AS COMPLYING WITH  
23 APPLICABLE PROVISIONS OF THE ENVIRONMENTAL CONSERVATION LAW, THE PUBLIC  
24 HEALTH LAW, THE STATE SANITARY CODE AND CODES, RULES, REGULATIONS,  
25 PERMITS OR ORDERS ISSUED PURSUANT THERETO.

26 (C) A TAXPAYER SHALL NOT BE ALLOWED A CREDIT UNDER THIS SUBDIVISION  
27 WITH RESPECT TO TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROPERTY,  
28 INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS, WHICH IT  
29 LEASES TO ANY OTHER PERSON OR CORPORATION EXCEPT WHERE A TAXPAYER LEASES  
30 PROPERTY TO AN AFFILIATED REGULATED BROKER, DEALER, REGISTERED INVEST-  
31 MENT ADVISER, NATIONAL SECURITIES EXCHANGE OR BOARD OF TRADE (OR OTHER  
32 ENTITY DESCRIBED IN CLAUSE (F) OF SUBPARAGRAPH (I) OF PARAGRAPH (B) OF  
33 THIS SUBDIVISION) THAT USES SUCH PROPERTY IN ACCORDANCE WITH CLAUSE (D),  
34 (E) OR (F) OF SUBPARAGRAPH (I) OF PARAGRAPH (B) OF THIS SUBDIVISION.  
35 FOR PURPOSES OF THE PRECEDING SENTENCE, ANY CONTRACT OR AGREEMENT TO  
36 LEASE OR RENT OR FOR A LICENSE TO USE SUCH PROPERTY SHALL BE CONSIDERED  
37 A LEASE. PROVIDED, HOWEVER, IN DETERMINING WHETHER A TAXPAYER SHALL BE  
38 ALLOWED A CREDIT UNDER THIS SUBDIVISION WITH RESPECT TO SUCH PROPERTY,  
39 ANY ELECTION MADE WITH RESPECT TO SUCH PROPERTY PURSUANT TO THE  
40 PROVISIONS OF PARAGRAPH EIGHT OF SUBSECTION (F) OF SECTION ONE HUNDRED  
41 SIXTY-EIGHT OF THE INTERNAL REVENUE CODE, AS SUCH PARAGRAPH WAS IN  
42 EFFECT FOR AGREEMENTS ENTERED INTO PRIOR TO JANUARY FIRST, NINETEEN  
43 HUNDRED EIGHTY-FOUR, SHALL BE DISREGARDED. FOR PURPOSES OF THIS PARA-  
44 GRAPH, THE USE OF A QUALIFIED FILM PRODUCTION FACILITY BY A QUALIFIED  
45 FILM PRODUCTION COMPANY SHALL NOT BE CONSIDERED A LEASE OF SUCH FACILITY  
46 TO SUCH COMPANY.

47 (D) EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, THE CREDIT ALLOWED  
48 UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE  
49 FOR SUCH YEAR TO LESS THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARA-  
50 GRAPHS (C) AND (D) OF SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE  
51 AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR  
52 REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT ALLOWED FOR A TAXA-  
53 BLE YEAR COMMENCING PRIOR TO JANUARY FIRST, NINETEEN HUNDRED EIGHTY-SEV-  
54 EN AND NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE  
55 FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR  
56 SUCH YEAR OR YEARS BUT IN NO EVENT SHALL SUCH CREDIT BE CARRIED OVER TO

1 TAXABLE YEARS COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWO,  
2 AND ANY AMOUNT OF CREDIT ALLOWED FOR A TAXABLE YEAR COMMENCING ON OR  
3 AFTER JANUARY FIRST, NINETEEN HUNDRED EIGHTY-SEVEN AND NOT DEDUCTIBLE IN  
4 SUCH YEAR MAY BE CARRIED OVER TO THE FIFTEEN TAXABLE YEARS NEXT FOLLOW-  
5 ING SUCH TAXABLE YEAR AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR  
6 SUCH YEAR OR YEARS. IN LIEU OF SUCH CARRYOVER, ANY SUCH TAXPAYER WHICH  
7 QUALIFIES AS A NEW BUSINESS UNDER PARAGRAPH (J) OF THIS SUBDIVISION MAY  
8 ELECT TO TREAT THE AMOUNT OF SUCH CARRYOVER AS AN OVERPAYMENT OF TAX TO  
9 BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION TEN  
10 HUNDRED EIGHTY-SIX OF THIS CHAPTER, PROVIDED, HOWEVER, THE PROVISIONS OF  
11 SUBSECTION (C) OF SECTION TEN HUNDRED EIGHTY-EIGHT OF THIS CHAPTER  
12 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

13 (E) (1) WITH RESPECT TO PROPERTY WHICH IS DEPRECIABLE PURSUANT TO  
14 SECTION ONE HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE CODE BUT IS NOT  
15 SUBJECT TO THE PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT OF SUCH  
16 CODE AND WHICH IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO  
17 THE END OF THE TAXABLE YEAR IN WHICH THE CREDIT IS TO BE TAKEN, THE  
18 AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF THE CREDIT PROVIDED FOR IN  
19 THIS SUBDIVISION WHICH REPRESENTS THE RATIO WHICH THE MONTHS OF QUALI-  
20 FIED USE BEAR TO THE MONTHS OF USEFUL LIFE. IF PROPERTY ON WHICH CREDIT  
21 HAS BEEN TAKEN IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO  
22 THE END OF ITS USEFUL LIFE, THE DIFFERENCE BETWEEN THE CREDIT TAKEN AND  
23 THE CREDIT ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF  
24 DISPOSITION. PROVIDED, HOWEVER, IF SUCH PROPERTY IS DISPOSED OF OR CEAS-  
25 ES TO BE IN QUALIFIED USE AFTER IT HAS BEEN IN QUALIFIED USE FOR MORE  
26 THAN TWELVE CONSECUTIVE YEARS, IT SHALL NOT BE NECESSARY TO ADD BACK THE  
27 CREDIT AS PROVIDED IN THIS SUBPARAGRAPH. THE AMOUNT OF CREDIT ALLOWED  
28 FOR ACTUAL USE SHALL BE DETERMINED BY MULTIPLYING THE ORIGINAL CREDIT BY  
29 THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE MONTHS OF USEFUL  
30 LIFE. FOR PURPOSES OF THIS SUBPARAGRAPH, USEFUL LIFE OF PROPERTY SHALL  
31 BE THE SAME AS THE TAXPAYER USES FOR DEPRECIATION PURPOSES WHEN COMPUT-  
32 ING HIS FEDERAL INCOME TAX LIABILITY.

33 (2) EXCEPT WITH RESPECT TO THAT PROPERTY TO WHICH SUBPARAGRAPH FOUR OF  
34 THIS PARAGRAPH APPLIES, WITH RESPECT TO THREE-YEAR PROPERTY, AS DEFINED  
35 IN SUBSECTION (E) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL  
36 REVENUE CODE, WHICH IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE  
37 PRIOR TO THE END OF THE TAXABLE YEAR IN WHICH THE CREDIT IS TO BE TAKEN,  
38 THE AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF THE CREDIT PROVIDED  
39 FOR IN THIS SUBDIVISION WHICH REPRESENTS THE RATIO WHICH THE MONTHS OF  
40 QUALIFIED USE BEAR TO THIRTY-SIX. IF PROPERTY ON WHICH CREDIT HAS BEEN  
41 TAKEN IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END  
42 OF THIRTY-SIX MONTHS, THE DIFFERENCE BETWEEN THE CREDIT TAKEN AND THE  
43 CREDIT ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF DISPOSI-  
44 TION. THE AMOUNT OF CREDIT ALLOWED FOR ACTUAL USE SHALL BE DETERMINED BY  
45 MULTIPLYING THE ORIGINAL CREDIT BY THE RATIO WHICH THE MONTHS OF QUALI-  
46 FIED USE BEAR TO THIRTY-SIX.

47 (3) EXCEPT WITH RESPECT TO THAT PROPERTY TO WHICH SUBPARAGRAPH FOUR OF  
48 THIS PARAGRAPH APPLIES, WITH RESPECT TO PROPERTY SUBJECT TO THE  
49 PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE  
50 CODE, OTHER THAN THREE-YEAR PROPERTY AS DEFINED IN SUBSECTION (E) OF  
51 SUCH SECTION ONE HUNDRED SIXTY-EIGHT WHICH IS DISPOSED OF OR CEASES TO  
52 BE IN QUALIFIED USE PRIOR TO THE END OF THE TAXABLE YEAR IN WHICH THE  
53 CREDIT IS TO BE TAKEN, THE AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF  
54 THE CREDIT PROVIDED FOR IN THIS SUBDIVISION WHICH REPRESENTS THE RATIO  
55 WHICH THE MONTHS OF QUALIFIED USE BEAR TO SIXTY. IF PROPERTY ON WHICH  
56 CREDIT HAS BEEN TAKEN IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE

1 PRIOR TO THE END OF SIXTY MONTHS, THE DIFFERENCE BETWEEN THE CREDIT  
2 TAKEN AND THE CREDIT ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE  
3 YEAR OF DISPOSITION. THE AMOUNT OF CREDIT ALLOWED FOR ACTUAL USE SHALL  
4 BE DETERMINED BY MULTIPLYING THE ORIGINAL CREDIT BY THE RATIO WHICH THE  
5 MONTHS OF QUALIFIED USE BEAR TO SIXTY.

6 (4) WITH RESPECT TO ANY PROPERTY TO WHICH SECTION ONE HUNDRED  
7 SIXTY-EIGHT OF THE INTERNAL REVENUE CODE APPLIES, WHICH IS A BUILDING OR  
8 A STRUCTURAL COMPONENT OF A BUILDING AND WHICH IS DISPOSED OF OR CEASES  
9 TO BE IN QUALIFIED USE PRIOR TO THE END OF THE TAXABLE YEAR IN WHICH THE  
10 CREDIT IS TO BE TAKEN, THE AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF  
11 THE CREDIT PROVIDED FOR IN THIS SUBDIVISION WHICH REPRESENTS THE RATIO  
12 WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE TOTAL NUMBER OF MONTHS  
13 OVER WHICH THE TAXPAYER CHOOSES TO DEDUCT THE PROPERTY UNDER THE INTER-  
14 NAL REVENUE CODE. IF PROPERTY ON WHICH CREDIT HAS BEEN TAKEN IS DISPOSED  
15 OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF THE PERIOD OVER  
16 WHICH THE TAXPAYER CHOOSES TO DEDUCT THE PROPERTY UNDER THE INTERNAL  
17 REVENUE CODE, THE DIFFERENCE BETWEEN THE CREDIT TAKEN AND THE CREDIT  
18 ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF DISPOSITION.  
19 PROVIDED, HOWEVER, IF SUCH PROPERTY IS DISPOSED OF OR CEASES TO BE IN  
20 QUALIFIED USE AFTER IT HAS BEEN IN QUALIFIED USE FOR MORE THAN TWELVE  
21 CONSECUTIVE YEARS, IT SHALL NOT BE NECESSARY TO ADD BACK THE CREDIT AS  
22 PROVIDED IN THIS SUBPARAGRAPH. THE AMOUNT OF CREDIT ALLOWED FOR ACTUAL  
23 USE SHALL BE DETERMINED BY MULTIPLYING THE ORIGINAL CREDIT BY THE RATIO  
24 WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE TOTAL NUMBER OF MONTHS  
25 OVER WHICH THE TAXPAYER CHOOSES TO DEDUCT THE PROPERTY UNDER THE INTER-  
26 NAL REVENUE CODE.

27 (5) FOR PURPOSES OF THIS PARAGRAPH, PROPERTY (I) WHICH IS DESCRIBED IN  
28 SUBPARAGRAPH TWO, THREE OR FOUR OF THIS PARAGRAPH, AND (II) WHICH IS  
29 SUBJECT TO SUBPARAGRAPH ELEVEN OF PARAGRAPH (A) OF SUBDIVISION NINE AND  
30 SUBPARAGRAPH TEN OF PARAGRAPH (B) OF SUBDIVISION NINE OF SECTION TWO  
31 HUNDRED EIGHT OF THIS CHAPTER, SHALL BE TREATED AS PROPERTY WHICH IS  
32 DEPRECIABLE PURSUANT TO SECTION ONE HUNDRED SIXTY-SEVEN OF THE INTERNAL  
33 REVENUE CODE BUT IS NOT SUBJECT TO SECTION ONE HUNDRED SIXTY-EIGHT OF  
34 SUCH CODE.

35 (6) FOR PURPOSES OF THIS PARAGRAPH, WHERE A CREDIT IS ALLOWED WITH  
36 RESPECT TO AN AIR POLLUTION CONTROL FACILITY ON THE BASIS OF A CERTIF-  
37 ICATE OF COMPLIANCE ISSUED PURSUANT TO THE ENVIRONMENTAL CONSERVATION  
38 LAW AND THE CERTIFICATE IS REVOKED PURSUANT TO SUBDIVISION THREE OF  
39 SECTION 19-0309 OF THE ENVIRONMENTAL CONSERVATION LAW, SUCH REVOCATION  
40 SHALL CONSTITUTE A DISPOSAL OR CESSATION OF QUALIFIED USE, UNLESS SUCH  
41 FACILITY IS DESCRIBED IN CLAUSE (A) OR (C) OF SUBPARAGRAPH (II) OF PARA-  
42 GRAPH (B) OF THIS SUBDIVISION. ALSO FOR PURPOSES OF THIS SUBPARAGRAPH,  
43 THE USE OF AN AIR POLLUTION CONTROL FACILITY OR AN INDUSTRIAL WASTE  
44 TREATMENT FACILITY FOR THE PRIMARY PURPOSE OF SALVAGING MATERIALS WHICH  
45 ARE USABLE IN THE MANUFACTURING PROCESS OR ARE MARKETABLE SHALL CONSTI-  
46 TUTE A CESSATION OF QUALIFIED USE, UNLESS SUCH FACILITY IS DESCRIBED IN  
47 CLAUSE (A) OR (C) OF SUBPARAGRAPH (II) OF PARAGRAPH (B) OF THIS SUBDIVI-  
48 SION.

49 (7) FOR TAXABLE YEARS COMMENCING ON OR AFTER JANUARY FIRST, NINETEEN  
50 HUNDRED EIGHTY-SEVEN, THE AMOUNT REQUIRED TO BE ADDED BACK PURSUANT TO  
51 THIS PARAGRAPH SHALL BE AUGMENTED BY AN AMOUNT EQUAL TO THE PRODUCT OF  
52 SUCH AMOUNT AND THE UNDERPAYMENT RATE OF INTEREST (WITHOUT REGARD TO  
53 COMPOUNDING), SET BY THE COMMISSIONER OF TAXATION AND FINANCE PURSUANT  
54 TO SUBSECTION (E) OF SECTION ONE THOUSAND NINETY-SIX, IN EFFECT ON THE  
55 LAST DAY OF THE TAXABLE YEAR.

1 (8) IF, AS OF THE CLOSE OF THE TAXABLE YEAR, THERE IS A NET INCREASE  
2 WITH RESPECT TO THE TAXPAYER IN THE AMOUNT OF NONQUALIFIED NONRECOURSE  
3 FINANCING (WITHIN THE MEANING OF SECTION 46(C) (8) OF THE INTERNAL  
4 REVENUE CODE) WITH RESPECT TO ANY PROPERTY WITH RESPECT TO WHICH THE  
5 CREDIT UNDER THIS SUBDIVISION WAS LIMITED BASED ON ATTRIBUTABLE NONQUAL-  
6 IFIED NONRECOURSE FINANCING, THEN AN AMOUNT EQUAL TO THE DECREASE IN  
7 SUCH CREDIT WHICH WOULD HAVE RESULTED FROM REDUCING, BY THE AMOUNT OF  
8 SUCH NET INCREASE, THE COST OR OTHER BASIS TAKEN INTO ACCOUNT WITH  
9 RESPECT TO SUCH PROPERTY MUST BE ADDED BACK IN SUCH TAXABLE YEAR. THE  
10 AMOUNT OF NONQUALIFIED NONRECOURSE FINANCING SHALL NOT BE TREATED AS  
11 INCREASED BY REASON OF A TRANSFER OF (OR AGREEMENT TO TRANSFER) ANY  
12 EVIDENCE OF AN INDEBTEDNESS IF SUCH TRANSFER OCCURS (OR SUCH AGREEMENT  
13 IS ENTERED INTO) MORE THAN ONE YEAR AFTER THE DATE SUCH INDEBTEDNESS WAS  
14 INCURRED.

15 (9) (A) WHERE PROPERTY WITH RESPECT TO WHICH CREDIT HAS BEEN ALLOWED  
16 UNDER THIS SUBDIVISION IS DISPOSED OF BY TRANSFER TO THE TAXPAYER IN A  
17 QUALIFIED TRANSACTION, AND SUCH DISPOSITION REQUIRES, PURSUANT TO THIS  
18 PARAGRAPH (WITHOUT REGARD TO THIS SUBPARAGRAPH) THAT SUCH CREDIT BE  
19 DECREASED (WHERE THE DISPOSITION OCCURS IN THE TAXABLE YEAR IN WHICH THE  
20 PROPERTY IS PLACED IN SERVICE BY THE TRANSFEROR) OR THAT A PORTION OF  
21 SUCH CREDIT BE ADDED BACK BY THE TRANSFEROR, THEN CLAUSE (B) OR CLAUSE  
22 (C) OF THIS SUBPARAGRAPH SHALL APPLY.

23 (B) IF THE TAXPAYER AND THE TRANSFEROR JOINTLY ELECT, AT SUCH TIME AND  
24 IN SUCH MANNER AS THE COMMISSIONER MAY PRESCRIBE, THE FOLLOWING SHALL  
25 APPLY:

26 (I) SUCH PORTION SHALL NOT BE REQUIRED TO BE ADDED BACK BY THE  
27 TRANSFEROR,

28 (II) THE AMOUNT OF UNUSED CREDIT SHALL NOT BE DEDUCTED FROM TAX OTHER-  
29 WISE DUE BY THE TRANSFEROR ON ANY RETURN (INCLUDING AN AMENDED RETURN),  
30 AND SHALL NOT BE SO DEDUCTED AS PART OF ANY AUDIT ADJUSTMENT OR ANY  
31 OTHER DETERMINATION, AND

32 (III) THE AMOUNT OF UNUSED CREDIT SHALL BE TREATED AS AN AMOUNT OF  
33 CREDIT OF THE TAXPAYER UNDER THIS SUBDIVISION CARRIED FORWARD BY THE  
34 TAXPAYER TO ITS TAXABLE YEAR IN WHICH SUCH TRANSFER OCCURRED, AS IF THE  
35 CREDIT ALLOWED TO THE TRANSFEROR WITH RESPECT TO SUCH PROPERTY HAD  
36 ORIGINALLY BEEN ALLOWED TO THE TAXPAYER BOTH AS TO AMOUNT AND FIRST DATE  
37 OF QUALIFIED USE, AND AS IF THE PERIOD OF QUALIFIED USE BY THE TRANSFER-  
38 OR PRIOR TO THE TRANSFER HAD BEEN A PERIOD OF SUCH USE BY THE TAXPAYER.  
39 ANY AMOUNT OF CREDIT TREATED AS CARRIED FORWARD TO THE TAXABLE YEAR  
40 PURSUANT TO THIS SUBPARAGRAPH SHALL BE APPLIED AS PROVIDED IN CLAUSE (H)  
41 OF THIS SUBPARAGRAPH.

42 (C) IF THE TAXPAYER AND THE TRANSFEROR DO NOT MAKE THE ELECTION  
43 DESCRIBED IN CLAUSE (B) OF THIS SUBPARAGRAPH, THEN THE AMOUNT OF CREDIT  
44 REQUIRED PURSUANT TO THIS PARAGRAPH TO BE ADDED BACK BY THE TRANSFEROR  
45 SHALL BE TREATED AS AN AMOUNT OF CREDIT OF THE TAXPAYER UNDER THIS  
46 SUBDIVISION TO BE CARRIED FORWARD BY THE TAXPAYER TO ITS TAXABLE YEAR IN  
47 WHICH SUCH TRANSFER OCCURRED, AS IF THE CREDIT ALLOWED TO THE TRANSFEROR  
48 WITH RESPECT TO SUCH PROPERTY HAD ORIGINALLY BEEN ALLOWED TO THE TAXPAY-  
49 ER BOTH AS TO AMOUNT AND FIRST DATE OF QUALIFIED USE, AND AS IF THE  
50 PERIOD OF QUALIFIED USE BY THE TRANSFEROR PRIOR TO THE TRANSFER HAD BEEN  
51 A PERIOD OF SUCH USE BY THE TAXPAYER. ANY AMOUNT OF CREDIT TREATED AS  
52 CARRIED FORWARD TO THE TAXABLE YEAR PURSUANT TO THIS SUBPARAGRAPH SHALL  
53 BE APPLIED AS PROVIDED IN CLAUSE (H) OF THIS SUBPARAGRAPH.

54 (D) THE TERM "QUALIFIED TRANSACTION" SHALL MEAN A TRANSACTION WHICH IS  
55 A REORGANIZATION DESCRIBED IN SECTION 368(A)(1)(D) OF THE INTERNAL  
56 REVENUE CODE, WHEREIN (I) SUBSTANTIALLY ALL OF THE ASSETS OF THE

TRANSFEROR NECESSARY TO CONTINUE THE OPERATION OF A DIVISION OR DIVISIONS OF THE TRANSFEROR ARE TRANSFERRED TO THE TAXPAYER IN A TRANSACTION TO WHICH SECTION 351 OF SUCH CODE APPLIES, AND (II) STOCK OR SECURITIES OF THE TAXPAYER HELD BY THE TRANSFEROR ARE DISTRIBUTED PURSUANT TO SECTION 355 OF SUCH CODE.

(E) THE TERM "UNUSED CREDIT" SHALL MEAN THE AMOUNT OF CREDIT SHOWN AS CARRIED FORWARD TO THE TRANSACTION YEAR ON THE TRANSFEROR'S TAX RETURN FOR ITS TAXABLE YEAR IMMEDIATELY PRECEDING THE TRANSACTION YEAR WITH RESPECT TO THE PROPERTY DESCRIBED IN CLAUSE (A) OF THIS SUBPARAGRAPH.

(F) THE TERM "TRANSACTION YEAR" MEANS THE TAXABLE YEAR IN WHICH THE QUALIFIED TRANSACTION OCCURS.

(G) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IN THE CASE OF ALLOWANCE OF CREDIT PURSUANT TO THIS SUBPARAGRAPH TO A TAXPAYER THE COMMISSIONER SHALL HAVE THE AUTHORITY TO REVEAL TO THE TAXPAYER ANY INFORMATION, WITH RESPECT TO THE CREDIT OF THE TRANSFEROR, WHICH IS THE BASIS FOR THE DENIAL IN WHOLE OR IN PART OF THE CREDIT CLAIMED BY SUCH TAXPAYER.

(H) WHERE A CREDIT IS ALLOWED TO A TAXPAYER PURSUANT TO THIS SUBPARAGRAPH, THE TAXPAYER MAY TREAT THE AMOUNT OF SUCH CREDIT AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION TEN HUNDRED EIGHTY-SIX OF THIS CHAPTER, PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION TEN HUNDRED EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON. SUCH CREDIT SHALL BE ALLOWED AGAINST THE TAX IMPOSED BY THIS ARTICLE WITH RESPECT TO THE SECOND SUCCEEDING TAXABLE YEAR NEXT FOLLOWING THE TRANSACTION YEAR, PROVIDED THAT NOT MORE THAN ONE-FOURTH OF THE AMOUNT OF SUCH CREDIT MAY BE APPLIED BY THE TAXPAYER, WHETHER TO REDUCE TAX OTHERWISE DUE OR TO BE TREATED AS AN OVERPAYMENT TO BE CREDITED OR REFUNDED, WITH RESPECT TO SUCH SECOND SUCCEEDING TAXABLE YEAR AND EACH OF THE NEXT THREE TAXABLE YEARS FOLLOWING SUCH SECOND SUCCEEDING TAXABLE YEAR.

(F) FOR PURPOSES OF PARAGRAPH (D) OF THIS SUBDIVISION, A NEW BUSINESS SHALL INCLUDE ANY CORPORATION, EXCEPT A CORPORATION WHICH:

(1) OVER FIFTY PERCENT OF THE NUMBER OF SHARES OF STOCK ENTITLING THE HOLDERS THEREOF TO VOTE FOR THE ELECTION OF DIRECTORS OR TRUSTEES IS OWNED OR CONTROLLED, EITHER DIRECTLY OR INDIRECTLY, BY A TAXPAYER SUBJECT TO TAX UNDER THIS ARTICLE; SECTION ONE HUNDRED EIGHTY-THREE, ONE HUNDRED EIGHTY-FOUR OR ONE HUNDRED EIGHTY-FIVE OF ARTICLE NINE; OR ARTICLE THIRTY-THREE OF THIS CHAPTER; OR

(2) IS SUBSTANTIALLY SIMILAR IN OPERATION AND IN OWNERSHIP TO A BUSINESS ENTITY (OR ENTITIES) TAXABLE, OR PREVIOUSLY TAXABLE, UNDER THIS ARTICLE; SECTION ONE HUNDRED EIGHTY-THREE, ONE HUNDRED EIGHTY-FOUR, FORMER SECTION ONE HUNDRED EIGHTY-FIVE OR FORMER SECTION ONE HUNDRED EIGHTY-SIX OF ARTICLE NINE; ARTICLE THIRTY-TWO OF THIS CHAPTER AS SUCH ARTICLE WAS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN; ARTICLE THIRTY-THREE OF THIS CHAPTER; ARTICLE TWENTY-THREE OF THIS CHAPTER OR WHICH WOULD HAVE BEEN SUBJECT TO TAX UNDER SUCH ARTICLE TWENTY-THREE (AS SUCH ARTICLE WAS IN EFFECT ON JANUARY FIRST, NINETEEN HUNDRED EIGHTY) OR THE INCOME (OR LOSSES) OF WHICH IS (OR WAS) INCLUDEABLE UNDER ARTICLE TWENTY-TWO OF THIS CHAPTER WHEREBY THE INTENT AND PURPOSE OF THIS PARAGRAPH AND PARAGRAPH (D) OF THIS SUBDIVISION WITH RESPECT TO REFUNDING OF CREDIT TO NEW BUSINESS WOULD BE EVADED; OR

(3) HAS BEEN SUBJECT TO TAX UNDER THIS ARTICLE OR FORMER ARTICLE THIRTY-TWO OF THIS CHAPTER FOR MORE THAN FIVE TAXABLE YEARS (EXCLUDING SHORT TAXABLE YEARS).

2. EMPLOYMENT INCENTIVE CREDIT (EIC). (A)(I) APPLICATION OF CREDIT. WHERE A TAXPAYER IS ALLOWED A CREDIT UNDER SUBDIVISION ONE OF THIS

1 SECTION, OTHER THAN AT THE OPTIONAL RATE APPLICABLE TO RESEARCH AND  
2 DEVELOPMENT PROPERTY, THE TAXPAYER SHALL BE ALLOWED A CREDIT FOR EACH OF  
3 THE TWO YEARS NEXT SUCCEEDING THE TAXABLE YEAR FOR WHICH THE CREDIT  
4 UNDER SUCH SUBDIVISION ONE IS ALLOWED WITH RESPECT TO SUCH PROPERTY,  
5 WHETHER OR NOT DEDUCTIBLE IN SUCH TAXABLE YEAR OR IN SUBSEQUENT TAXABLE  
6 YEARS PURSUANT TO PARAGRAPH (D) OF SUCH SUBDIVISION ONE. PROVIDED,  
7 HOWEVER, THAT THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXA-  
8 BLE YEAR SHALL BE ALLOWED ONLY IF THE AVERAGE NUMBER OF EMPLOYEES DURING  
9 SUCH TAXABLE YEAR IS AT LEAST ONE HUNDRED ONE PERCENT OF THE AVERAGE  
10 NUMBER OF EMPLOYEES DURING THE EMPLOYMENT BASE YEAR. THE EMPLOYMENT BASE  
11 YEAR SHALL BE THE TAXABLE YEAR IMMEDIATELY PRECEDING THE TAXABLE YEAR  
12 FOR WHICH THE CREDIT UNDER SUCH SUBDIVISION ONE IS ALLOWED EXCEPT THAT  
13 IF THE TAXPAYER WAS NOT SUBJECT TO TAX AND DID NOT HAVE A TAXABLE YEAR  
14 IMMEDIATELY PRECEDING THE TAXABLE YEAR FOR WHICH THE CREDIT UNDER SUCH  
15 SUBDIVISION ONE OF THIS SECTION IS ALLOWED, THE EMPLOYMENT BASE YEAR  
16 SHALL BE THE TAXABLE YEAR IN WHICH THE CREDIT UNDER SUCH SUBDIVISION ONE  
17 IS ALLOWED.

18 (II) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS  
19 SUBDIVISION SHALL BE AS SET FORTH IN THE FOLLOWING TABLE:

20 AVERAGE NUMBER OF EMPLOYEES DURING THE	CREDIT ALLOWED UNDER THIS
21 TAXABLE YEAR EXPRESSED AS A PERCENTAGE	SUBDIVISION EXPRESSED AS A
22 OF AVERAGE EMPLOYEES IN EMPLOYMENT	PERCENTAGE OF THE APPLICABLE
23 BASE YEARS	INVESTMENT CREDIT BASIS
24 LESS THAN 102%	1.5%
25 AT LEAST 102% AND LESS THAN 103%	2%
26 AT LEAST 103%	2.5%

27 (B) AVERAGE NUMBER OF EMPLOYEES. THE AVERAGE NUMBER OF EMPLOYEES IN A  
28 TAXABLE YEAR SHALL BE COMPUTED BY ASCERTAINING THE NUMBER OF EMPLOYEES  
29 WITHIN THE STATE, EXCEPT GENERAL EXECUTIVE OFFICERS, EMPLOYED BY THE  
30 TAXPAYER ON THE THIRTY-FIRST DAY OF MARCH, THE THIRTIETH DAY OF JUNE,  
31 THE THIRTIETH DAY OF SEPTEMBER AND THE THIRTY-FIRST DAY OF DECEMBER IN  
32 THE TAXABLE YEAR, BY ADDING TOGETHER THE NUMBER OF EMPLOYEES ASCERTAINED  
33 ON EACH OF SUCH DATES AND DIVIDING THE SUM SO OBTAINED BY THE NUMBER OF  
34 SUCH ABOVE MENTIONED DATES OCCURRING WITHIN THE TAXABLE YEAR. HOWEVER,  
35 WITH RESPECT TO THE EMPLOYMENT BASE YEAR, THERE SHALL BE EXCLUDED THERE-  
36 FROM ANY EMPLOYEE WITH RESPECT TO WHOM A CREDIT PROVIDED FOR UNDER  
37 SUBDIVISION SIX OF THIS SECTION IS CLAIMED, FOR THE TAXABLE YEAR, BASED  
38 ON EMPLOYMENT WITHIN A ZONE EQUIVALENT AREA DESIGNATED AS SUCH PURSUANT  
39 TO ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW.

40 (C) CARRYOVER. IN NO EVENT SHALL THE CREDIT HEREIN PROVIDED FOR BE  
41 ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE  
42 FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION  
43 ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT  
44 OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES  
45 THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON  
46 THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN  
47 SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FIFTEEN TAXABLE YEARS IMME-  
48 DIATELY FOLLOWING SUCH TAXABLE YEAR AND MAY BE DEDUCTED FROM THE TAXPAY-  
49 ER'S TAX FOR SUCH YEAR OR YEARS.

50 3. EMPIRE ZONE INVESTMENT TAX CREDIT (EZ-ITC). (A) A TAXPAYER SHALL BE  
51 ALLOWED A CREDIT, TO BE COMPUTED AS HEREIN PROVIDED, AGAINST THE TAX  
52 IMPOSED BY THIS ARTICLE IF THE TAXPAYER HAS BEEN CERTIFIED PURSUANT TO  
53 ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW. THE AMOUNT OF THE CRED-  
54 IT SHALL BE TEN PERCENT OF THE COST OR OTHER BASIS FOR FEDERAL INCOME  
55 TAX PURPOSES OF TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROPERTY,  
56 INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS, DESCRIBED IN



1 PARAGRAPH (B) OF THIS SUBDIVISION, WHICH IS LOCATED WITHIN AN EMPIRE  
2 ZONE DESIGNATED AS SUCH PURSUANT TO ARTICLE EIGHTEEN-B OF SUCH LAW, BUT  
3 ONLY IF THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION OR ERECTION OF  
4 SUCH PROPERTY OCCURRED OR WAS COMMENCED ON OR AFTER THE DATE OF SUCH  
5 DESIGNATION AND PRIOR TO THE EXPIRATION THEREOF. PROVIDED, HOWEVER, THAT  
6 IN THE CASE OF AN ACQUISITION, CONSTRUCTION, RECONSTRUCTION OR ERECTION  
7 WHICH WAS COMMENCED DURING SUCH PERIOD AND CONTINUED OR COMPLETED SUBSE-  
8 QUENTLY, SUCH CREDIT SHALL BE TEN PERCENT OF THE PORTION OF THE COST OR  
9 OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES ATTRIBUTABLE TO SUCH PERIOD,  
10 WHICH PORTION SHALL BE ASCERTAINED BY MULTIPLYING SUCH COST OR BASIS BY  
11 A FRACTION THE NUMERATOR OF WHICH SHALL BE THE EXPENDITURES PAID OR  
12 INCURRED DURING SUCH PERIOD FOR SUCH PURPOSES AND THE DENOMINATOR OF  
13 WHICH SHALL BE THE TOTAL OF ALL EXPENDITURES PAID OR INCURRED FOR SUCH  
14 ACQUISITION, CONSTRUCTION, RECONSTRUCTION OR ERECTION.

15 (B) QUALIFIED PROPERTY. A CREDIT SHALL BE ALLOWED UNDER THIS SUBDIVI-  
16 SION WITH RESPECT TO TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROP-  
17 ERTY, INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS, WHICH

18 (I) ARE DEPRECIABLE PURSUANT TO SECTION ONE HUNDRED SIXTY-SEVEN OF THE  
19 INTERNAL REVENUE CODE,

20 (II) HAVE A USEFUL LIFE OF FOUR YEARS OR MORE,

21 (III) ARE ACQUIRED BY PURCHASE AS DEFINED IN SECTION ONE HUNDRED  
22 SEVENTY-NINE (D) OF THE INTERNAL REVENUE CODE,

23 (IV) HAVE A SITUS IN AN EMPIRE ZONE DESIGNATED AS SUCH PURSUANT TO  
24 ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW, AND

25 (V) ARE (A) PRINCIPALLY USED BY THE TAXPAYER IN THE PRODUCTION OF  
26 GOODS BY MANUFACTURING, PROCESSING, ASSEMBLING, REFINING, MINING,  
27 EXTRACTING, FARMING, AGRICULTURE, HORTICULTURE, FLORICULTURE, VITICUL-  
28 TURE OR COMMERCIAL FISHING,

29 (B) INDUSTRIAL WASTE TREATMENT FACILITIES OR AIR POLLUTION CONTROL  
30 FACILITIES USED IN THE TAXPAYER'S TRADE OR BUSINESS,

31 (C) RESEARCH AND DEVELOPMENT PROPERTY,

32 (D) PRINCIPALLY USED IN THE ORDINARY COURSE OF THE TAXPAYER'S TRADE OR  
33 BUSINESS AS A BROKER OR DEALER IN CONNECTION WITH THE PURCHASE OR SALE  
34 (WHICH SHALL INCLUDE BUT NOT BE LIMITED TO THE ISSUANCE, ENTERING INTO,  
35 ASSUMPTION, OFFSET, ASSIGNMENT, TERMINATION, OR TRANSFER) OF STOCKS,  
36 BONDS OR OTHER SECURITIES AS DEFINED IN SECTION FOUR HUNDRED  
37 SEVENTY-FIVE (C)(2) OF THE INTERNAL REVENUE CODE, OR OF COMMODITIES AS  
38 DEFINED IN SECTION FOUR HUNDRED SEVENTY-FIVE (E) OF THE INTERNAL REVENUE  
39 CODE,

40 (E) PRINCIPALLY USED IN THE ORDINARY COURSE OF THE TAXPAYER'S TRADE OR  
41 BUSINESS OF PROVIDING INVESTMENT ADVISORY SERVICES FOR A REGULATED  
42 INVESTMENT COMPANY AS DEFINED IN SECTION EIGHT HUNDRED FIFTY-ONE OF THE  
43 INTERNAL REVENUE CODE, OR LENDING, LOAN ARRANGEMENT, OR LOAN ORIGINATION  
44 SERVICES TO CUSTOMERS IN CONNECTION WITH THE PURCHASE OR SALE (WHICH  
45 SHALL INCLUDE BUT NOT BE LIMITED TO THE ISSUANCE, ENTERING INTO, ASSUMP-  
46 TION, OFFSET, ASSIGNMENT, TERMINATION OR TRANSFER) OF SECURITIES AS  
47 DEFINED IN SECTION FOUR HUNDRED SEVENTY-FIVE (C)(2) OF THE INTERNAL  
48 REVENUE CODE,

49 (E-1) PRINCIPALLY USED IN THE ORDINARY COURSE OF THE TAXPAYER'S TRADE  
50 OR BUSINESS OF PROVIDING INVESTMENT ADVISORY SERVICES OR THE SERVICE OF  
51 MANAGING INVESTMENT PORTFOLIOS TO ACHIEVE SPECIFIC INVESTMENT OBJECTIVES  
52 FOR ACCOUNTS OVER ONE MILLION DOLLARS OF ACCREDITED INVESTORS (AS THAT  
53 TERM IS DEFINED IN RULE 501 OF REGULATION D OF THE SECURITIES ACT OF  
54 1933), IF THE TAXPAYER SATISFIES THE FOLLOWING CRITERIA:

55 (I) THE TAXPAYER IS A REGULATED BROKER OR DEALER OR AN AFFILIATE OF A  
56 REGULATED BROKER OR DEALER,

1 (II) THE TAXPAYER IS REGISTERED AS AN INVESTMENT ADVISER UNDER SECTION  
2 TWO HUNDRED THREE OF THE INVESTMENT ADVISERS ACT OF 1940, AS AMENDED,  
3 AND

4 (III) AT LEAST ONE CLIENT OF THE TAXPAYER IS A REGULATED INVESTMENT  
5 COMPANY AS DEFINED IN SECTION EIGHT HUNDRED FIFTY-ONE OF THE INTERNAL  
6 REVENUE CODE THAT HAS ASSETS OF ONE HUNDRED MILLION DOLLARS, OR

7 (F) PRINCIPALLY USED IN THE ORDINARY COURSE OF THE TAXPAYER'S BUSINESS  
8 AS AN EXCHANGE REGISTERED AS A NATIONAL SECURITIES EXCHANGE WITHIN THE  
9 MEANING OF SECTIONS 3(A)(1) AND 6(A) OF THE SECURITIES EXCHANGE ACT OF  
10 1934 OR A BOARD OF TRADE AS DEFINED IN SUBDIVISION ONE OF PARAGRAPH (A)  
11 OF SECTION FOURTEEN HUNDRED TEN OF THE NOT-FOR-PROFIT CORPORATION LAW OR  
12 AS AN ENTITY THAT IS WHOLLY OWNED BY ONE OR MORE SUCH NATIONAL SECURI-  
13 TIES EXCHANGES OR BOARDS OR TRADE AND THAT PROVIDES AUTOMATION OR TECH-  
14 NICAL SERVICES THERETO.

15 (VI) FOR PURPOSES OF CLAUSES (D), (E), (E-1) AND (F) OF SUBPARAGRAPH  
16 (V) OF THIS PARAGRAPH, PROPERTY PURCHASED BY A TAXPAYER AFFILIATED WITH  
17 A REGULATED BROKER, DEALER, REGISTERED INVESTMENT ADVISER, NATIONAL  
18 SECURITIES EXCHANGE OR BOARD OF TRADE IS ALLOWED A CREDIT UNDER THIS  
19 SUBDIVISION IF THE PROPERTY IS USED BY ITS AFFILIATED REGULATED BROKER,  
20 DEALER, REGISTERED INVESTMENT ADVISER OR NATIONAL SECURITIES EXCHANGE OR  
21 BOARD OF TRADE IN ACCORDANCE WITH THIS SUBDIVISION. FOR PURPOSES OF  
22 DETERMINING IF THE PROPERTY IS PRINCIPALLY USED IN QUALIFYING USES, THE  
23 USES BY THE TAXPAYER DESCRIBED IN CLAUSES (D), (E) AND (E-1) OF SUBPARA-  
24 GRAPH (V) OF THIS PARAGRAPH MAY BE AGGREGATED. IN ADDITION, THE USES BY  
25 THE TAXPAYER, ITS AFFILIATED REGULATED BROKER, DEALER AND REGISTERED  
26 INVESTMENT ADVISER UNDER ANY OF THOSE CLAUSES MAY BE AGGREGATED.  
27 PROVIDED, HOWEVER, A TAXPAYER SHALL NOT BE ALLOWED THE CREDIT PROVIDED  
28 BY CLAUSES (D), (E), (E-1) AND (F) OF SUBPARAGRAPH (V) OF THIS PARAGRAPH  
29 UNLESS

30 (I) EIGHTY PERCENT OR MORE OF THE EMPLOYEES PERFORMING THE ADMINISTRA-  
31 TIVE AND SUPPORT FUNCTIONS RESULTING FROM OR RELATED TO THE QUALIFYING  
32 USES OF SUCH EQUIPMENT ARE LOCATED IN THIS STATE, OR

33 (II) THE AVERAGE NUMBER OF EMPLOYEES THAT PERFORM THE ADMINISTRATIVE  
34 AND SUPPORT FUNCTIONS RESULTING FROM OR RELATED TO THE QUALIFYING USES  
35 OF SUCH EQUIPMENT AND ARE LOCATED IN THIS STATE DURING THE TAXABLE YEAR  
36 FOR WHICH THE CREDIT IS CLAIMED IS EQUAL TO OR GREATER THAN NINETY-FIVE  
37 PERCENT OF THE AVERAGE NUMBER OF EMPLOYEES THAT PERFORM THESE FUNCTIONS  
38 AND ARE LOCATED IN THIS STATE DURING THE THIRTY-SIX MONTHS IMMEDIATELY  
39 PRECEDING THE YEAR FOR WHICH THE CREDIT IS CLAIMED, OR

40 (III) THE NUMBER OF EMPLOYEES LOCATED IN THIS STATE DURING THE TAXABLE  
41 YEAR FOR WHICH THE CREDIT IS CLAIMED IS EQUAL TO OR GREATER THAN NINETY  
42 PERCENT OF THE NUMBER OF EMPLOYEES LOCATED IN THIS STATE ON DECEMBER  
43 THIRTY-FIRST, NINETEEN HUNDRED NINETY-EIGHT OR, IF THE TAXPAYER WAS NOT  
44 A CALENDAR YEAR TAXPAYER IN NINETEEN HUNDRED NINETY-EIGHT, THE LAST DAY  
45 OF ITS FIRST TAXABLE YEAR ENDING AFTER DECEMBER THIRTY-FIRST, NINETEEN  
46 HUNDRED NINETY-EIGHT. IF THE TAXPAYER BECOMES SUBJECT TO TAX IN THIS  
47 STATE AFTER THE TAXABLE YEAR BEGINNING IN NINETEEN HUNDRED NINETY-EIGHT,  
48 THEN THE TAXPAYER IS NOT REQUIRED TO SATISFY THE EMPLOYMENT TEST  
49 PROVIDED IN THE PRECEDING SENTENCE OF THIS SUBPARAGRAPH FOR ITS FIRST  
50 TAXABLE YEAR.

51 (VII) FOR THE PURPOSES OF CLAUSE (III) OF SUBPARAGRAPH (VI) OF THIS  
52 PARAGRAPH THE EMPLOYMENT TEST WILL BE BASED ON THE NUMBER OF EMPLOYEES  
53 LOCATED IN THIS STATE ON THE LAST DAY OF THE FIRST TAXABLE YEAR THE  
54 TAXPAYER IS SUBJECT TO TAX IN THIS STATE. IF THE USES OF THE PROPERTY  
55 MUST BE AGGREGATED TO DETERMINE WHETHER THE PROPERTY IS PRINCIPALLY USED  
56 IN QUALIFYING USES, THEN EITHER EACH AFFILIATE USING THE PROPERTY MUST

1 SATISFY THIS EMPLOYMENT TEST OR THIS EMPLOYMENT TEST MUST BE SATISFIED  
2 THROUGH THE AGGREGATION OF THE EMPLOYEES OF THE TAXPAYER, ITS AFFILIATED  
3 REGULATED BROKER, DEALER, AND REGISTERED INVESTMENT ADVISER USING THE  
4 PROPERTY.

5 (VIII) FOR THE PURPOSE OF THIS SUBDIVISION, THE TERM "GOODS" SHALL NOT  
6 INCLUDE ELECTRICITY.

7 (IX) FOR PURPOSES OF THIS SUBDIVISION, "MANUFACTURING" SHALL MEAN THE  
8 PROCESS OF WORKING RAW MATERIALS INTO WARES SUITABLE FOR USE OR WHICH  
9 GIVES NEW SHAPES, NEW QUALITY OR NEW COMBINATIONS TO MATTER WHICH  
10 ALREADY HAS GONE THROUGH SOME ARTIFICIAL PROCESS BY THE USE OF MACHIN-  
11 ERY, TOOLS, APPLIANCES AND OTHER SIMILAR EQUIPMENT. PROPERTY USED IN THE  
12 PRODUCTION OF GOODS SHALL INCLUDE MACHINERY, EQUIPMENT OR OTHER TANGIBLE  
13 PROPERTY WHICH IS PRINCIPALLY USED IN THE REPAIR AND SERVICE OF OTHER  
14 MACHINERY, EQUIPMENT OR OTHER TANGIBLE PROPERTY USED PRINCIPALLY IN THE  
15 PRODUCTION OF GOODS AND SHALL INCLUDE ALL FACILITIES USED IN THE  
16 PRODUCTION OPERATION, INCLUDING STORAGE OF MATERIAL TO BE USED IN  
17 PRODUCTION AND OF THE PRODUCTS THAT ARE PRODUCED. FOR PURPOSES OF THIS  
18 SUBDIVISION, THE TERMS "RESEARCH AND DEVELOPMENT PROPERTY", "INDUSTRIAL  
19 WASTE TREATMENT FACILITIES", AND "AIR POLLUTION CONTROL FACILITIES"  
20 SHALL HAVE THE MEANINGS ASCRIBED THERETO BY CLAUSES (B), (C) AND (D),  
21 RESPECTIVELY, OF SUBPARAGRAPH (IV) OF PARAGRAPH (B) OF SUBDIVISION ONE  
22 OF THIS SECTION, AND THE PROVISIONS OF SUBPARAGRAPH (V) OF SUCH PARA-  
23 GRAPH (B) SHALL APPLY.

24 (C) NONQUALIFIED PROPERTY. A TAXPAYER SHALL NOT BE ALLOWED A CREDIT  
25 UNDER THIS SUBDIVISION WITH RESPECT TO ANY TANGIBLE PERSONAL PROPERTY  
26 AND OTHER TANGIBLE PROPERTY, INCLUDING BUILDINGS AND STRUCTURAL COMPO-  
27 NENTS OF BUILDINGS, WHICH IT LEASES TO ANY OTHER PERSON OR CORPORATION  
28 EXCEPT WHERE A TAXPAYER LEASES PROPERTY TO AN AFFILIATED REGULATED  
29 BROKER, DEALER, REGISTERED INVESTMENT ADVISER, NATIONAL SECURITIES  
30 EXCHANGE OR BOARD OF TRADE OR OTHER ENTITY DESCRIBED IN CLAUSE (F) OF  
31 SUBPARAGRAPH (V) OF PARAGRAPH (B) OF THIS SUBDIVISION THAT USES SUCH  
32 PROPERTY IN ACCORDANCE WITH CLAUSE (D), (E), (E-1) OR (F) OF SUBPARA-  
33 GRAPH (V) OF PARAGRAPH (B) OF THIS SUBDIVISION. FOR PURPOSES OF THE  
34 PRECEDING SENTENCE, ANY CONTRACT OR AGREEMENT TO LEASE OR RENT OR FOR A  
35 LICENSE TO USE SUCH PROPERTY SHALL BE CONSIDERED A LEASE. PROVIDED,  
36 HOWEVER, IN DETERMINING WHETHER A TAXPAYER SHALL BE ALLOWED A CREDIT  
37 UNDER THIS SUBDIVISION WITH RESPECT TO SUCH PROPERTY, ANY ELECTION MADE  
38 WITH RESPECT TO SUCH PROPERTY PURSUANT TO THE PROVISIONS OF PARAGRAPH  
39 EIGHT OF SUBSECTION (F) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTER-  
40 NATIONAL REVENUE CODE, AS SUCH PARAGRAPH WAS IN EFFECT FOR AGREEMENTS ENTERED  
41 INTO PRIOR TO JANUARY FIRST, NINETEEN HUNDRED EIGHTY-FOUR, SHALL BE  
42 DISREGARDED.

43 (D) CARRYOVER. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXA-  
44 BLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE  
45 FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION  
46 ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. PROVIDED, HOWEVER, THAT  
47 IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE  
48 YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS  
49 TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT NOT  
50 DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING  
51 YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR  
52 OR YEARS. IN LIEU OF SUCH CARRYOVER, ANY SUCH TAXPAYER WHICH QUALIFIES  
53 AS A NEW BUSINESS UNDER PARAGRAPH (F) OF SUBDIVISION ONE OF THIS SECTION  
54 MAY ELECT, ON ITS REPORT FOR ITS TAXABLE YEAR WITH RESPECT TO WHICH SUCH  
55 CREDIT IS ALLOWED, TO TREAT FIFTY PERCENT OF THE AMOUNT OF SUCH CARRY-  
56 OVER AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE

1 WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER.  
2 IN ADDITION, ANY TAXPAYER WHICH IS APPROVED AS THE OWNER OF A QUALIFIED  
3 INVESTMENT PROJECT OR A SIGNIFICANT CAPITAL INVESTMENT PROJECT PURSUANT  
4 TO SUBDIVISION (W) OF SECTION NINE HUNDRED FIFTY-NINE OF THE GENERAL  
5 MUNICIPAL LAW, ON ITS REPORT FOR ITS TAXABLE YEAR WITH RESPECT TO WHICH  
6 SUCH CREDIT IS ALLOWED, IN LIEU OF SUCH CARRYOVER, MAY ELECT TO TREAT  
7 FIFTY PERCENT OF THE AMOUNT OF SUCH CARRYOVER WHICH IS ATTRIBUTABLE TO  
8 THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR PROPERTY WHICH IS PART OF  
9 SUCH PROJECT AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN  
10 ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF  
11 THIS CHAPTER. PROVIDED, HOWEVER, SUCH OWNER SHALL BE ALLOWED SUCH REFUND  
12 FOR A MAXIMUM OF TEN TAXABLE YEARS WITH RESPECT TO SUCH QUALIFIED  
13 INVESTMENT PROJECT AND EACH SIGNIFICANT CAPITAL INVESTMENT PROJECT,  
14 STARTING WITH THE FIRST TAXABLE YEAR IN WHICH PROPERTY COMPRISING SUCH  
15 PROJECT IS PLACED IN SERVICE. PROVIDED, FURTHER, HOWEVER, THE PROVISIONS  
16 OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER  
17 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

18 (D-1) ANY CARRYOVER OF A CREDIT FROM PRIOR TAXABLE YEARS WILL NOT BE  
19 ALLOWED IF AN EMPIRE ZONE RETENTION CERTIFICATE IS NOT ISSUED PURSUANT  
20 TO SUBDIVISION (W) OF SECTION NINE HUNDRED FIFTY-NINE OF THE GENERAL  
21 MUNICIPAL LAW TO THE EMPIRE ZONE ENTERPRISE WHICH IS THE BASIS OF THE  
22 CREDIT.

23 (E) AT THE OPTION OF THE TAXPAYER, THE TAXPAYER MAY CHOOSE TO CLAIM  
24 THE CREDIT DESCRIBED IN PARAGRAPH (A) OF THIS SUBDIVISION FOR PROPERTY  
25 WHICH ALSO QUALIFIES FOR THE CREDIT PROVIDED UNDER SUBDIVISION ONE OF  
26 THIS SECTION. A TAXPAYER SHALL NOT BE ALLOWED A CREDIT UNDER THIS SUBDI-  
27 VISION WITH RESPECT TO ANY PROPERTY DESCRIBED IN PARAGRAPH (A) OF THIS  
28 SUBDIVISION IF A CREDIT IS TAKEN PURSUANT TO SUBDIVISION ONE OF THIS  
29 SECTION.

30 (F) RECAPTURE. (I) WITH RESPECT TO PROPERTY WHICH IS DEPRECIABLE  
31 PURSUANT TO SECTION ONE HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE CODE  
32 BUT IS NOT SUBJECT TO THE PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT  
33 OF SUCH CODE AND WHICH IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE  
34 PRIOR TO THE END OF THE TAXABLE YEAR IN WHICH THE CREDIT IS TO BE TAKEN,  
35 THE AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF THE CREDIT PROVIDED  
36 FOR IN THIS SUBDIVISION WHICH REPRESENTS THE RATIO WHICH THE MONTHS OF  
37 QUALIFIED USE BEAR TO THE MONTHS OF USEFUL LIFE. IF PROPERTY ON WHICH  
38 CREDIT HAS BEEN TAKEN IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE  
39 PRIOR TO THE END OF ITS USEFUL LIFE, THE DIFFERENCE BETWEEN THE CREDIT  
40 TAKEN AND THE CREDIT ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE  
41 YEAR OF DISPOSITION. PROVIDED, HOWEVER, IF SUCH PROPERTY IS DISPOSED OF  
42 OR CEASES TO BE IN QUALIFIED USE AFTER IT HAS BEEN IN QUALIFIED USE FOR  
43 MORE THAN TWELVE CONSECUTIVE YEARS, IT SHALL NOT BE NECESSARY TO ADD  
44 BACK THE CREDIT AS PROVIDED IN THIS SUBPARAGRAPH. THE AMOUNT OF CREDIT  
45 ALLOWED FOR ACTUAL USE SHALL BE DETERMINED BY MULTIPLYING THE ORIGINAL  
46 CREDIT BY THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE MONTHS  
47 OF USEFUL LIFE. FOR PURPOSES OF THIS SUBPARAGRAPH, USEFUL LIFE OF PROP-  
48 erty SHALL BE THE SAME AS THE TAXPAYER USES FOR DEPRECIATION PURPOSES  
49 WHEN COMPUTING HIS FEDERAL INCOME TAX LIABILITY.

50 (II) EXCEPT WITH RESPECT TO THAT PROPERTY TO WHICH SUBPARAGRAPH (IV)  
51 OF THIS PARAGRAPH APPLIES, WITH RESPECT TO THREE-YEAR PROPERTY, AS  
52 DEFINED IN SUBSECTION (E) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE  
53 INTERNAL REVENUE CODE, WHICH IS DISPOSED OF OR CEASES TO BE IN QUALIFIED  
54 USE PRIOR TO THE END OF THE TAXABLE YEAR IN WHICH THE CREDIT IS TO BE  
55 TAKEN, THE AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF THE CREDIT  
56 PROVIDED FOR IN THIS SUBDIVISION WHICH REPRESENTS THE RATIO WHICH THE

MONTHS OF QUALIFIED USE BEAR TO THIRTY-SIX. IF PROPERTY ON WHICH CREDIT HAS BEEN TAKEN IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF THIRTY-SIX MONTHS, THE DIFFERENCE BETWEEN THE CREDIT TAKEN AND THE CREDIT ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF DISPOSITION. THE AMOUNT OF CREDIT ALLOWED FOR ACTUAL USE SHALL BE DETERMINED BY MULTIPLYING THE ORIGINAL CREDIT BY THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO THIRTY-SIX.

(III) EXCEPT WITH RESPECT TO THAT PROPERTY TO WHICH SUBPARAGRAPH (IV) OF THIS PARAGRAPH APPLIES, WITH RESPECT TO PROPERTY SUBJECT TO THE PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE OTHER THAN THREE-YEAR PROPERTY AS DEFINED IN SUBSECTION (E) OF SUCH SECTION ONE HUNDRED SIXTY-EIGHT WHICH IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF THE TAXABLE YEAR IN WHICH THE CREDIT IS TO BE TAKEN, THE AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF THE CREDIT PROVIDED FOR IN THIS SUBDIVISION WHICH REPRESENTS THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO SIXTY. IF PROPERTY ON WHICH CREDIT HAS BEEN TAKEN IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF SIXTY MONTHS, THE DIFFERENCE BETWEEN THE CREDIT TAKEN AND THE CREDIT ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF DISPOSITION. THE AMOUNT OF CREDIT ALLOWED FOR ACTUAL USE SHALL BE DETERMINED BY MULTIPLYING THE ORIGINAL CREDIT BY THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO SIXTY.

(IV) WITH RESPECT TO ANY PROPERTY TO WHICH SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE APPLIES, WHICH IS A BUILDING OR A STRUCTURAL COMPONENT OF A BUILDING AND WHICH IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF THE TAXABLE YEAR IN WHICH THE CREDIT IS TO BE TAKEN, THE AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF THE CREDIT PROVIDED FOR IN THIS SUBDIVISION WHICH REPRESENTS THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE TOTAL NUMBER OF MONTHS OVER WHICH THE TAXPAYER CHOOSES TO DEDUCT THE PROPERTY UNDER THE INTERNAL REVENUE CODE. IF PROPERTY ON WHICH CREDIT HAS BEEN TAKEN IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF THE PERIOD OVER WHICH THE TAXPAYER CHOOSES TO DEDUCT THE PROPERTY UNDER THE INTERNAL REVENUE CODE, THE DIFFERENCE BETWEEN THE CREDIT TAKEN AND THE CREDIT ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF DISPOSITION. PROVIDED, HOWEVER, IF SUCH PROPERTY IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE AFTER IT HAS BEEN IN QUALIFIED USE FOR MORE THAN TWELVE CONSECUTIVE YEARS, IT SHALL NOT BE NECESSARY TO ADD BACK THE CREDIT AS PROVIDED IN THIS SUBPARAGRAPH. THE AMOUNT OF CREDIT ALLOWED FOR ACTUAL USE SHALL BE DETERMINED BY MULTIPLYING THE ORIGINAL CREDIT BY THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE TOTAL NUMBER OF MONTHS OVER WHICH THE TAXPAYER CHOOSES TO DEDUCT THE PROPERTY UNDER THE INTERNAL REVENUE CODE.

(V) FOR PURPOSES OF THIS PARAGRAPH, DISPOSAL OR CESSATION OF QUALIFIED USE SHALL NOT BE DEEMED TO HAVE OCCURRED SOLELY BY REASON OF THE TERMINATION OR EXPIRATION OF AN EMPIRE ZONE'S DESIGNATION AS SUCH.

(VI)(A) FOR PURPOSES OF THIS PARAGRAPH, THE DECERTIFICATION OF A BUSINESS ENTERPRISE WITH RESPECT TO AN EMPIRE ZONE SHALL CONSTITUTE A DISPOSAL OR CESSATION OF QUALIFIED USE OF THE PROPERTY ON WHICH THE CREDIT WAS TAKEN WHICH IS LOCATED IN THE ZONE TO WHICH THE DECERTIFICATION APPLIES, ON THE EFFECTIVE DATE OF SUCH DECERTIFICATION.

(B) WHERE A BUSINESS ENTERPRISE HAS BEEN DECERTIFIED BASED ON A FINDING PURSUANT TO CLAUSE ONE, TWO, OR FIVE OF SUBDIVISION (A) OF SECTION NINE HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW, THE AMOUNT REQUIRED TO BE ADDED BACK BY REASON OF THIS PARAGRAPH SHALL BE (I) THE AMOUNT OF CREDIT, WITH RESPECT TO THE PROPERTY WHICH IS DISPOSED OF OR

1 CEASES TO BE IN QUALIFIED USE, WHICH WAS DEDUCTED FROM THE TAXPAYER'S  
2 TAX OTHERWISE DUE UNDER THIS ARTICLE FOR ALL PRIOR TAXABLE YEARS,  
3 REDUCED (BUT NOT BELOW ZERO) BY (II) THE CREDIT ALLOWED FOR ACTUAL USE.  
4 FOR PURPOSES OF THIS SUBPARAGRAPH, THE ATTRIBUTION TO SPECIFIC PROPERTY  
5 OF CREDIT AMOUNTS DEDUCTED FROM TAX SHALL BE ESTABLISHED IN ACCORDANCE  
6 WITH THE DATE OF PLACEMENT IN SERVICE OF SUCH PROPERTY IN THE EMPIRE  
7 ZONE.

8 (C) IN NO EVENT SHALL THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO  
9 THIS SUBDIVISION BE RENDERED, SOLELY BY REASON OF CLAUSE (A) OF THIS  
10 SUBPARAGRAPH, LESS THAN THE AMOUNT OF THE CREDIT TO WHICH THE TAXPAYER  
11 WOULD OTHERWISE BE ENTITLED UNDER SUBDIVISION ONE OF THIS SECTION.

12 (D) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION, IN THE  
13 CASE OF A BUSINESS ENTERPRISE WHICH HAS BEEN DECERTIFIED, ANY AMOUNT OF  
14 CREDIT ALLOWED WITH RESPECT TO THE PROPERTY OF SUCH BUSINESS ENTERPRISE  
15 LOCATED IN THE ZONE TO WHICH THE DECERTIFICATION APPLIES WHICH IS  
16 CARRIED OVER PURSUANT TO PARAGRAPH (D) OF THIS SUBDIVISION SHALL NOT BE  
17 CARRIED OVER BEYOND THE SEVENTH TAXABLE YEAR NEXT FOLLOWING THE TAXABLE  
18 YEAR WITH RESPECT TO WHICH THE CREDIT PROVIDED FOR IN THIS SUBDIVISION  
19 WAS ALLOWED.

20 (VII) FOR PURPOSES OF THIS PARAGRAPH, WHERE A CREDIT IS ALLOWED WITH  
21 RESPECT TO AN AIR POLLUTION CONTROL FACILITY ON THE BASIS OF A CERTIF-  
22 ICATE OF COMPLIANCE ISSUED PURSUANT TO THE ENVIRONMENTAL CONSERVATION  
23 LAW AND THE CERTIFICATE IS REVOKED PURSUANT TO SUBDIVISION THREE OF  
24 SECTION 19-0309 OF THE ENVIRONMENTAL CONSERVATION LAW, SUCH REVOCATION  
25 SHALL CONSTITUTE A DISPOSAL OR CESSATION OF QUALIFIED USE, EXCEPT WITH  
26 RESPECT TO PROPERTY CONTAINED IN OR COMPRISING SUCH FACILITY WHICH IS  
27 DESCRIBED IN CLAUSE (A), (B), OR (C) OF SUBPARAGRAPH (V) OF PARAGRAPH  
28 (B) OF THIS SUBDIVISION OTHER THAN AS PART OF OR COMPRISING AN AIR  
29 POLLUTION CONTROL FACILITY. ALSO FOR PURPOSES OF THIS PARAGRAPH, THE USE  
30 OF AN AIR POLLUTION CONTROL FACILITY OR AN INDUSTRIAL WASTE TREATMENT  
31 FACILITY FOR THE PRIMARY PURPOSE OF SALVAGING MATERIALS WHICH ARE USABLE  
32 IN THE MANUFACTURING PROCESS OR ARE MARKETABLE SHALL CONSTITUTE A CESSA-  
33 TION OF QUALIFIED USE, EXCEPT WITH RESPECT TO PROPERTY CONTAINED IN OR  
34 COMPRISING SUCH FACILITY WHICH IS DESCRIBED IN CLAUSE (A) OR (C) OF  
35 SUBPARAGRAPH (V) OF PARAGRAPH (B) OF THIS SUBDIVISION.

36 (VIII) EXCEPT AS PROVIDED IN THIS SUBPARAGRAPH, THIS PARAGRAPH SHALL  
37 NOT APPLY TO A CREDIT ALLOWED BY THIS SUBDIVISION TO A TAXPAYER THAT IS  
38 A PARTNER IN A PARTNERSHIP IN THE CASE OF MANUFACTURING PROPERTY;  
39 PROVIDED, AT THE TIME SUCH PROPERTY WAS PLACED IN SERVICE BY SUCH PART-  
40 NERSHIP IN AN EMPIRE ZONE THE BASIS FOR FEDERAL INCOME TAX PURPOSES FOR  
41 SUCH PROPERTY (OR A PROJECT THAT INCLUDES SUCH PROPERTY) EQUALED OR  
42 EXCEEDED THREE HUNDRED MILLION DOLLARS AND SUCH PARTNER OWNED ITS PART-  
43 NERSHIP INTEREST FOR AT LEAST THREE YEARS FROM THE DATE SUCH PROPERTY  
44 WAS PLACED IN SERVICE. IF SUCH PROPERTY CEASES TO BE IN QUALIFIED USE  
45 AFTER IT IS PLACED IN SERVICE, THIS PARAGRAPH SHALL APPLY TO SUCH PART-  
46 NER IN THE YEAR SUCH PROPERTY CEASES TO BE IN QUALIFYING USE.

47 (IX) IF A TAXPAYER, WHICH IS APPROVED BY THE COMMISSIONER OF ECONOMIC  
48 DEVELOPMENT AS THE OWNER OF A QUALIFIED INVESTMENT PROJECT OR A SIGNIF-  
49 ICANT CAPITAL INVESTMENT PROJECT PURSUANT TO SUBDIVISION (W) OF SECTION  
50 NINE HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW, FAILS TO (A)  
51 CREATE AT LEAST THE MINIMUM NUMBER OF JOBS AT SUCH PROJECT AS REQUIRED  
52 BY THE PROVISIONS OF SUBDIVISION (S) OR (T) OF SECTION NINE HUNDRED  
53 FIFTY-SEVEN AND SUBDIVISION (W) OF SECTION NINE HUNDRED FIFTY-NINE OF  
54 THE GENERAL MUNICIPAL LAW OR (B) PLACE IN SERVICE PROPERTY COMPRISING  
55 SUCH QUALIFIED INVESTMENT PROJECT OR SIGNIFICANT CAPITAL INVESTMENT  
56 PROJECT WITH A BASIS FOR FEDERAL INCOME TAX PURPOSES EQUALING OR EXCEED-

1 ING THE APPLICABLE MINIMUM REQUIRED BASIS AS PROVIDED IN SUCH SUBDIVI-  
2 SION (S) OR (T), WHICHEVER IS RELEVANT, BY THE LAST DAY OF THE FIFTH  
3 TAXABLE YEAR FOLLOWING THE TAXABLE YEAR IN WHICH A CREDIT IS FIRST  
4 ALLOWED UNDER THIS SUBDIVISION FOR THE PROPERTY WHICH COMPRISES SUCH  
5 QUALIFIED INVESTMENT PROJECT OR SUCH SIGNIFICANT CAPITAL INVESTMENT  
6 PROJECT, THE TOTAL AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBDIVISION  
7 FOR ALL TAXABLE YEARS WITH RESPECT TO THE PROPERTY WHICH COMPRISES SUCH  
8 PROJECT WHICH HAS BEEN REFUNDED TO SUCH TAXPAYER SHALL BE ADDED BACK IN  
9 SUCH TAXABLE YEAR.

10 (G) NOTWITHSTANDING THE EXPIRATION OF THE EMPIRE ZONES PROGRAM UNDER  
11 ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW, A TAXPAYER THAT IS  
12 CERTIFIED AS A QUALIFIED INVESTMENT PROJECT PURSUANT TO SUCH ARTICLE  
13 EIGHT-B ON THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES  
14 PROGRAM EXPIRED SHALL CONTINUE TO BE DEEMED CERTIFIED UNDER SUCH ARTICLE  
15 EIGHTEEN-B FOR PURPOSES OF THIS SUBDIVISION FOR THE REMAINDER OF THE  
16 TAXABLE YEAR IN WHICH THE EXPIRATION OCCURRED AND FOR THE NEXT SUCCEED-  
17 ING NINE TAXABLE YEARS. IN ADDITION, THE AREAS DESIGNATED AS EMPIRE  
18 ZONES IN WHICH THE TAXPAYER IS CERTIFIED AS A QUALIFIED INVESTMENT  
19 PROJECT ON THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES  
20 PROGRAM EXPIRED SHALL CONTINUE TO BE DEEMED EMPIRE ZONES FOR PURPOSES OF  
21 THIS SUBDIVISION FOR THE REMAINDER OF THE TAXABLE YEAR IN WHICH THE  
22 EXPIRATION OCCURRED AND FOR THE NEXT SUCCEEDING NINE TAXABLE YEARS.

23 (H) NOTWITHSTANDING THE EXPIRATION OF THE EMPIRE ZONES PROGRAM UNDER  
24 ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW AND EXCEPT AS PROVIDED  
25 IN PARAGRAPH (G) OF THIS SUBDIVISION, A TAXPAYER THAT IS CERTIFIED AS AN  
26 EMPIRE ZONE BUSINESS PURSUANT TO SUCH ARTICLE EIGHTEEN-B ON THE DAY  
27 IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONE PROGRAM EXPIRED SHALL  
28 CONTINUE TO BE DEEMED CERTIFIED UNDER SUCH ARTICLE EIGHTEEN-B FOR  
29 PURPOSES OF THIS SUBDIVISION UNTIL APRIL FIRST, TWO THOUSAND FOURTEEN.  
30 IN ADDITION, THE AREAS DESIGNATED AS EMPIRE ZONES IN WHICH THE TAXPAYER  
31 IS CERTIFIED AS AN EMPIRE ZONE BUSINESS ON THE DAY IMMEDIATELY PRECEDING  
32 THE DAY THE EMPIRE ZONES PROGRAM EXPIRED SHALL CONTINUE TO BE DEEMED  
33 EMPIRE ZONES FOR PURPOSES OF THIS SUBDIVISIONS UNTIL APRIL FIRST, TWO  
34 THOUSAND FOURTEEN.

35 4. EMPIRE ZONE EMPLOYMENT INCENTIVE CREDIT (EZ-EIC). (A) APPLICATION  
36 OF CREDIT. WHERE A TAXPAYER IS ALLOWED A CREDIT UNDER SUBDIVISION THREE  
37 OF THIS SECTION, THE TAXPAYER SHALL BE ALLOWED A CREDIT FOR EACH OF THE  
38 THREE YEARS NEXT SUCCEEDING THE TAXABLE YEAR FOR WHICH THE CREDIT UNDER  
39 SUCH SUBDIVISION THREE IS ALLOWED, WITH RESPECT TO SUCH PROPERTY, WHETH-  
40 ER OR NOT DEDUCTIBLE IN SUCH TAXABLE YEAR OR IN SUBSEQUENT TAXABLE YEARS  
41 PURSUANT TO PARAGRAPH (D) OF SUCH SUBDIVISION THREE, OF THIRTY PERCENT  
42 OF THE CREDIT ALLOWABLE UNDER SUCH SUBDIVISION THREE; PROVIDED, HOWEVER,  
43 THAT THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR  
44 SHALL ONLY BE ALLOWED IF THE AVERAGE NUMBER OF EMPLOYEES EMPLOYED BY THE  
45 TAXPAYER IN THE EMPIRE ZONE, DESIGNATED PURSUANT TO ARTICLE EIGHTEEN-B  
46 OF THE GENERAL MUNICIPAL LAW, IN WHICH SUCH PROPERTY IS LOCATED DURING  
47 SUCH TAXABLE YEAR IS AT LEAST ONE HUNDRED ONE PERCENT OF THE AVERAGE  
48 NUMBER OF EMPLOYEES EMPLOYED BY THE TAXPAYER IN SUCH EMPIRE ZONE, DURING  
49 THE TAXABLE YEAR IMMEDIATELY PRECEDING THE TAXABLE YEAR FOR WHICH THE  
50 CREDIT UNDER SUCH SUBDIVISION THREE IS ALLOWED AND PROVIDED, FURTHER,  
51 THAT IF THE TAXPAYER WAS NOT SUBJECT TO TAX AND DID NOT HAVE A TAXABLE  
52 YEAR IMMEDIATELY PRECEDING THE TAXABLE YEAR FOR WHICH THE CREDIT UNDER  
53 SUBDIVISION THREE OF THIS SECTION IS ALLOWED, THE CREDIT ALLOWABLE UNDER  
54 THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL BE ALLOWED IF THE AVERAGE  
55 NUMBER OF EMPLOYEES EMPLOYED IN SUCH EMPIRE ZONE IN SUCH TAXABLE YEAR IS  
56 AT LEAST ONE HUNDRED ONE PERCENT OF THE AVERAGE NUMBER OF SUCH EMPLOYEES

1 DURING THE TAXABLE YEAR IN WHICH THE CREDIT UNDER SUCH SUBDIVISION THREE  
2 IS ALLOWED.

3 (B) AVERAGE NUMBER OF EMPLOYEES. THE AVERAGE NUMBER OF EMPLOYEES  
4 EMPLOYED IN AN EMPIRE ZONE IN A TAXABLE YEAR SHALL BE COMPUTED BY ASCER-  
5 TAINING THE NUMBER OF SUCH EMPLOYEES WITHIN SUCH ZONE EXCEPT GENERAL  
6 EXECUTIVE OFFICERS, EMPLOYED BY THE TAXPAYER ON THE THIRTY-FIRST DAY OF  
7 MARCH, THE THIRTIETH DAY OF JUNE, THE THIRTIETH DAY OF SEPTEMBER AND THE  
8 THIRTY-FIRST DAY OF DECEMBER IN THE TAXABLE YEAR, BY ADDING TOGETHER THE  
9 NUMBER OF EMPLOYEES ASCERTAINED ON EACH OF SUCH DATES AND DIVIDING THE  
10 SUM SO OBTAINED BY THE NUMBER OF SUCH ABOVE-MENTIONED DATES OCCURRING  
11 WITHIN THE TAXABLE YEAR.

12 (C) CARRYOVER. IN NO EVENT SHALL THE CREDIT HEREIN PROVIDED FOR BE  
13 ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE  
14 FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION  
15 ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. PROVIDED, HOWEVER, THAT  
16 IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE  
17 YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS  
18 TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT NOT  
19 DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING  
20 YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR  
21 OR YEARS. IN LIEU OF SUCH CARRYOVER, ANY SUCH TAXPAYER, WHICH IS  
22 APPROVED AS THE OWNER OF A QUALIFIED INVESTMENT PROJECT OR A SIGNIFICANT  
23 CAPITAL INVESTMENT PROJECT PURSUANT TO SUBDIVISION (V) OF SECTION NINE  
24 HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW, MAY ELECT, ON ITS  
25 REPORT FOR ITS TAXABLE YEAR WITH RESPECT TO WHICH SUCH CREDIT IS  
26 ALLOWED, TO TREAT FIFTY PERCENT OF THE AMOUNT OF SUCH CARRYOVER AS AN  
27 OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE  
28 PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED,  
29 HOWEVER, IN THE CASE OF SUCH OWNER OF A QUALIFIED INVESTMENT PROJECT OR  
30 A SIGNIFICANT CAPITAL INVESTMENT PROJECT, ONLY FIFTY PERCENT OF THE  
31 AMOUNT OF SUCH CARRYOVER WHICH IS ATTRIBUTABLE TO THE CREDIT ALLOWED  
32 UNDER THIS SUBDIVISION WITH RESPECT TO PROPERTY WHICH IS PART OF SUCH  
33 PROJECT SHALL BE ALLOWED TO BE CREDITED OR REFUNDED AND SUCH OWNER SHALL  
34 BE ALLOWED SUCH CREDIT OR REFUND ONLY FOR THOSE TAXABLE YEARS IN WHICH  
35 SUCH OWNER WOULD BE ALLOWED A CREDIT OR REFUND OF THE EMPIRE ZONE  
36 INVESTMENT TAX CREDIT PURSUANT TO PARAGRAPH (D) OF SUBDIVISION THREE OF  
37 THIS SECTION. PROVIDED, FURTHER, HOWEVER, THE PROVISIONS OF SUBSECTION  
38 (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTAND-  
39 ING, NO INTEREST SHALL BE PAID THEREON.

40 (C-1) ANY CARRYOVER OF A CREDIT FROM PRIOR TAXABLE YEARS WILL NOT BE  
41 ALLOWED IF AN EMPIRE ZONE RETENTION CERTIFICATE IS NOT ISSUED PURSUANT  
42 TO SUBDIVISION (W) OF SECTION NINE HUNDRED FIFTY-NINE OF THE GENERAL  
43 MUNICIPAL LAW TO THE EMPIRE ZONE ENTERPRISE WHICH IS THE BASIS OF THE  
44 CREDIT.

45 (D) NOTWITHSTANDING THE EXPIRATION OF THE EMPIRE ZONES PROGRAM UNDER  
46 ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW, A TAXPAYER THAT IS  
47 CERTIFIED AS A QUALIFIED INVESTMENT PROJECT PURSUANT TO SUCH ARTICLE  
48 EIGHTEEN-B ON THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES  
49 PROGRAM EXPIRED SHALL CONTINUE TO BE DEEMED CERTIFIED UNDER SUCH ARTICLE  
50 EIGHTEEN-B FOR PURPOSES OF THIS SUBDIVISION FOR THE REMAINDER OF THE  
51 TAXABLE YEAR IN WHICH THE EXPIRATION OCCURRED AND FOR THE NEXT SUCCEED-  
52 ING NINE TAXABLE YEARS. IN ADDITION, THE AREAS DESIGNATED AS EMPIRE  
53 ZONES IN WHICH THE TAXPAYER IS CERTIFIED AS A QUALIFIED INVESTMENT  
54 PROJECT ON THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES  
55 PROGRAM EXPIRED SHALL CONTINUE TO BE DEEMED EMPIRE ZONES FOR PURPOSES OF



1 THIS SUBDIVISION FOR THE REMAINDER OF THE TAXABLE YEAR IN WHICH THE  
2 EXPIRATION OCCURRED AND FOR THE NEXT SUCCEEDING NINE TAXABLE YEARS.

3 (E) NOTWITHSTANDING THE EXPIRATION OF THE EMPIRE ZONES PROGRAM UNDER  
4 ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW AND EXCEPT AS PROVIDED  
5 IN PARAGRAPH (D) OF THIS SUBDIVISION, A TAXPAYER THAT IS CERTIFIED AS AN  
6 EMPIRE ZONE BUSINESS PURSUANT TO SUCH ARTICLE EIGHTEEN-B ON THE DAY  
7 IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES PROGRAM EXPIRED SHALL  
8 CONTINUE TO BE DEEMED IN THE EMPIRE ZONE IN WHICH THE TAXPAYER WAS  
9 CERTIFIED AS AN EMPIRE ZONE BUSINESS ON THE DAY IMMEDIATELY PRECEDING  
10 THE DAY THE EMPIRE ZONES PROGRAM EXPIRED FOR EACH OF THE THREE YEARS  
11 NEXT SUCCEEDING THE TAXABLE YEAR FOR WHICH THE CREDIT UNDER SUBDIVISION  
12 THREE OF THIS SECTION IS ALLOWED.

13 5. QEZE CREDIT FOR REAL PROPERTY TAXES. (A) ALLOWANCE OF CREDIT. A  
14 TAXPAYER WHICH IS A QUALIFIED EMPIRE ZONE ENTERPRISE SHALL BE ALLOWED A  
15 CREDIT FOR ELIGIBLE REAL PROPERTY TAXES, TO BE COMPUTED AS PROVIDED IN  
16 SECTION FIFTEEN OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTI-  
17 CLE.

18 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION  
19 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS  
20 THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF  
21 SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF  
22 THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR  
23 REDUCES THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX  
24 BASED ON THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT THUS NOT  
25 DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF  
26 TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF  
27 SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE  
28 PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF  
29 THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

30 6. QEZE TAX REDUCTION CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER  
31 WHICH IS A QUALIFIED EMPIRE ZONE ENTERPRISE SHALL BE ALLOWED A QEZE TAX  
32 REDUCTION CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION SIXTEEN OF THIS  
33 CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

34 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION  
35 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS  
36 THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF  
37 SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. PROVIDED,  
38 HOWEVER, THIS PARAGRAPH SHALL NOT APPLY TO A TAXPAYER WITH A ZONE ALLO-  
39 CATION FACTOR OF ONE HUNDRED PERCENT.

40 7. QUALIFIED EMERGING TECHNOLOGY COMPANY EMPLOYMENT CREDIT. (A) APPLI-  
41 CATION OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED  
42 AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE,  
43 PROVIDED:

44 (I) THE TAXPAYER IS A QUALIFIED EMERGING TECHNOLOGY COMPANY PURSUANT  
45 TO THE PROVISIONS OF SECTION THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC  
46 AUTHORITIES LAW; AND

47 (II) THE AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL TIME BY THE  
48 TAXPAYER IN NEW YORK STATE DURING THE TAXABLE YEAR IS AT LEAST ONE  
49 HUNDRED ONE PERCENT OF THE TAXPAYER'S BASE YEAR EMPLOYMENT. FOR THE  
50 PURPOSES OF THIS SUBDIVISION, "BASE YEAR EMPLOYMENT" MEANS THE AVERAGE  
51 NUMBER OF INDIVIDUALS EMPLOYED FULL-TIME BY THE TAXPAYER IN THE STATE  
52 DURING THE THREE TAXABLE YEARS IMMEDIATELY PRECEDING THE FIRST TAXABLE  
53 YEAR IN WHICH THE CREDIT IS CLAIMED. WHERE THE TAXPAYER PROVIDED  
54 FULL-TIME EMPLOYMENT WITHIN THE STATE DURING ONLY A PORTION OF SUCH  
55 THREE-YEAR PERIOD, THEN THE FIRST EFFECTIVE DATE FOR THE COMPANY TO TAKE  
56 ADVANTAGE OF THIS CREDIT SHALL BE THE NEXT YEAR FOLLOWING THE FIRST FULL

1 TAXABLE YEAR THAT THE COMPANY HAD FULL-TIME EMPLOYMENT IN NEW YORK  
2 STATE. FOR THE PURPOSES OF THIS PARAGRAPH THE TERM "THREE YEARS" SHALL  
3 BE DEEMED TO REFER INSTEAD TO THE PRIOR YEAR'S FULL-TIME EMPLOYMENT  
4 AFTER THE FIRST YEAR AND THE AVERAGE OF THE FIRST EIGHT QUARTERS OF  
5 EMPLOYMENT AFTER THE FIRST TWO TAXABLE YEARS IN NEW YORK STATE.

6 (B) CREDIT LIMITATION. THE CREDIT SHALL BE ALLOWED ONLY IN THE FIRST  
7 TAXABLE YEAR IN WHICH THE CREDIT IS CLAIMED AND IN EACH OF THE NEXT TWO  
8 TAXABLE YEARS, PROVIDED THAT THE CONDITIONS OF PARAGRAPH (A) OF THIS  
9 SUBDIVISION ARE SATISFIED IN EACH TAXABLE YEAR.

10 (C) AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL-TIME. FOR THE PURPOSES  
11 OF THIS SUBDIVISION, AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL-TIME  
12 SHALL BE COMPUTED BY ADDING THE NUMBER OF SUCH INDIVIDUALS EMPLOYED BY  
13 THE TAXPAYER AT THE END OF EACH QUARTER DURING EACH TAXABLE YEAR OR  
14 OTHER APPLICABLE PERIOD AND DIVIDING THE SUM SO OBTAINED BY THE NUMBER  
15 OF SUCH QUARTERS OCCURRING WITHIN SUCH TAXABLE YEAR OR OTHER APPLICABLE  
16 PERIOD; PROVIDED HOWEVER, EXCEPT THAT IN COMPUTING BASE YEAR EMPLOYMENT,  
17 THERE SHALL BE EXCLUDED THEREFROM ANY EMPLOYEE WITH RESPECT TO WHOM A  
18 CREDIT PROVIDED FOR UNDER SUBDIVISION SIX OF THIS SECTION IS CLAIMED FOR  
19 THE TAXABLE YEAR.

20 (D) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL EQUAL THE PRODUCT  
21 OF ONE THOUSAND DOLLARS TIMES THE NUMBER OF INDIVIDUALS EMPLOYED  
22 FULL-TIME BY THE TAXPAYER IN THE TAXABLE YEAR THAT ARE IN EXCESS OF ONE  
23 HUNDRED PERCENT OF THE TAXPAYER'S BASE YEAR EMPLOYMENT.

24 (E) CARRYOVER. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXA-  
25 BLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE  
26 FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION  
27 ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT  
28 OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES  
29 THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON  
30 THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCT-  
31 IBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO  
32 BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE  
33 THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS  
34 OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER  
35 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

36 8. QUALIFIED EMERGING TECHNOLOGY COMPANY CAPITAL TAX CREDIT. (A)  
37 AMOUNT OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX  
38 IMPOSED BY THIS ARTICLE. THE AMOUNT OF THE CREDIT SHALL BE EQUAL TO ONE  
39 OF THE FOLLOWING PERCENTAGES, PER EACH QUALIFIED INVESTMENT IN A QUALI-  
40 FIED EMERGING TECHNOLOGY COMPANY AS DEFINED IN SECTION THIRTY-ONE  
41 HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW, MADE DURING THE TAXABLE  
42 YEAR, AND CERTIFIED BY THE COMMISSIONER, EITHER:

43 (1) TEN PERCENT OF QUALIFIED INVESTMENTS IN QUALIFIED EMERGING TECH-  
44 NOLOGY COMPANIES, EXCEPT FOR INVESTMENTS MADE BY OR ON BEHALF OF AN  
45 OWNER OF THE BUSINESS, INCLUDING, BUT NOT LIMITED TO, A STOCKHOLDER,  
46 PARTNER OR SOLE PROPRIETOR, OR ANY RELATED PERSON, AS DEFINED IN SUBPAR-  
47 AGRAPH (C) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED  
48 SIXTY-FIVE OF THE INTERNAL REVENUE CODE, AND PROVIDED, HOWEVER, THAT THE  
49 TAXPAYER CERTIFIES TO THE COMMISSIONER THAT THE QUALIFIED INVESTMENT  
50 WILL NOT BE SOLD, TRANSFERRED, TRADED, OR DISPOSED OF DURING THE FOUR  
51 YEARS FOLLOWING THE YEAR IN WHICH THE CREDIT IS FIRST CLAIMED; OR

52 (2) TWENTY PERCENT OF QUALIFIED INVESTMENTS IN QUALIFIED EMERGING  
53 TECHNOLOGY COMPANIES, EXCEPT FOR INVESTMENTS MADE BY OR ON BEHALF OF AN  
54 OWNER OF THE BUSINESS, INCLUDING, BUT NOT LIMITED TO, A STOCKHOLDER,  
55 PARTNER OR SOLE PROPRIETOR, OR ANY RELATED PERSON, AS DEFINED IN SUBPAR-  
56 AGRAPH (C) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED

SIXTY-FIVE OF THE INTERNAL REVENUE CODE, AND PROVIDED, HOWEVER, THAT THE TAXPAYER CERTIFIES TO THE COMMISSIONER THAT THE QUALIFIED INVESTMENT WILL NOT BE SOLD, TRANSFERRED, TRADED, OR DISPOSED OF DURING THE NINE YEARS FOLLOWING THE YEAR IN WHICH THE CREDIT IS FIRST CLAIMED.

(B) QUALIFIED INVESTMENT. "QUALIFIED INVESTMENT" MEANS THE CONTRIBUTION OF PROPERTY TO A CORPORATION IN EXCHANGE FOR ORIGINAL ISSUE CAPITAL STOCK OR OTHER OWNERSHIP INTEREST, THE CONTRIBUTION OF PROPERTY TO A PARTNERSHIP IN EXCHANGE FOR AN INTEREST IN THE PARTNERSHIP, AND SIMILAR CONTRIBUTIONS IN THE CASE OF A BUSINESS ENTITY NOT IN CORPORATE OR PARTNERSHIP FORM IN EXCHANGE FOR AN OWNERSHIP INTEREST IN SUCH ENTITY. THE TOTAL AMOUNT OF CREDIT ALLOWABLE TO A TAXPAYER UNDER THIS PROVISION FOR ALL YEARS, TAKEN IN THE AGGREGATE, SHALL NOT EXCEED ONE HUNDRED FIFTY THOUSAND DOLLARS IN THE CASE OF INVESTMENTS MADE PURSUANT TO SUBPARAGRAPH ONE OF PARAGRAPH (A) OF THIS SUBDIVISION AND SHALL NOT EXCEED THREE HUNDRED THOUSAND DOLLARS IN THE CASE OF INVESTMENTS MADE PURSUANT TO SUBPARAGRAPH TWO OF PARAGRAPH (A) OF THIS SUBDIVISION.

(C) CARRYOVER. IN NO EVENT SHALL THE CREDIT AND CARRYOVER OF SUCH CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR, IN THE AGGREGATE, REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER. HOWEVER, IF THE AMOUNT OF CREDIT OR CARRYOVERS OF SUCH CREDIT, OR BOTH, ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT, OR IF ANY PART OF THE CREDIT OR CARRYOVERS OF SUCH CREDIT MAY NOT BE DEDUCTED FROM THE TAX OTHERWISE DUE BY REASON OF THE FINAL SENTENCE OF THIS PARAGRAPH, ANY AMOUNT OF CREDIT OR CARRYOVERS OF SUCH CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAX FOR SUCH YEAR OR YEARS. IN ADDITION, THE AMOUNT OF SUCH CREDIT, AND CARRYOVERS OF SUCH CREDIT TO THE TAXABLE YEAR, DEDUCTED FROM THE TAX OTHERWISE DUE MAY NOT, IN THE AGGREGATE, EXCEED FIFTY PERCENT OF THE TAX IMPOSED UNDER SECTION TWO HUNDRED NINE OF THIS ARTICLE COMPUTED WITHOUT REGARD TO ANY CREDIT PROVIDED FOR BY THIS SECTION.

(D) RECAPTURE. (1) WHERE A TAXPAYER SELLS, TRANSFERS OR OTHERWISE DISPOSES OF CORPORATE STOCK, A PARTNERSHIP INTEREST OR OTHER OWNERSHIP INTEREST ARISING FROM THE MAKING OF A QUALIFIED INVESTMENT WHICH WAS THE BASIS, IN WHOLE OR IN PART, FOR THE ALLOWANCE OF THE CREDIT PROVIDED FOR UNDER SUBPARAGRAPH ONE OF PARAGRAPH (A) OF THIS SUBDIVISION, OR WHERE AN INVESTMENT WHICH WAS THE BASIS FOR SUCH ALLOWANCE IS, IN WHOLE OR IN PART, RECOVERED BY SUCH TAXPAYER, AND SUCH DISPOSITION OR RECOVERY OCCURS DURING THE TAXABLE YEAR OR WITHIN FORTY-EIGHT MONTHS FROM THE CLOSE OF THE TAXABLE YEAR WITH RESPECT TO WHICH SUCH CREDIT IS ALLOWED, THE TAXPAYER SHALL ADD BACK, WITH RESPECT TO THE TAXABLE YEAR IN WHICH THE DISPOSITION OR RECOVERY DESCRIBED ABOVE OCCURRED, THE REQUIRED PORTION OF THE CREDIT ORIGINALLY ALLOWED.

(2) WHERE A TAXPAYER SELLS, TRANSFERS OR OTHERWISE DISPOSES OF CORPORATE STOCK, A PARTNERSHIP INTEREST OR OTHER OWNERSHIP INTEREST ARISING FROM THE MAKING OF A QUALIFIED INVESTMENT WHICH WAS THE BASIS, IN WHOLE OR IN PART, FOR THE ALLOWANCE OF THE CREDIT PROVIDED FOR UNDER SUBPARAGRAPH TWO OF PARAGRAPH (A) OF THIS SUBDIVISION, OR WHERE AN INVESTMENT WHICH WAS THE BASIS FOR SUCH ALLOWANCE IS IN ANY MANNER, IN WHOLE OR IN PART, RECOVERED BY SUCH TAXPAYER, AND SUCH DISPOSITION OR RECOVERY OCCURS DURING THE TAXABLE YEAR OR WITHIN ONE HUNDRED EIGHT MONTHS FROM THE CLOSE OF THE TAXABLE YEAR WITH RESPECT TO WHICH SUCH CREDIT IS ALLOWED, THE TAXPAYER SHALL ADD BACK, WITH RESPECT TO THE TAXABLE YEAR

1 IN WHICH THE DISPOSITION OR RECOVERY DESCRIBED IN SUBPARAGRAPH ONE OF  
2 THIS PARAGRAPH OCCURRED THE REQUIRED PORTION OF THE CREDIT ORIGINALLY  
3 ALLOWED.

4 (3) THE REQUIRED PORTION OF THE CREDIT ORIGINALLY ALLOWED SHALL BE THE  
5 PRODUCT OF (A) THE PORTION OF SUCH CREDIT ATTRIBUTABLE TO THE PROPERTY  
6 DISPOSED OF AND (B) THE APPLICABLE PERCENTAGE.

7 (4) THE APPLICABLE PERCENTAGE SHALL BE:

8 (A) FOR CREDITS ALLOWED PURSUANT TO SUBPARAGRAPH ONE OF PARAGRAPH (A)  
9 OF THIS SUBDIVISION:

10 (I) ONE HUNDRED PERCENT, IF THE DISPOSITION OR RECOVERY OCCURS WITHIN  
11 THE TAXABLE YEAR WITH RESPECT TO WHICH THE CREDIT IS ALLOWED OR WITHIN  
12 TWELVE MONTHS OF THE END OF SUCH TAXABLE YEAR,

13 (II) SEVENTY-FIVE PERCENT, IF THE DISPOSITION OR RECOVERY OCCURS MORE  
14 THAN TWELVE BUT NOT MORE THAN TWENTY-FOUR MONTHS AFTER THE END OF THE  
15 TAXABLE YEAR WITH RESPECT TO WHICH THE CREDIT IS ALLOWED,

16 (III) FIFTY PERCENT, IF THE DISPOSITION OR RECOVERY OCCURS MORE THAN  
17 TWENTY-FOUR MONTHS BUT NOT MORE THAN THIRTY-SIX MONTHS AFTER THE END OF  
18 THE TAXABLE YEAR WITH RESPECT TO WHICH THE CREDIT IS ALLOWED, OR

19 (IV) TWENTY-FIVE PERCENT, IF THE DISPOSITION OR RECOVERY OCCURS MORE  
20 THAN THIRTY-SIX MONTHS BUT NOT MORE THAN FORTY-EIGHT MONTHS AFTER THE  
21 END OF THE TAXABLE YEAR WITH RESPECT TO WHICH THE CREDIT IS ALLOWED; OR

22 (B) FOR CREDITS ALLOWED PURSUANT TO SUBPARAGRAPH TWO OF PARAGRAPH (A)  
23 OF THIS SUBDIVISION:

24 (I) ONE HUNDRED PERCENT, IF THE DISPOSITION OR RECOVERY OCCURS WITHIN  
25 THE TAXABLE YEAR WITH RESPECT TO WHICH THE CREDIT IS ALLOWED OR WITHIN  
26 TWELVE MONTHS OF THE END OF SUCH TAXABLE YEAR,

27 (II) EIGHTY PERCENT, IF THE DISPOSITION OR RECOVERY OCCURS MORE THAN  
28 TWELVE BUT NOT MORE THAN FORTY-EIGHT MONTHS AFTER THE END OF THE TAXABLE  
29 YEAR WITH RESPECT TO WHICH THE CREDIT IS ALLOWED,

30 (III) SIXTY PERCENT, IF THE DISPOSITION OR RECOVERY OCCURS MORE THAN  
31 FORTY-EIGHT MONTHS BUT NOT MORE THAN SEVENTY-TWO MONTHS AFTER THE END OF  
32 THE TAXABLE YEAR WITH RESPECT TO WHICH THE CREDIT IS ALLOWED,

33 (IV) FORTY PERCENT, IF THE DISPOSITION OR RECOVERY OCCURS MORE THAN  
34 SEVENTY-TWO MONTHS BUT NOT MORE THAN NINETY-SIX MONTHS AFTER THE END OF  
35 THE TAXABLE YEAR WITH RESPECT TO WHICH THE CREDIT IS ALLOWED, OR

36 (V) TWENTY PERCENT, IF THE DISPOSITION OR RECOVERY OCCURS MORE THAN  
37 NINETY-SIX MONTHS BUT NOT MORE THAN ONE HUNDRED EIGHT MONTHS AFTER THE  
38 END OF THE TAXABLE YEAR WITH RESPECT TO WHICH THE CREDIT IS ALLOWED.

39 9. CREDIT FOR THE SPECIAL ADDITIONAL MORTGAGE RECORDING TAX. (A)  
40 APPLICATION OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE CRED-  
41 ITED AGAINST THE TAX IMPOSED BY THIS ARTICLE, EQUAL TO THE AMOUNT OF THE  
42 SPECIAL ADDITIONAL MORTGAGE RECORDING TAX PAID BY THE TAXPAYER PURSUANT  
43 TO THE PROVISIONS OF SUBDIVISION ONE-A OF SECTION TWO HUNDRED  
44 FIFTY-THREE OF THIS CHAPTER OR MORTGAGES RECORDED. PROVIDED, HOWEVER, NO  
45 CREDIT SHALL BE ALLOWED WITH RESPECT TO A MORTGAGE OF REAL PROPERTY  
46 PRINCIPALLY IMPROVED OR TO BE IMPROVED BY ONE OR MORE STRUCTURES  
47 CONTAINING IN THE AGGREGATE NOT MORE THAN SIX RESIDENTIAL DWELLING  
48 UNITS, EACH DWELLING UNIT HAVING ITS OWN SEPARATE COOKING FACILITIES,  
49 WHERE THE REAL PROPERTY IS LOCATED IN ONE OR MORE OF THE COUNTIES  
50 COMPRISING THE METROPOLITAN COMMUTER TRANSPORTATION AREA. PROVIDED  
51 FURTHER, HOWEVER, NO CREDIT SHALL BE ALLOWED WITH RESPECT TO A MORTGAGE  
52 OF REAL PROPERTY PRINCIPALLY IMPROVED OR TO BE IMPROVED BY ONE OR MORE  
53 STRUCTURES CONTAINING IN THE AGGREGATE NOT MORE THAN SIX RESIDENTIAL  
54 DWELLING UNITS, EACH DWELLING UNIT HAVING ITS OWN SEPARATE COOKING  
55 FACILITIES, WHERE THE REAL PROPERTY IS LOCATED IN THE COUNTY OF ERIE.

1 (B) CARRYOVER. IN NO EVENT SHALL THE CREDIT HEREIN PROVIDED FOR BE  
2 ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE  
3 FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION  
4 ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. IF, HOWEVER, THE AMOUNT  
5 OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR, INCLUD-  
6 ING ANY CREDIT CARRIED OVER FROM A PRIOR TAXABLE YEAR, REDUCES THE TAX  
7 TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED  
8 DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXA-  
9 BLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE  
10 DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

11 10. CREDIT FOR SERVICING CERTAIN MORTGAGES. (A) GENERAL. EVERY TAXPAY-  
12 ER MEETING THE REQUIREMENTS OF THE STATE OF NEW YORK MORTGAGE AGENCY  
13 APPLICABLE TO THE SERVICING OF MORTGAGES ACQUIRED BY SUCH AGENCY PURSU-  
14 ANT TO THE STATE OF NEW YORK MORTGAGE AGENCY ACT, WHICH SHALL HAVE  
15 ENTERED INTO A CONTRACT WITH THE STATE OF NEW YORK MORTGAGE AGENCY TO  
16 SERVICE MORTGAGES ACQUIRED BY SUCH AGENCY PURSUANT TO THE STATE OF NEW  
17 YORK MORTGAGE AGENCY ACT, SHALL HAVE CREDITED TO IT ANNUALLY AN AMOUNT  
18 EQUAL TO TWO AND NINETY-THREE ONE HUNDREDTHS PER CENTUM OF THE TOTAL  
19 PRINCIPAL AND INTEREST COLLECTED BY THE TAXPAYER DURING ITS TAXABLE YEAR  
20 ON EACH SUCH MORTGAGE SECURED BY A LIEN ON REAL ESTATE IMPROVED BY A  
21 ONE-FAMILY TO FOUR-FAMILY RESIDENTIAL STRUCTURE AND AN AMOUNT EQUAL TO  
22 THE INTEREST COLLECTED BY THE TAXPAYER DURING ITS TAXABLE YEAR ON EACH  
23 SUCH MORTGAGE SECURED BY A LIEN ON REAL PROPERTY IMPROVED BY A STRUCTURE  
24 OCCUPIED AS THE RESIDENCE OF FIVE OR MORE FAMILIES LIVING INDEPENDENTLY  
25 OF EACH OTHER, MULTIPLIED BY A FRACTION THE DENOMINATOR OF WHICH SHALL  
26 BE THE INTEREST RATE PAYABLE ON THE MORTGAGE (COMPUTED TO FIVE DECIMAL  
27 PLACES) AND THE NUMERATOR OF WHICH SHALL BE .00125 IN THE CASE OF SUCH A  
28 MORTGAGE ACQUIRED BY SUCH AGENCY FOR LESS THAN ONE MILLION DOLLARS, AND  
29 .00100 IN THE CASE OF SUCH A MORTGAGE ACQUIRED BY SUCH AGENCY FOR ONE  
30 MILLION DOLLARS OR MORE. IN NO EVENT SHALL THE CREDIT ALLOWED UNDER THIS  
31 SUBDIVISION REDUCE THE TAX TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT  
32 PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED  
33 TEN OF THIS ARTICLE. IN COMPUTING SUCH TAX CREDIT FOR THE SERVICING OF  
34 MORTGAGES ON ONE-FAMILY TO FOUR-FAMILY RESIDENTIAL STRUCTURES, THE  
35 TAXPAYER SHALL NOT BE ENTITLED TO CREDIT FOR THE COLLECTION OF CURTAIL-  
36 MENT OR PAYMENTS IN DISCHARGE OF ANY SUCH MORTGAGE. FOR THE PURPOSES OF  
37 THIS SUBDIVISION,

38 (B)(I) A "CURTAILMENT" SHALL MEAN AMOUNTS PAID BY MORTGAGORS

39 (A) IN EXCESS OF THE MONTHLY CONSTANT DUE DURING THE MONTH OF  
40 COLLECTION AND

41 (B) IN REDUCTION OF THE UNPAID PRINCIPAL BALANCE OF THE MORTGAGE; IN  
42 THE ABSENCE OF CLEAR EVIDENCE TO THE CONTRARY, AMOUNTS PAID IN EXCESS OF  
43 THE MONTHLY CONSTANT DUE DURING THE MONTH OF COLLECTION SHALL BE DEEMED  
44 TO BE IN REDUCTION OF THE UNPAID PRINCIPAL BALANCE OF THE MORTGAGE; AND

45 (II) "MONTHLY CONSTANT" SHALL MEAN THE AMOUNT OF PRINCIPAL AND INTER-  
46 EST WHICH IS DUE AND PAYABLE ACCORDING TO THE MORTGAGE DOCUMENTS ON EACH  
47 PERIODIC PAYMENT DATE.

48 11. AGRICULTURAL PROPERTY TAX CREDIT. (A) GENERAL. IN THE CASE OF A  
49 TAXPAYER WHICH IS AN ELIGIBLE FARMER OR AN ELIGIBLE FARMER WHO HAS PAID  
50 TAXES PURSUANT TO A LAND CONTRACT, THERE SHALL BE ALLOWED A CREDIT FOR  
51 THE ALLOWABLE SCHOOL DISTRICT PROPERTY TAXES. THE TERM "ALLOWABLE SCHOOL  
52 DISTRICT PROPERTY TAXES" MEANS THE SCHOOL DISTRICT PROPERTY TAXES PAID  
53 DURING THE TAXABLE YEAR ON QUALIFIED AGRICULTURAL PROPERTY, SUBJECT TO  
54 THE ACREAGE LIMITATION PROVIDED IN PARAGRAPH (E) OF THIS SUBDIVISION AND  
55 THE INCOME LIMITATION PROVIDED IN PARAGRAPH (F) OF THIS SUBDIVISION.

1 (B) ELIGIBLE FARMER. FOR PURPOSES OF THIS SUBDIVISION, THE TERM  
2 "ELIGIBLE FARMER" MEANS A TAXPAYER WHOSE FEDERAL GROSS INCOME FROM FARM-  
3 ING FOR THE TAXABLE YEAR IS AT LEAST TWO-THIRDS OF EXCESS FEDERAL GROSS  
4 INCOME. THE TERM "ELIGIBLE FARMER" ALSO INCLUDES A CORPORATION OTHER  
5 THAN THE TAXPAYER OF RECORD FOR QUALIFIED AGRICULTURAL LAND WHICH HAS  
6 PAID THE SCHOOL DISTRICT PROPERTY TAXES ON SUCH LAND PURSUANT TO A  
7 CONTRACT FOR THE FUTURE PURCHASE OF SUCH LAND; PROVIDED THAT SUCH CORPO-  
8 RATION HAS A FEDERAL GROSS INCOME FROM FARMING FOR THE TAXABLE YEAR  
9 WHICH IS AT LEAST TWO-THIRDS OF EXCESS FEDERAL GROSS INCOME; AND  
10 PROVIDED FURTHER THAT, IN DETERMINING SUCH INCOME ELIGIBILITY, A TAXPAY-  
11 ER MAY, FOR ANY TAXABLE YEAR, USE THE AVERAGE OF SUCH FEDERAL GROSS  
12 INCOME FROM FARMING FOR THAT TAXABLE YEAR AND SUCH INCOME FOR THE TWO  
13 CONSECUTIVE TAXABLE YEARS IMMEDIATELY PRECEDING SUCH TAXABLE YEAR.  
14 EXCESS FEDERAL GROSS INCOME MEANS THE AMOUNT OF FEDERAL GROSS INCOME  
15 FROM ALL SOURCES FOR THE TAXABLE YEAR IN EXCESS OF THIRTY THOUSAND  
16 DOLLARS. FOR THE PURPOSES OF THIS PARAGRAPH, PAYMENTS FROM THE STATE'S  
17 FARMLAND PROTECTION PROGRAM, ADMINISTERED BY THE DEPARTMENT OF AGRICUL-  
18 TURE AND MARKETS, SHALL BE INCLUDED AS FEDERAL GROSS INCOME FROM FARMING  
19 FOR OTHERWISE ELIGIBLE FARMERS.

20 (C) SCHOOL DISTRICT PROPERTY TAXES. FOR PURPOSES OF THIS SUBDIVISION,  
21 THE TERM "SCHOOL DISTRICT PROPERTY TAXES" MEANS ALL PROPERTY TAXES,  
22 SPECIAL AD VALOREM LEVIES AND SPECIAL ASSESSMENTS, EXCLUSIVE OF PENAL-  
23 TIES AND INTEREST, LEVIED FOR SCHOOL DISTRICT PURPOSES ON THE QUALIFIED  
24 AGRICULTURAL PROPERTY OWNED BY THE TAXPAYER.

25 (D) QUALIFIED AGRICULTURAL PROPERTY. FOR PURPOSES OF THIS SUBDIVISION,  
26 THE TERM "QUALIFIED AGRICULTURAL PROPERTY" MEANS LAND LOCATED IN THIS  
27 STATE WHICH IS USED IN AGRICULTURAL PRODUCTION, AND LAND IMPROVEMENTS,  
28 STRUCTURES AND BUILDINGS (EXCLUDING BUILDINGS USED FOR THE TAXPAYER'S  
29 RESIDENTIAL PURPOSE) LOCATED ON SUCH LAND WHICH ARE USED OR OCCUPIED TO  
30 CARRY OUT SUCH PRODUCTION. QUALIFIED AGRICULTURAL PROPERTY ALSO INCLUDES  
31 LAND SET ASIDE OR RETIRED UNDER A FEDERAL SUPPLY MANAGEMENT OR SOIL  
32 CONSERVATION PROGRAM OR LAND THAT AT THE TIME IT BECOMES SUBJECT TO A  
33 CONSERVATION EASEMENT MET THE REQUIREMENTS UNDER THIS PARAGRAPH.

34 (E) ACREAGE LIMITATION. (I) ELIGIBLE TAXES. IN THE EVENT THAT THE  
35 QUALIFIED AGRICULTURAL PROPERTY OWNED BY THE TAXPAYER INCLUDES LAND IN  
36 EXCESS OF THE BASE ACREAGE AS PROVIDED IN THIS PARAGRAPH, THE AMOUNT OF  
37 SCHOOL DISTRICT PROPERTY TAXES ELIGIBLE FOR CREDIT UNDER THIS SUBDIVI-  
38 SION SHALL BE THAT PORTION OF THE SCHOOL DISTRICT PROPERTY TAXES WHICH  
39 BEARS THE SAME RATIO TO THE TOTAL SCHOOL DISTRICT PROPERTY TAXES PAID  
40 DURING THE TAXABLE YEAR, AS THE ACREAGE ALLOWABLE UNDER THIS PARAGRAPH  
41 BEARS TO THE ENTIRE ACREAGE OF SUCH LAND.

42 (II) ALLOWABLE ACREAGE. THE ALLOWABLE ACREAGE IS THE SUM OF THE BASE  
43 ACREAGE SET FORTH BELOW AND FIFTY PERCENT OF THE INCREMENTAL ACREAGE.  
44 THE INCREMENTAL ACREAGE IS THE EXCESS OF THE ENTIRE ACREAGE OF QUALIFIED  
45 AGRICULTURAL LAND OWNED BY THE TAXPAYER OVER THE BASE ACREAGE. EXCEPT AS  
46 PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, THE BASE ACREAGE IS  
47 THREE HUNDRED FIFTY ACRES.

48 THE TOTAL BASE ACREAGE MAY BE INCREASED BY ANY ACREAGE ENROLLED OR  
49 PARTICIPATING DURING THE TAXABLE YEAR IN A FEDERAL ENVIRONMENTAL CONSER-  
50 VATION ACREAGE RESERVE PROGRAM PURSUANT TO TITLE THREE OF THE FEDERAL  
51 AGRICULTURE IMPROVEMENT AND REFORM ACT OF NINETEEN HUNDRED NINETY-SIX.

52 (III) BASE ACREAGE OF RELATED PERSONS. WHERE THE TAXPAYER AND ONE OR  
53 MORE RELATED PERSONS EACH OWN QUALIFIED AGRICULTURAL PROPERTY ON THE  
54 FIRST DAY OF MARCH OF ANY YEAR, THE BASE ACREAGE UNDER SUBPARAGRAPH (II)  
55 OF THIS PARAGRAPH SHALL BE DIVIDED EQUALLY AND ALLOTTED AMONG THE  
56 TAXPAYER AND SUCH RELATED PERSONS, AND THE TAXPAYER'S BASE ACREAGE FOR

1 THE TAXABLE YEAR WHICH INCLUDES SUCH MARCH FIRST SHALL BE LIMITED TO ITS  
2 ALLOTTED SHARE. PROVIDED, HOWEVER, IF THE TAXPAYER AND ALL SUCH RELATED  
3 PERSONS CONSENT (AT SUCH TIME AND IN SUCH MANNER AS THE COMMISSIONER MAY  
4 PRESCRIBE) TO AN UNEQUAL DIVISION, THE TAXPAYER'S BASE ACREAGE FOR SUCH  
5 TAXABLE YEAR SHALL BE LIMITED TO ITS ALLOTTED SHARE UNDER SUCH UNEQUAL  
6 DIVISION.

7 (IV) RELATED PERSONS. (A) FOR PURPOSES OF SUBPARAGRAPH (III) OF THIS  
8 PARAGRAPH, THE TERM "RELATED PERSON" MEANS:

9 (I) A CORPORATION SUBJECT TO TAX UNDER THIS ARTICLE, WHERE THE TAXPAY-  
10 ER AND THE CORPORATION ARE MEMBERS OF THE SAME CONTROLLED GROUP, AS  
11 DEFINED IN SECTION 267(F) OF THE INTERNAL REVENUE CODE;

12 (II) AN INDIVIDUAL, PARTNERSHIP, ESTATE OR TRUST, WHERE MORE THAN  
13 FIFTY PERCENT IN VALUE OF THE OUTSTANDING STOCK OF THE TAXPAYER IS  
14 OWNED, DIRECTLY OR INDIRECTLY, BY OR FOR SUCH INDIVIDUAL, PARTNERSHIP,  
15 ESTATE OR TRUST OR BY OR FOR THE GRANTOR OF SUCH TRUST;

16 (III) A CORPORATION SUBJECT TO TAX UNDER THIS ARTICLE, OR A PARTNER-  
17 SHIP, ESTATE OR TRUST, IF THE SAME PERSON OWNS MORE THAN FIFTY PERCENT  
18 IN VALUE OF THE OUTSTANDING STOCK OF THE TAXPAYER AND MORE THAN FIFTY  
19 PERCENT IN VALUE OF THE OUTSTANDING STOCK OF THE CORPORATION, OR MORE  
20 THAN FIFTY PERCENT OF THE CAPITAL OR PROFITS INTEREST IN THE PARTNER-  
21 SHIP, OR MORE THAN FIFTY PERCENT OF THE BENEFICIAL INTEREST IN THE  
22 ESTATE OR TRUST;

23 (IV) A PARTNERSHIP, ESTATE OR TRUST OF WHICH THE TAXPAYER OWNS,  
24 DIRECTLY OR INDIRECTLY, MORE THAN FIFTY PERCENT OF THE CAPITAL, PROFITS  
25 OR BENEFICIAL INTEREST.

26 (B) IN DETERMINING WHETHER A PERSON IS A RELATED PERSON WITHIN THE  
27 MEANING OF THIS SUBPARAGRAPH:

28 (I) STOCK OWNED, DIRECTLY OR INDIRECTLY, BY OR FOR A CORPORATION,  
29 PARTNERSHIP, ESTATE OR TRUST SHALL BE CONSIDERED AS BEING OWNED PROPOR-  
30 TIONATELY BY OR FOR ITS SHAREHOLDERS, PARTNERS OR BENEFICIARIES;

31 (II) AN INDIVIDUAL SHALL BE CONSIDERED AS OWNING THE STOCK OWNED,  
32 DIRECTLY OR INDIRECTLY, BY OR FOR HIS SPOUSE;

33 (III) STOCK CONSTRUCTIVELY OWNED BY A PERSON BY REASON OF THE APPLICA-  
34 TION OF ITEM (I) OF THIS CLAUSE SHALL, FOR THE PURPOSE OF APPLYING ITEM  
35 (I) OR (II) OF THIS CLAUSE, BE TREATED AS ACTUALLY OWNED BY SUCH PERSON.

36 (F) INCOME LIMITATION. (I) IN THE EVENT THAT THE MODIFIED ENTIRE NET  
37 INCOME OF THE TAXPAYER EXCEEDS TWO HUNDRED THOUSAND DOLLARS, THE ALLOW-  
38 ABLE SCHOOL DISTRICT PROPERTY TAXES UNDER PARAGRAPH (A) OF THIS SUBDIVI-  
39 SION SHALL BE THE ELIGIBLE TAXES UNDER SUBPARAGRAPH (I) OF PARAGRAPH (E)  
40 OF THIS SUBDIVISION REDUCED BY THE PRODUCT OF THE AMOUNT OF SUCH ELIGI-  
41 BLE TAXES AND A PERCENTAGE, SUCH PERCENTAGE TO BE DETERMINED BY MULTI-  
42 PLYING ONE HUNDRED PERCENT BY A FRACTION, THE NUMERATOR OF WHICH IS THE  
43 LESSER OF ONE HUNDRED THOUSAND DOLLARS OR THE EXCESS OF THE TAXPAYER'S  
44 MODIFIED ENTIRE NET INCOME OVER TWO HUNDRED THOUSAND DOLLARS AND THE  
45 DENOMINATOR OF WHICH IS ONE HUNDRED THOUSAND DOLLARS. FOR PURPOSES OF  
46 THE PRECEDING SENTENCE, THE TERM "ELIGIBLE TAXES", WHERE THE ACREAGE  
47 LIMITATION OF PARAGRAPH (E) OF THIS SUBDIVISION DOES NOT APPLY, SHALL  
48 MEAN THE TOTAL SCHOOL DISTRICT PROPERTY TAXES PAID DURING THE TAXABLE  
49 YEAR.

50 (II) THE TERM "MODIFIED ENTIRE NET INCOME" MEANS THE ENTIRE NET INCOME  
51 FOR THE TAXABLE YEAR REDUCED BY THE AMOUNT OF PRINCIPAL PAID ON FARM  
52 INDEBTEDNESS DURING THE TAXABLE YEAR. THE TERM "FARM INDEBTEDNESS" MEANS  
53 DEBT INCURRED OR REFINANCED WHICH IS SECURED BY FARM PROPERTY, WHERE THE  
54 PROCEEDS OF THE DEBT ARE DISBURSED FOR EXPENDITURES INCURRED IN THE  
55 BUSINESS OF FARMING.

1 (G) CARRYOVER. IN NO EVENT SHALL THE CREDIT PROVIDED HEREIN BE ALLOWED  
2 IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE FIXED  
3 DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF  
4 SECTION TWO HUNDRED TEN OF THIS ARTICLE. IF, HOWEVER, THE AMOUNT OF  
5 CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE  
6 TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE  
7 FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH  
8 TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY  
9 BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS. PROVIDED,  
10 HOWEVER, IN LIEU OF CARRYING OVER THE UNUSED PORTION OF SUCH CREDIT, THE  
11 TAXPAYER MAY ELECT TO TREAT SUCH UNUSED PORTION AS AN OVERPAYMENT OF TAX  
12 TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION  
13 ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER EXCEPT THAT NO INTEREST SHALL BE  
14 PAID ON SUCH OVERPAYMENT.

15 (H) NONQUALIFIED USE. (I) NO CREDIT IN CONVERSION YEAR. IN THE EVENT  
16 THAT QUALIFIED AGRICULTURAL PROPERTY IS CONVERTED BY THE TAXPAYER TO  
17 NONQUALIFIED USE, CREDIT UNDER THIS SUBDIVISION SHALL NOT BE ALLOWED  
18 WITH RESPECT TO SUCH PROPERTY FOR THE TAXABLE YEAR OF CONVERSION (THE  
19 CONVERSION YEAR).

20 (II) CREDIT RECAPTURE. IF THE CONVERSION BY THE TAXPAYER OF QUALIFIED  
21 AGRICULTURAL PROPERTY TO NONQUALIFIED USE OCCURS DURING THE PERIOD OF  
22 THE TWO TAXABLE YEARS FOLLOWING THE TAXABLE YEAR FOR WHICH THE CREDIT  
23 UNDER THIS SUBDIVISION WAS FIRST CLAIMED WITH RESPECT TO SUCH PROPERTY,  
24 THE CREDIT ALLOWED WITH RESPECT TO SUCH PROPERTY FOR THE TAXABLE YEARS  
25 PRIOR TO THE CONVERSION YEAR MUST BE ADDED BACK IN THE CONVERSION YEAR.  
26 WHERE THE PROPERTY CONVERTED INCLUDES LAND, AND WHERE THE CONVERSION IS  
27 OF ONLY A PORTION OF SUCH LAND, THE CREDIT ALLOWED WITH RESPECT TO THE  
28 PROPERTY CONVERTED SHALL BE DETERMINED BY MULTIPLYING THE ENTIRE CREDIT  
29 UNDER THIS SUBDIVISION FOR THE TAXABLE YEARS PRIOR TO THE CONVERSION  
30 YEAR BY A FRACTION, THE NUMERATOR OF WHICH IS THE ACREAGE CONVERTED AND  
31 THE DENOMINATOR OF WHICH IS THE ENTIRE ACREAGE OF SUCH LAND OWNED BY THE  
32 TAXPAYER IMMEDIATELY PRIOR TO THE CONVERSION.

33 (III) EXCEPTION TO RECAPTURE. SUBPARAGRAPH (II) OF THIS PARAGRAPH  
34 SHALL NOT APPLY TO THE CONVERSION OF PROPERTY WHERE THE CONVERSION IS BY  
35 REASON OF INVOLUNTARY CONVERSION, WITHIN THE MEANING OF SECTION ONE  
36 THOUSAND THIRTY-THREE OF THE INTERNAL REVENUE CODE.

37 (IV) CONVERSION TO NONQUALIFIED USE. FOR PURPOSES OF THIS PARAGRAPH, A  
38 SALE OR OTHER DISPOSITION OF QUALIFIED AGRICULTURAL PROPERTY ALONE SHALL  
39 NOT CONSTITUTE A CONVERSION TO A NONQUALIFIED USE.

40 (I) SPECIAL RULES. FOR PURPOSES OF THIS SUBDIVISION, THE TERM "FEDERAL  
41 GROSS INCOME FROM FARMING" SHALL INCLUDE GROSS INCOME FROM THE  
42 PRODUCTION OF MAPLE SYRUP, CIDER, CHRISTMAS TREES DERIVED FROM A MANAGED  
43 CHRISTMAS TREE OPERATION WHETHER DUG FOR TRANSPLANTING OR CUT FROM THE  
44 STUMP, OR FROM A COMMERCIAL HORSE BOARDING OPERATION AS DEFINED IN  
45 SUBDIVISION THIRTEEN OF SECTION THREE HUNDRED ONE OF THE AGRICULTURE AND  
46 MARKETS LAW, OR FROM THE SALE OF WINE FROM A LICENSED FARM WINERY AS  
47 PROVIDED FOR IN ARTICLE SIX OF THE ALCOHOLIC BEVERAGE CONTROL LAW, OR  
48 FROM THE SALE OF CIDER FROM A LICENSED FARM CIDERY AS PROVIDED FOR IN  
49 SECTION FIFTY-EIGHT-C OF THE ALCOHOLIC BEVERAGE CONTROL LAW.

50 (J) ELECTION TO DEEM GROSS INCOME OF NEW YORK C CORPORATION TO SHARE-  
51 HOLDERS. FOR PURPOSES OF THIS SUBDIVISION, FEDERAL GROSS INCOME FROM  
52 FARMING SHALL BE ZERO FOR ANY TAXABLE YEAR OF A NEW YORK C CORPORATION  
53 FOR WHICH THE ELECTION UNDER PARAGRAPH NINE OF SUBSECTION (N) OF SECTION  
54 SIX HUNDRED SIX OF THIS CHAPTER IS IN EFFECT.

55 12. CREDIT FOR EMPLOYMENT OF PERSONS WITH DISABILITIES. (A) ALLOWANCE  
56 OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HERE-



1 INAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, FOR EMPLOYING  
2 WITHIN THE STATE A QUALIFIED EMPLOYEE.

3 (B) QUALIFIED EMPLOYEE. A QUALIFIED EMPLOYEE IS AN INDIVIDUAL:

4 (1) WHO IS CERTIFIED BY THE EDUCATION DEPARTMENT, OR IN THE CASE OF AN  
5 INDIVIDUAL WHO IS BLIND OR VISUALLY HANDICAPPED, BY THE STATE AGENCY  
6 RESPONSIBLE FOR PROVISION OF VOCATIONAL REHABILITATION SERVICES TO THE  
7 BLIND AND VISUALLY HANDICAPPED: (I) AS A PERSON WITH A DISABILITY WHICH  
8 CONSTITUTES OR RESULTS IN A SUBSTANTIAL HANDICAP TO EMPLOYMENT AND (II)  
9 AS HAVING COMPLETED OR AS RECEIVING SERVICES UNDER AN INDIVIDUALIZED  
10 WRITTEN REHABILITATION PLAN APPROVED BY THE EDUCATION DEPARTMENT OR  
11 OTHER STATE AGENCY RESPONSIBLE FOR PROVIDING VOCATIONAL REHABILITATION  
12 SERVICES TO SUCH INDIVIDUAL; AND

13 (2) WHO HAS WORKED ON A FULL-TIME BASIS FOR THE EMPLOYER WHO IS CLAIM-  
14 ING THE CREDIT FOR AT LEAST ONE HUNDRED EIGHTY DAYS OR FOUR HUNDRED  
15 HOURS.

16 (C) AMOUNT OF CREDIT. EXCEPT AS PROVIDED IN PARAGRAPH (D) OF THIS  
17 SUBDIVISION, THE AMOUNT OF CREDIT SHALL BE THIRTY-FIVE PERCENT OF THE  
18 FIRST SIX THOUSAND DOLLARS IN QUALIFIED FIRST-YEAR WAGES EARNED BY EACH  
19 QUALIFIED EMPLOYEE. "QUALIFIED FIRST-YEAR WAGES" MEANS WAGES PAID OR  
20 INCURRED BY THE TAXPAYER DURING THE TAXABLE YEAR TO QUALIFIED EMPLOYEES  
21 WHICH ARE ATTRIBUTABLE, WITH RESPECT TO ANY SUCH EMPLOYEE, TO SERVICES  
22 RENDERED DURING THE ONE-YEAR PERIOD BEGINNING WITH THE DAY THE EMPLOYEE  
23 BEGINS WORK FOR THE TAXPAYER.

24 (D) CREDIT WHERE FEDERAL WORK OPPORTUNITY TAX CREDIT APPLIES. WITH  
25 RESPECT TO ANY QUALIFIED EMPLOYEE WHOSE QUALIFIED FIRST-YEAR WAGES UNDER  
26 PARAGRAPH (C) OF THIS SUBDIVISION ALSO CONSTITUTE QUALIFIED FIRST-YEAR  
27 WAGES FOR PURPOSES OF THE WORK OPPORTUNITY TAX CREDIT FOR VOCATIONAL  
28 REHABILITATION REFERRALS UNDER SECTION FIFTY-ONE OF THE INTERNAL REVENUE  
29 CODE, THE AMOUNT OF CREDIT UNDER THIS SUBDIVISION SHALL BE THIRTY-FIVE  
30 PERCENT OF THE FIRST SIX THOUSAND DOLLARS IN QUALIFIED SECOND-YEAR WAGES  
31 EARNED BY EACH SUCH EMPLOYEE. "QUALIFIED SECOND-YEAR WAGES" MEANS WAGES  
32 PAID OR INCURRED BY THE TAXPAYER DURING THE TAXABLE YEAR TO QUALIFIED  
33 EMPLOYEES WHICH ARE ATTRIBUTABLE, WITH RESPECT TO ANY SUCH EMPLOYEE, TO  
34 SERVICES RENDERED DURING THE ONE-YEAR PERIOD BEGINNING ONE YEAR AFTER  
35 THE EMPLOYEE BEGINS WORK FOR THE TAXPAYER.

36 (E) CARRYOVER. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXA-  
37 BLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE  
38 FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION  
39 ONE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER. HOWEVER, IF THE AMOUNT  
40 OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES  
41 THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON  
42 THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN  
43 SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS,  
44 AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

45 (F) COORDINATION WITH FEDERAL WORK OPPORTUNITY TAX CREDIT. THE  
46 PROVISIONS OF SECTION FIFTY-ONE AND FIFTY-TWO OF THE INTERNAL REVENUE  
47 CODE, AS SUCH SECTIONS APPLIED ON OCTOBER FIRST, NINETEEN HUNDRED NINE-  
48 TY-SIX, THAT APPLY TO THE FEDERAL WORK OPPORTUNITY TAX CREDIT FOR Voca-  
49 tional Rehabilitation Referrals SHALL APPLY TO THE CREDIT UNDER THIS  
50 SUBDIVISION TO THE EXTENT THAT SUCH SECTIONS ARE CONSISTENT WITH THE  
51 SPECIFIC PROVISIONS OF THIS SUBDIVISION, PROVIDED THAT IN THE EVENT OF A  
52 CONFLICT THE PROVISIONS OF THIS SUBDIVISION SHALL CONTROL.

53 13. CREDIT FOR PURCHASE OF AN AUTOMATED EXTERNAL DEFIBRILLATOR. A  
54 TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER  
55 PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, FOR THE PURCHASE,  
56 OTHER THAN FOR RESALE, OF AN AUTOMATED EXTERNAL DEFIBRILLATOR, AS SUCH

1 TERM IS DEFINED IN SECTION THREE THOUSAND-B OF THE PUBLIC HEALTH LAW.  
2 THE AMOUNT OF CREDIT SHALL BE THE COST TO THE TAXPAYER OF AUTOMATED  
3 EXTERNAL DEFIBRILLATORS PURCHASED DURING THE TAXABLE YEAR, SUCH CREDIT  
4 NOT TO EXCEED FIVE HUNDRED DOLLARS WITH RESPECT TO EACH UNIT PURCHASED.  
5 THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT  
6 REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR MINIMUM  
7 AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO  
8 HUNDRED TEN OF THIS CHAPTER.

9 14. CREDIT FOR PURCHASE OF LONG-TERM CARE INSURANCE. (A) GENERAL. A  
10 TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTI-  
11 CLE EQUAL TO TWENTY PERCENT OF THE PREMIUM PAID DURING THE TAXABLE YEAR  
12 FOR LONG-TERM CARE INSURANCE. IN ORDER TO QUALIFY FOR SUCH CREDIT, THE  
13 TAXPAYER'S PREMIUM PAYMENT MUST BE FOR THE PURCHASE OF OR FOR CONTINUING  
14 COVERAGE UNDER A LONG-TERM CARE INSURANCE POLICY THAT QUALIFIES FOR SUCH  
15 CREDIT PURSUANT TO SECTION ONE THOUSAND ONE HUNDRED SEVENTEEN OF THE  
16 INSURANCE LAW.

17 (B) CARRYOVER. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY YEAR  
18 SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR  
19 MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION  
20 TWO HUNDRED TEN OF THIS ARTICLE. IF, HOWEVER, THE AMOUNT OF CREDIT  
21 ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO  
22 SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED  
23 DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXA-  
24 BLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE  
25 DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

26 15. LOW-INCOME HOUSING CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER  
27 SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE WITH  
28 RESPECT TO THE OWNERSHIP OF ELIGIBLE LOW-INCOME BUILDINGS, COMPUTED AS  
29 PROVIDED IN SECTION EIGHTEEN OF THIS CHAPTER.

30 (B) APPLICATION OF CREDIT. THE CREDIT AND CARRYOVERS OF SUCH CREDIT  
31 ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT, IN THE  
32 AGGREGATE, REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED  
33 DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF  
34 SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CRED-  
35 IT OR CARRYOVERS OF SUCH CREDIT, OR BOTH, ALLOWED UNDER THIS SUBDIVISION  
36 FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER  
37 OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT  
38 OF CREDIT OR CARRYOVERS OF SUCH CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXA-  
39 BLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE  
40 DEDUCTED FROM THE TAX FOR SUCH YEAR OR YEARS.

41 (C) CREDIT RECAPTURE. FOR PROVISIONS REQUIRING RECAPTURE OF CREDIT,  
42 SEE SUBDIVISION (B) OF SECTION EIGHTEEN OF THIS CHAPTER.

43 16. GREEN BUILDING CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL  
44 BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION NINETEEN OF  
45 THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

46 (B) CARRYOVERS. THE CREDIT AND CARRYOVERS OF SUCH CREDIT ALLOWED UNDER  
47 THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT, IN THE AGGREGATE,  
48 REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR MINIMUM  
49 AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO  
50 HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT OR CARRY-  
51 OVERS OF SUCH CREDIT, OR BOTH, ALLOWED UNDER THIS SUBDIVISION FOR ANY  
52 TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE  
53 PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT  
54 OR CARRYOVERS OF SUCH CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR  
55 MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED  
56 FROM THE TAX FOR SUCH YEAR OR YEARS.

1 17. BROWNFIELD REDEVELOPMENT TAX CREDIT. (A) ALLOWANCE OF CREDIT. A  
2 TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN  
3 SECTION TWENTY-ONE OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS  
4 ARTICLE.

5 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION  
6 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS  
7 THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF  
8 SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF  
9 THE AMOUNT OF CREDITS ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE  
10 YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS  
11 TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT THUS  
12 NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT  
13 OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF  
14 SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE  
15 PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF  
16 THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

17 18. REMEDIATED BROWNFIELD CREDIT FOR REAL PROPERTY TAXES FOR QUALIFIED  
18 SITES. (A) ALLOWANCE OF CREDIT. A TAXPAYER WHICH IS A DEVELOPER OF A  
19 QUALIFIED SITE SHALL BE ALLOWED A CREDIT FOR ELIGIBLE REAL PROPERTY  
20 TAXES, TO BE COMPUTED AS PROVIDED IN SUBDIVISION (B) OF SECTION TWENTY-  
21 TWO OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE. FOR  
22 PURPOSES OF THIS SUBDIVISION, THE TERMS "QUALIFIED SITE" AND "DEVELOPER"  
23 SHALL HAVE THE SAME MEANING AS SET FORTH IN PARAGRAPHS TWO AND THREE,  
24 RESPECTIVELY, OF SUBDIVISION (A) OF SECTION TWENTY-TWO OF THIS CHAPTER.

25 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION  
26 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS  
27 THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF  
28 SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF  
29 THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR  
30 REDUCES THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX  
31 BASED ON THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT THUS NOT  
32 DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF  
33 TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF  
34 SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE  
35 PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF  
36 THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

37 19. ENVIRONMENTAL REMEDIATION INSURANCE CREDIT. (A) ALLOWANCE OF CRED-  
38 IT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN  
39 SECTION TWENTY-THREE OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS  
40 ARTICLE.

41 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION  
42 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS  
43 THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF  
44 SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF  
45 THE AMOUNT OF CREDITS ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE  
46 YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS  
47 TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT THUS  
48 NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT  
49 OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF  
50 SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE  
51 PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF  
52 THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

53 20. EMPIRE STATE FILM PRODUCTION CREDIT. (A) ALLOWANCE OF CREDIT. A  
54 TAXPAYER WHO IS ELIGIBLE PURSUANT TO SECTION TWENTY-FOUR OF THIS CHAPTER  
55 SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SUCH SECTION  
56 TWENTY-FOUR AGAINST THE TAX IMPOSED BY THIS ARTICLE.

1 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION  
2 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS  
3 THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF  
4 SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. PROVIDED,  
5 HOWEVER, THAT IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVI-  
6 SION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF THE  
7 TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT,  
8 THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR  
9 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND  
10 EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF  
11 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER  
12 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

13 21. SECURITY TRAINING TAX CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER  
14 SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION TWEN-  
15 TY-SIX OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

16 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION  
17 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS  
18 THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF  
19 SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER. HOWEVER, IF  
20 THE AMOUNT OF CREDITS ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE  
21 YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS  
22 TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT THUS  
23 NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT  
24 OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF  
25 SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE  
26 PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF  
27 THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

28 22. CONSERVATION EASEMENT TAX CREDIT. (A) CREDIT ALLOWED. IN THE CASE  
29 OF A TAXPAYER WHO OWNS LAND THAT IS SUBJECT TO A CONSERVATION EASEMENT  
30 HELD BY A PUBLIC OR PRIVATE CONSERVATION AGENCY, THERE SHALL BE ALLOWED  
31 A CREDIT FOR TWENTY-FIVE PERCENT OF THE ALLOWABLE SCHOOL DISTRICT, COUN-  
32 TY AND TOWN REAL PROPERTY TAXES ON SUCH LAND. IN NO SUCH CASE SHALL THE  
33 CREDIT ALLOWED UNDER THIS SUBDIVISION IN COMBINATION WITH ANY OTHER  
34 CREDIT FOR SUCH SCHOOL DISTRICT, COUNTY AND TOWN REAL PROPERTY TAXES  
35 UNDER THIS SECTION EXCEED SUCH TAXES.

36 (B) CONSERVATION EASEMENT. FOR PURPOSES OF THIS SUBDIVISION, THE TERM  
37 "CONSERVATION EASEMENT" MEANS A PERPETUAL AND PERMANENT CONSERVATION  
38 EASEMENT AS DEFINED IN ARTICLE FORTY-NINE OF THE ENVIRONMENTAL CONSERVA-  
39 TION LAW THAT SERVES TO PROTECT OPEN SPACE, SCENIC, NATURAL RESOURCES,  
40 BIODIVERSITY, AGRICULTURAL, WATERSHED AND/OR HISTORIC PRESERVATION  
41 RESOURCES. ANY CONSERVATION EASEMENT FOR WHICH A TAX CREDIT IS CLAIMED  
42 UNDER THIS SUBDIVISION SHALL BE FILED WITH THE DEPARTMENT OF ENVIRON-  
43 MENTAL CONSERVATION, AS PROVIDED FOR IN ARTICLE FORTY-NINE OF THE ENVI-  
44 RONMENTAL CONSERVATION LAW AND SUCH CONSERVATION EASEMENT SHALL COMPLY  
45 WITH THE PROVISIONS OF TITLE THREE OF SUCH ARTICLE, AND THE PROVISIONS  
46 OF SUBDIVISION (H) OF SECTION 170 OF THE INTERNAL REVENUE CODE. DEDI-  
47 CATIONS OF LAND FOR OPEN SPACE THROUGH THE EXECUTION OF CONSERVATION  
48 EASEMENTS FOR THE PURPOSE OF FULFILLING DENSITY REQUIREMENTS TO OBTAIN  
49 SUBDIVISION OR BUILDING PERMITS SHALL NOT BE CONSIDERED A CONSERVATION  
50 EASEMENT UNDER THIS SUBDIVISION.

51 (C) LAND. FOR PURPOSES OF THIS SUBDIVISION, THE TERM "LAND" MEANS A  
52 FEE SIMPLE TITLE TO REAL PROPERTY LOCATED IN THIS STATE, WITH OR WITHOUT  
53 IMPROVEMENTS THEREON; RIGHTS OF WAY; WATER AND RIPARIAN RIGHTS; EASE-  
54 MENTS; PRIVILEGES AND ALL OTHER RIGHTS OR INTERESTS OF ANY LAND OR  
55 DESCRIPTION IN, RELATING TO OR CONNECTED WITH REAL PROPERTY, EXCLUDING  
56 BUILDINGS, STRUCTURES, OR IMPROVEMENTS.

(D) PUBLIC OR PRIVATE CONSERVATION AGENCY. FOR PURPOSES OF THIS SUBDIVISION, THE TERM "PUBLIC OR PRIVATE CONSERVATION AGENCY" MEANS ANY STATE, LOCAL, OR FEDERAL GOVERNMENTAL BODY; OR ANY PRIVATE NOT-FOR-PROFIT CHARITABLE CORPORATION OR TRUST WHICH IS AUTHORIZED TO DO BUSINESS IN THE STATE OF NEW YORK, IS ORGANIZED AND OPERATED TO PROTECT LAND FOR NATURAL RESOURCES, CONSERVATION OR HISTORIC PRESERVATION PURPOSES, IS EXEMPT FROM FEDERAL INCOME TAXATION UNDER SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE, AND HAS THE POWER TO ACQUIRE, HOLD AND MAINTAIN LAND AND/OR INTERESTS IN LAND FOR SUCH PURPOSES.

(E) CREDIT LIMITATION. THE AMOUNT OF THE CREDIT THAT MAY BE CLAIMED BY A TAXPAYER PURSUANT TO THIS SUBSECTION SHALL NOT EXCEED FIVE THOUSAND DOLLARS IN ANY GIVEN YEAR.

(F) APPLICATION OF THE CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF THE CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER, EXCEPT THAT, NO INTEREST SHALL BE PAID THEREON.

23. EMPIRE STATE COMMERCIAL PRODUCTION CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER THAT IS ELIGIBLE PURSUANT TO PROVISIONS OF SECTION TWENTY-EIGHT OF THIS CHAPTER SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SUCH SECTION AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. PROVIDED, HOWEVER, THAT IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT, FIFTY PERCENT OF THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON. THE BALANCE OF SUCH CREDIT NOT CREDITED OR REFUNDED IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE IMMEDIATELY SUCCEEDING TAXABLE YEAR AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR. THE EXCESS, IF ANY, OF THE AMOUNT OF CREDIT OVER THE TAX FOR SUCH SUCCEEDING YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

(C) EXPIRATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION SHALL NOT BE APPLICABLE TO TAXABLE YEARS BEGINNING ON OR AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND SEVENTEEN.

24. BIOFUEL PRODUCTION CREDIT. (A) GENERAL. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION TWENTY-EIGHT OF THIS CHAPTER ADDED AS PART X OF CHAPTER SIXTY-TWO OF THE LAWS OF TWO THOUSAND SIX, AGAINST THE TAX IMPOSED BY THIS ARTICLE. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT

1 PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED  
2 TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER  
3 THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT OR  
4 IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM  
5 AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR  
6 SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN  
7 ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF  
8 THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF  
9 SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO  
10 INTEREST SHALL BE PAID THEREON. THE TAX CREDIT ALLOWED PURSUANT TO THIS  
11 SECTION SHALL APPLY TO TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO  
12 THOUSAND TWENTY.

13 25. CLEAN HEATING FUEL CREDIT. (A) GENERAL. A TAXPAYER SHALL BE  
14 ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE. SUCH CREDIT,  
15 TO BE COMPUTED AS HEREINAFTER PROVIDED, SHALL BE ALLOWED FOR BIOHEAT,  
16 USED FOR SPACE HEATING OR HOT WATER PRODUCTION FOR RESIDENTIAL PURPOSES  
17 WITHIN THIS STATE PURCHASED BEFORE JANUARY FIRST, TWO THOUSAND SEVEN-  
18 TEEN. SUCH CREDIT SHALL BE \$0.01 PER PERCENT OF BIODIESEL PER GALLON OF  
19 BIOHEAT, NOT TO EXCEED TWENTY CENTS PER GALLON, PURCHASED BY SUCH  
20 TAXPAYER.

21 (B) DEFINITIONS. FOR PURPOSES OF THIS SUBDIVISION, THE FOLLOWING DEFINI-  
22 TIONS SHALL APPLY:

23 (I) "BIODIESEL" SHALL MEAN A FUEL COMPRISED EXCLUSIVELY OF MONO-ALKYL  
24 ESTERS OF LONG CHAIN FATTY ACIDS DERIVED FROM VEGETABLE OILS OR ANIMAL  
25 FATS, DESIGNATED B100, WHICH MEETS THE SPECIFICATIONS OF AMERICAN SOCIETY  
26 OF TESTING AND MATERIALS DESIGNATION D 6751.

27 (II) "BIOHEAT" SHALL MEAN A FUEL COMPRISED OF BIODIESEL BLENDED WITH  
28 CONVENTIONAL HOME HEATING OIL, WHICH MEETS THE SPECIFICATIONS OF THE  
29 AMERICAN SOCIETY OF TESTING AND MATERIALS DESIGNATION D 396 OR D 975.

30 (C) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION  
31 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS  
32 THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF  
33 SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF  
34 THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR  
35 REDUCES THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX  
36 BASED ON THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT THUS NOT  
37 DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF  
38 TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF  
39 SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE  
40 PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF  
41 THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

42 26. CREDIT FOR REHABILITATION OF HISTORIC PROPERTIES. (A) APPLICATION  
43 OF CREDIT. (I) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST,  
44 TWO THOUSAND TEN, AND BEFORE JANUARY FIRST, TWO THOUSAND TWENTY, A  
45 TAXPAYER SHALL BE ALLOWED A CREDIT AS HEREINAFTER PROVIDED, AGAINST THE  
46 TAX IMPOSED BY THIS ARTICLE, IN AN AMOUNT EQUAL TO ONE HUNDRED PERCENT  
47 OF THE AMOUNT OF CREDIT ALLOWED THE TAXPAYER FOR THE SAME TAXABLE YEAR  
48 WITH RESPECT TO A CERTIFIED HISTORIC STRUCTURE UNDER SUBSECTION (C)(2)  
49 OF SECTION 47 OF THE INTERNAL REVENUE CODE WITH RESPECT TO A CERTIFIED  
50 HISTORIC STRUCTURE LOCATED WITHIN THE STATE. PROVIDED, HOWEVER, THE  
51 CREDIT SHALL NOT EXCEED FIVE MILLION DOLLARS.

52 (II) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-  
53 SAND TWENTY, A TAXPAYER SHALL BE ALLOWED A CREDIT AS HEREINAFTER  
54 PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, IN AN AMOUNT EQUAL TO  
55 THIRTY PERCENT OF THE AMOUNT OF CREDIT ALLOWED THE TAXPAYER FOR THE SAME  
56 TAXABLE YEAR WITH RESPECT TO A CERTIFIED HISTORIC STRUCTURE UNDER

1 SUBSECTION (C)(3) OF SECTION 47 OF THE INTERNAL REVENUE CODE WITH  
2 RESPECT TO A CERTIFIED HISTORIC STRUCTURE LOCATED WITHIN THE STATE.  
3 PROVIDED, HOWEVER, THE CREDIT SHALL NOT EXCEED ONE HUNDRED THOUSAND  
4 DOLLARS.

5 (B) IF THE TAXPAYER IS A PARTNER IN A PARTNERSHIP OR A SHAREHOLDER IN  
6 A NEW YORK S CORPORATION, THEN THE CREDIT CAPS IMPOSED IN SUBPARAGRAPH  
7 (A) OF THIS PARAGRAPH SHALL BE APPLIED AT THE ENTITY LEVEL, SO THAT THE  
8 AGGREGATE CREDIT ALLOWED TO ALL THE PARTNERS OR SHAREHOLDERS OF EACH  
9 SUCH ENTITY IN THE TAXABLE YEAR DOES NOT EXCEED THE CREDIT CAP THAT IS  
10 APPLICABLE IN THAT TAXABLE YEAR.

11 (B) TAX CREDITS ALLOWED PURSUANT TO THIS SUBDIVISION SHALL BE ALLOWED  
12 IN THE TAXABLE YEAR THAT THE QUALIFIED REHABILITATION IS PLACED IN  
13 SERVICE UNDER SECTION 167 OF THE FEDERAL INTERNAL REVENUE CODE.

14 (C) IF THE CREDIT ALLOWED THE TAXPAYER PURSUANT TO SECTION 47 OF THE  
15 INTERNAL REVENUE CODE WITH RESPECT TO A QUALIFIED REHABILITATION IS  
16 RECAPTURED PURSUANT TO SUBSECTION (A) OF SECTION 50 OF THE INTERNAL  
17 REVENUE CODE, A PORTION OF THE CREDIT ALLOWED UNDER THIS SUBSECTION MUST  
18 BE ADDED BACK IN THE SAME TAXABLE YEAR AND IN THE SAME PROPORTION AS THE  
19 FEDERAL CREDIT.

20 (D) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR  
21 SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT  
22 PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED  
23 TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF THE CREDIT ALLOWED UNDER  
24 THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT OR  
25 IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM  
26 AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR  
27 SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE RECREDITED OR REFUNDED  
28 IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF  
29 THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF  
30 SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO  
31 INTEREST SHALL BE PAID THEREON.

32 (E) TO BE ELIGIBLE FOR THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION,  
33 THE REHABILITATION PROJECT SHALL BE IN WHOLE OR IN PART LOCATED WITHIN A  
34 CENSUS TRACT WHICH IS IDENTIFIED AS BEING AT OR BELOW ONE HUNDRED  
35 PERCENT OF THE STATE MEDIAN FAMILY INCOME AS CALCULATED AS OF JANUARY  
36 FIRST OF EACH YEAR USING THE MOST RECENT FIVE YEAR ESTIMATE FROM THE  
37 AMERICAN COMMUNITY SURVEY PUBLISHED BY THE UNITED STATES CENSUS BUREAU.

38 27. CREDITS OF NEW YORK S CORPORATIONS. (A) GENERAL. NOTWITHSTANDING  
39 THE PROVISIONS OF THIS SECTION, NO CARRYOVER OF CREDIT ALLOWABLE IN A  
40 NEW YORK C YEAR SHALL BE DEDUCTED FROM THE TAX OTHERWISE DUE UNDER THIS  
41 ARTICLE IN A NEW YORK S YEAR, AND NO CREDIT ALLOWABLE IN A NEW YORK S  
42 YEAR, OR CARRYOVER OF SUCH CREDIT, SHALL BE DEDUCTED FROM THE TAX  
43 IMPOSED BY THIS ARTICLE. HOWEVER, A NEW YORK S YEAR SHALL BE TREATED AS  
44 A TAXABLE YEAR FOR PURPOSES OF DETERMINING THE NUMBER OF TAXABLE YEARS  
45 TO WHICH A CREDIT MAY BE CARRIED OVER UNDER THIS SECTION. NOTWITHSTAND-  
46 ING THE FIRST SENTENCE OF THIS SUBDIVISION, HOWEVER, THE CREDIT FOR THE  
47 SPECIAL ADDITIONAL MORTGAGE RECORDING TAX SHALL BE ALLOWED AS PROVIDED  
48 IN SUBDIVISION FIFTEEN OF THIS SECTION, AND THE CARRYOVER OF ANY SUCH  
49 CREDIT SHALL BE DETERMINED WITHOUT REGARD TO WHETHER THE CREDIT IS  
50 CARRIED FROM A NEW YORK C YEAR TO A NEW YORK S YEAR OR VICE-VERSA.

51 29. HIRE A VET CREDIT. (A) ALLOWANCE OF CREDIT. FOR TAXABLE YEARS  
52 BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN AND BEFORE  
53 JANUARY FIRST, TWO THOUSAND SEVENTEEN, A TAXPAYER SHALL BE ALLOWED A  
54 CREDIT, TO BE COMPUTED AS PROVIDED IN THIS SUBDIVISION, AGAINST THE TAX  
55 IMPOSED BY THIS ARTICLE, FOR HIRING AND EMPLOYING, FOR NOT LESS THAN ONE  
56 YEAR AND FOR NOT LESS THAN THIRTY-FIVE HOURS EACH WEEK, A QUALIFIED

VETERAN WITHIN THE STATE. THE TAXPAYER MAY CLAIM THE CREDIT IN THE YEAR IN WHICH THE QUALIFIED VETERAN COMPLETES ONE YEAR OF EMPLOYMENT BY THE TAXPAYER. IF THE TAXPAYER CLAIMS THE CREDIT ALLOWED UNDER THIS SUBDIVISION, THE TAXPAYER MAY NOT USE THE HIRING OF A QUALIFIED VETERAN THAT IS THE BASIS FOR THIS CREDIT IN THE BASIS OF ANY OTHER CREDIT ALLOWED UNDER THIS ARTICLE.

(B) QUALIFIED VETERAN. A QUALIFIED VETERAN IS AN INDIVIDUAL:

(1) WHO SERVED ON ACTIVE DUTY IN THE UNITED STATES ARMY, NAVY, AIR FORCE, MARINE CORPS, COAST GUARD OR THE RESERVES THEREOF, OR WHO SERVED IN ACTIVE MILITARY SERVICE OF THE UNITED STATES AS A MEMBER OF THE ARMY NATIONAL GUARD, AIR NATIONAL GUARD, NEW YORK GUARD OR NEW YORK NAVAL MILITIA; WHO WAS RELEASED FROM ACTIVE DUTY BY GENERAL OR HONORABLE DISCHARGE AFTER SEPTEMBER ELEVENTH, TWO THOUSAND ONE;

(2) WHO COMMENCES EMPLOYMENT BY THE QUALIFIED TAXPAYER ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN, AND BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN; AND

(3) WHO CERTIFIES BY SIGNED AFFIDAVIT, UNDER PENALTY OF PERJURY, THAT HE OR SHE HAS NOT BEEN EMPLOYED FOR THIRTY-FIVE OR MORE HOURS DURING ANY WEEK IN THE ONE HUNDRED EIGHTY DAY PERIOD IMMEDIATELY PRIOR TO HIS OR HER EMPLOYMENT BY THE TAXPAYER.

(C) EMPLOYER PROHIBITION. AN EMPLOYER SHALL NOT DISCHARGE AN EMPLOYEE AND HIRE A QUALIFYING VETERAN SOLELY FOR THE PURPOSE OF QUALIFYING FOR THIS CREDIT.

(D) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE TEN PERCENT OF THE TOTAL AMOUNT OF WAGES PAID TO THE QUALIFIED VETERAN DURING THE VETERAN'S FIRST FULL YEAR OF EMPLOYMENT. PROVIDED, HOWEVER, THAT, IF THE QUALIFIED VETERAN IS A DISABLED VETERAN, AS DEFINED IN PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION EIGHTY-FIVE OF THE CIVIL SERVICE LAW, THE AMOUNT OF THE CREDIT SHALL BE FIFTEEN PERCENT OF THE TOTAL AMOUNT OF WAGES PAID TO THE QUALIFIED VETERAN DURING THE VETERAN'S FIRST FULL YEAR OF EMPLOYMENT. THE CREDIT ALLOWED PURSUANT TO THIS SUBDIVISION SHALL NOT EXCEED IN ANY TAXABLE YEAR, FIVE THOUSAND DOLLARS FOR ANY QUALIFIED VETERAN AND FIFTEEN THOUSAND DOLLARS FOR ANY QUALIFIED VETERAN WHO IS A DISABLED VETERAN.

(E) CARRYOVER. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING THREE YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

30. ALTERNATIVE FUELS AND ELECTRIC VEHICLE RECHARGING PROPERTY CREDIT. (A) GENERAL. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR ALTERNATIVE FUEL VEHICLE REFUELING AND ELECTRIC VEHICLE RECHARGING PROPERTY PLACED IN SERVICE DURING THE TAXABLE YEAR.

(B) ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY AND ELECTRIC VEHICLE RECHARGING PROPERTY. THE CREDIT UNDER THIS SUBDIVISION FOR ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY AND ELECTRIC VEHICLE RECHARGING PROPERTY SHALL EQUAL FOR EACH INSTALLATION OF PROPERTY THE LESSER OF FIVE THOUSAND DOLLARS OR FIFTY PERCENT OF THE COST OF ANY SUCH PROPERTY:

(I) WHICH IS LOCATED IN THIS STATE;

(II) WHICH CONSTITUTES ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY OR ELECTRIC VEHICLE RECHARGING PROPERTY; AND



(III) FOR WHICH NONE OF THE COST HAS BEEN PAID FOR FROM THE PROCEEDS OF GRANTS, INCLUDING GRANTS FROM THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY OR THE NEW YORK POWER AUTHORITY.

(C) DEFINITIONS. (I) THE TERM "ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY" MEANS ALL OF THE EQUIPMENT NEEDED TO DISPENSE ANY FUEL AT LEAST EIGHTY-FIVE PERCENT OF THE VOLUME OF WHICH CONSISTS OF ONE OR MORE OF THE FOLLOWING: NATURAL GAS, LIQUIFIED NATURAL GAS, LIQUIFIED PETROLEUM, OR HYDROGEN.

(II) THE TERM "ELECTRIC VEHICLE RECHARGING PROPERTY" MEANS ALL OF THE EQUIPMENT NEEDED TO CONVEY ELECTRIC POWER FROM THE ELECTRIC GRID OR ANOTHER POWER SOURCE TO AN ONBOARD VEHICLE ENERGY STORAGE SYSTEM.

(D) CARRYOVERS. IN NO EVENT SHALL THE CREDIT UNDER THIS SUBDIVISION BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. PROVIDED, HOWEVER, THAT IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

(E) CREDIT RECAPTURE. IF, AT ANY TIME BEFORE THE END OF ITS RECOVERY PERIOD, ALTERNATIVE FUEL VEHICLE REFUELING OR ELECTRIC VEHICLE RECHARGING PROPERTY CEASES TO BE QUALIFIED, A RECAPTURE AMOUNT MUST BE ADDED BACK IN THE YEAR IN WHICH SUCH CESSATION OCCURS.

(I) ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY OR ELECTRIC VEHICLE RECHARGING PROPERTY CEASES TO BE QUALIFIED IF:

(I) THE PROPERTY NO LONGER QUALIFIES AS ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY OR ELECTRIC VEHICLE RECHARGING PROPERTY; OR

(II) FIFTY PERCENT OR MORE OF THE USE OF THE PROPERTY IN A TAXABLE YEAR IS OTHER THAN IN A TRADE OR BUSINESS IN THIS STATE; OR

(III) THE TAXPAYER RECEIVING THE CREDIT UNDER THIS SUBDIVISION SELLS OR DISPOSES OF THE PROPERTY AND KNOWS OR HAS REASON TO KNOW THAT THE PROPERTY WILL BE USED IN A MANNER DESCRIBED IN CLAUSES (I) AND (II) OF THIS SUBPARAGRAPH.

(II) RECAPTURE AMOUNT. THE RECAPTURE AMOUNT IS EQUAL TO THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE TOTAL RECOVERY PERIOD FOR THE PROPERTY MINUS THE NUMBER OF RECOVERY YEARS PRIOR TO, BUT NOT INCLUDING, THE RECAPTURE YEAR, AND THE DENOMINATOR OF WHICH IS THE TOTAL RECOVERY PERIOD.

(F) TERMINATION. THE CREDIT ALLOWED BY PARAGRAPH (B) OF THIS SUBDIVISION SHALL NOT APPLY IN TAXABLE YEARS BEGINNING AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND SEVENTEEN.

31. EXCELSIOR JOBS PROGRAM CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER WILL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-ONE OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR MAY NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF

1 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER  
2 NOTWITHSTANDING, NO INTEREST WILL BE PAID THEREON.

3 32. EMPIRE STATE FILM POST PRODUCTION CREDIT. (A) ALLOWANCE OF CREDIT.  
4 A TAXPAYER WHO IS ELIGIBLE PURSUANT TO SECTION THIRTY-ONE OF THIS CHAP-  
5 TER SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SUCH SECTION  
6 THIRTY-ONE AGAINST THE TAX IMPOSED BY THIS ARTICLE.

7 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION  
8 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS  
9 THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF  
10 SECTION TWO HUNDRED TEN OF THIS ARTICLE. PROVIDED, HOWEVER, THAT IF THE  
11 AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE  
12 YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS  
13 TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT, FIFTY PERCENT OF THE  
14 EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR  
15 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND  
16 EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF  
17 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER  
18 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON. THE BALANCE OF SUCH  
19 CREDIT NOT CREDITED OR REFUNDED IN SUCH TAXABLE YEAR MAY BE A CARRYOVER  
20 TO THE IMMEDIATELY SUCCEEDING TAXABLE YEAR AND MAY BE DEDUCTED FROM THE  
21 TAXPAYER'S TAX FOR SUCH YEAR. THE EXCESS, IF ANY, OF THE AMOUNT OF THE  
22 CREDIT OVER THE TAX FOR SUCH SUCCEEDING YEAR SHALL BE TREATED AS AN  
23 OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE  
24 PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED,  
25 HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHT-  
26 Y-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THER-  
27 EON.

28 33. TEMPORARY DEFERRAL NONREFUNDABLE PAYOUT CREDIT. (A) ALLOWANCE OF  
29 CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED  
30 IN SUBDIVISION ONE OF SECTION THIRTY-FOUR OF THIS CHAPTER, AGAINST THE  
31 TAX IMPOSED BY THIS ARTICLE.

32 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION  
33 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR THAT YEAR TO LESS  
34 THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF  
35 SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CRED-  
36 IT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX  
37 TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED  
38 DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH  
39 TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY  
40 BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

41 34. TEMPORARY DEFERRAL REFUNDABLE PAYOUT CREDIT. (A) ALLOWANCE OF  
42 CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED  
43 IN SUBDIVISION TWO OF SECTION THIRTY-FOUR OF THIS CHAPTER, AGAINST THE  
44 TAX IMPOSED BY THIS ARTICLE.

45 (B) APPLICATION OF CREDIT. IN NO EVENT SHALL THE CREDIT UNDER THIS  
46 SUBDIVISION BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX TO LESS  
47 THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF  
48 SECTION TWO HUNDRED TEN OF THIS ARTICLE. IF, HOWEVER, THE AMOUNT OF  
49 CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE  
50 TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE  
51 FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH  
52 TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE REFUNDED IN  
53 ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF  
54 THIS CHAPTER, PROVIDED HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

55 35. ECONOMIC TRANSFORMATION AND FACILITY REDEVELOPMENT PROGRAM TAX  
56 CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT,

1 TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-FIVE OF THIS CHAPTER,  
2 AGAINST THE TAX IMPOSED BY THIS ARTICLE.

3 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION  
4 FOR ANY TAXABLE YEAR MAY NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS  
5 THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF  
6 SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CRED-  
7 IT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX  
8 TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED  
9 DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH  
10 TAXABLE YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR  
11 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND  
12 EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF  
13 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER  
14 NOTWITHSTANDING, NO INTEREST WILL BE PAID THEREON.

15 36. NEW YORK YOUTH WORKS TAX CREDIT. (A) A TAXPAYER THAT HAS BEEN  
16 CERTIFIED BY THE COMMISSIONER OF LABOR AS A QUALIFIED EMPLOYER PURSUANT  
17 TO SECTION TWENTY-FIVE-A OF THE LABOR LAW SHALL BE ALLOWED A CREDIT  
18 AGAINST THE TAX IMPOSED BY THIS ARTICLE EQUAL TO (I) FIVE HUNDRED  
19 DOLLARS PER MONTH FOR UP TO SIX MONTHS FOR EACH QUALIFIED EMPLOYEE THE  
20 EMPLOYER EMPLOYS IN A FULL-TIME JOB OR TWO HUNDRED FIFTY DOLLARS PER  
21 MONTH FOR UP TO SIX MONTHS FOR EACH QUALIFIED EMPLOYEE THE EMPLOYER  
22 EMPLOYS IN A PART-TIME JOB OF AT LEAST TWENTY HOURS PER WEEK OR TEN  
23 HOURS PER WEEK WHEN THE QUALIFIED EMPLOYEE IS ENROLLED IN HIGH SCHOOL  
24 FULL-TIME, (II) ONE THOUSAND DOLLARS FOR EACH QUALIFIED EMPLOYEE WHO IS  
25 EMPLOYED FOR AT LEAST AN ADDITIONAL SIX MONTHS BY THE QUALIFIED EMPLOYER  
26 IN A FULL-TIME JOB OR FIVE HUNDRED DOLLARS FOR EACH QUALIFIED EMPLOYEE  
27 WHO IS EMPLOYED FOR AT LEAST AN ADDITIONAL SIX MONTHS BY THE QUALIFIED  
28 EMPLOYER IN A PART-TIME JOB OF AT LEAST TWENTY HOURS PER WEEK OR TEN  
29 HOURS PER WEEK WHEN THE QUALIFIED EMPLOYEE IS ENROLLED IN HIGH SCHOOL  
30 FULL-TIME, AND (III) AN ADDITIONAL ONE THOUSAND DOLLARS FOR EACH QUALI-  
31 FIED EMPLOYEE WHO IS EMPLOYED FOR AT LEAST AN ADDITIONAL YEAR AFTER THE  
32 FIRST YEAR OF THE EMPLOYEE'S EMPLOYMENT BY THE QUALIFIED EMPLOYER IN A  
33 FULL-TIME JOB OR FIVE HUNDRED DOLLARS FOR EACH QUALIFIED EMPLOYEE WHO IS  
34 EMPLOYED FOR AT LEAST AN ADDITIONAL YEAR AFTER THE FIRST YEAR OF THE  
35 EMPLOYEE'S EMPLOYMENT BY THE QUALIFIED EMPLOYER IN A PART-TIME JOB OF AT  
36 LEAST TWENTY HOURS PER WEEK OR TEN HOURS PER WEEK WHEN THE QUALIFIED  
37 EMPLOYEE IS ENROLLED IN HIGH SCHOOL FULL-TIME. FOR PURPOSES OF THIS  
38 SUBDIVISION, THE TERM "QUALIFIED EMPLOYEE" SHALL HAVE THE SAME MEANING  
39 AS SET FORTH IN SUBDIVISION (B) OF SECTION TWENTY-FIVE-A OF THE LABOR  
40 LAW. THE PORTION OF THE CREDIT DESCRIBED IN SUBPARAGRAPH (I) OF THIS  
41 PARAGRAPH SHALL BE ALLOWED FOR THE TAXABLE YEAR IN WHICH THE WAGES ARE  
42 PAID TO THE QUALIFIED EMPLOYEE, AND THE PORTION OF THE CREDIT DESCRIBED  
43 IN SUBPARAGRAPH (II) OF THIS PARAGRAPH SHALL BE ALLOWED IN THE TAXABLE  
44 YEAR IN WHICH THE ADDITIONAL SIX MONTH PERIOD ENDS.

45 (B) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR MAY  
46 NOT REDUCE THE TAX DUE FOR THAT YEAR TO LESS THAN THE AMOUNT PRESCRIBED  
47 IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS  
48 ARTICLE. HOWEVER, IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBDI-  
49 VISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO THAT AMOUNT OR IF THE  
50 TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT,  
51 ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN THAT TAXABLE YEAR WILL BE TREATED  
52 AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH  
53 THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER.  
54 PROVIDED, HOWEVER, NO INTEREST WILL BE PAID THEREON.

55 (C) THE TAXPAYER MAY BE REQUIRED TO ATTACH TO ITS TAX RETURN ITS  
56 CERTIFICATE OF ELIGIBILITY ISSUED BY THE COMMISSIONER OF LABOR PURSUANT

1 TO SECTION TWENTY-FIVE-A OF THE LABOR LAW. IN NO EVENT SHALL THE TAXPAY-  
2 ER BE ALLOWED A CREDIT GREATER THAN THE AMOUNT OF THE CREDIT LISTED ON  
3 THE CERTIFICATE OF ELIGIBILITY. NOTWITHSTANDING ANY PROVISION OF THIS  
4 CHAPTER TO THE CONTRARY, THE COMMISSIONER AND THE COMMISSIONER'S DESIG-  
5 NEES MAY RELEASE THE NAMES AND ADDRESSES OF ANY TAXPAYER CLAIMING THIS  
6 CREDIT AND THE AMOUNT OF THE CREDIT EARNED BY THE TAXPAYER. PROVIDED,  
7 HOWEVER, IF A TAXPAYER CLAIMS THIS CREDIT BECAUSE IT IS A MEMBER OF A  
8 LIMITED LIABILITY COMPANY OR A PARTNER IN A PARTNERSHIP, ONLY THE AMOUNT  
9 OF CREDIT EARNED BY THE ENTITY AND NOT THE AMOUNT OF CREDIT CLAIMED BY  
10 THE TAXPAYER MAY BE RELEASED.

11 37. EMPIRE STATE JOBS RETENTION PROGRAM CREDIT. (A) ALLOWANCE OF CRED-  
12 IT. A TAXPAYER WILL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN  
13 SECTION THIRTY-SIX OF THIS CHAPTER, AGAINST THE TAXES IMPOSED BY THIS  
14 ARTICLE.

15 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION  
16 FOR ANY TAXABLE YEAR WILL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS  
17 THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF  
18 SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CRED-  
19 IT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX  
20 TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED  
21 DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH  
22 TAXABLE YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR  
23 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND  
24 EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF  
25 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER  
26 NOTWITHSTANDING, NO INTEREST WILL BE PAID THEREON.

27 38. CREDIT FOR COMPANIES WHO PROVIDE TRANSPORTATION TO INDIVIDUALS  
28 WITH DISABILITIES. (A) ALLOWANCE AND AMOUNT OF CREDIT. A TAXPAYER, WHO  
29 PROVIDES A TAXICAB SERVICE AS DEFINED IN SECTION ONE HUNDRED  
30 FORTY-EIGHT-A OF THE VEHICLE AND TRAFFIC LAW, OR A LIVERY SERVICE AS  
31 DEFINED IN SECTION ONE HUNDRED TWENTY-ONE-E OF THE VEHICLE AND TRAFFIC  
32 LAW, SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN THIS  
33 SUBDIVISION, AGAINST THE TAX IMPOSED BY THIS ARTICLE. THE AMOUNT OF THE  
34 CREDIT SHALL BE EQUAL TO THE INCREMENTAL COST ASSOCIATED WITH UPGRADING  
35 A VEHICLE SO THAT IT IS ACCESSIBLE BY INDIVIDUALS WITH DISABILITIES AS  
36 DEFINED IN PARAGRAPH (B) OF THIS SUBDIVISION. PROVIDED, HOWEVER, THAT  
37 SUCH CREDIT SHALL NOT EXCEED TEN THOUSAND DOLLARS PER VEHICLE. FOR  
38 PURPOSES OF THIS SUBDIVISION, PURCHASES OF NEW VEHICLES THAT ARE  
39 INITIALLY MANUFACTURED TO BE ACCESSIBLE FOR INDIVIDUALS WITH DISABILI-  
40 TIES AND FOR WHICH THERE IS NO COMPARABLE MAKE AND MODEL THAT DOES NOT  
41 INCLUDE THE EQUIPMENT NECESSARY TO PROVIDE ACCESSIBILITY TO INDIVIDUALS  
42 WITH DISABILITIES, THE CREDIT SHALL BE TEN THOUSAND DOLLARS PER VEHICLE.

43 (B) DEFINITION. THE TERM "ACCESSIBLE BY INDIVIDUALS WITH DISABILITIES"  
44 SHALL, FOR THE PURPOSES OF THIS SUBDIVISION, REFER TO A VEHICLE THAT  
45 COMPLIES WITH FEDERAL REGULATIONS PROMULGATED PURSUANT TO THE AMERICANS  
46 WITH DISABILITIES ACT APPLICABLE TO VANS UNDER TWENTY-TWO FEET IN  
47 LENGTH, BY THE FEDERAL DEPARTMENT OF TRANSPORTATION, IN CODE OF FEDERAL  
48 REGULATIONS, TITLE 49, PARTS 37 AND 38, AND BY THE FEDERAL ARCHITECTURE  
49 AND TRANSPORTATION BARRIERS COMPLIANCE BOARD, IN CODE OF FEDERAL REGU-  
50 LATIONS, TITLE 36, SECTION 1192.23, AND THE FEDERAL MOTOR VEHICLE SAFETY  
51 STANDARDS, CODE OF FEDERAL REGULATIONS, TITLE 49, PART 57.

52 (C) APPLICATION OF CREDIT. IN NO EVENT SHALL THE CREDIT ALLOWED UNDER  
53 THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCE THE TAX DUE FOR SUCH YEAR  
54 TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE  
55 OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF  
56 CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE

1 TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE  
2 FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN  
3 SUCH TAXABLE YEAR SHALL BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS,  
4 AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

5 39. BEER PRODUCTION CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO  
6 BE COMPUTED AS PROVIDED IN SECTION THIRTY-SEVEN OF THIS CHAPTER, AGAINST  
7 THE TAX IMPOSED BY THIS ARTICLE. IN NO EVENT SHALL THE CREDIT ALLOWED  
8 UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCE THE TAX DUE FOR SUCH  
9 YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION  
10 ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT  
11 OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES  
12 THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON  
13 THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCT-  
14 ILE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO  
15 BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE  
16 THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS  
17 OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER  
18 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

19 40. MINIMUM WAGE REIMBURSEMENT CREDIT. (A) ALLOWANCE OF CREDIT. A  
20 TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN  
21 SECTION THIRTY-EIGHT OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS  
22 ARTICLE.

23 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION  
24 FOR ANY TAXABLE YEAR MAY NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS  
25 THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF  
26 SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CRED-  
27 IT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX  
28 TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED  
29 DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH  
30 TAXABLE YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR  
31 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND  
32 EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF  
33 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER  
34 NOTWITHSTANDING, NO INTEREST WILL BE PAID THEREON.

35 41. THE TAX-FREE NY AREA TAX ELIMINATION CREDIT. A TAXPAYER SHALL BE  
36 ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SECTION FORTY OF THIS  
37 CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE. UNLESS THE TAXPAYER  
38 HAS A TAX-FREE NY AREA ALLOCATION FACTOR OF ONE HUNDRED PERCENT, THE  
39 CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT  
40 REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN  
41 PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS  
42 ARTICLE. HOWEVER, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE  
43 YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR  
44 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND  
45 EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF  
46 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER  
47 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

48 42. ALTERNATIVE BASE CREDIT. (A) IF THE TAX IMPOSED ON A TAXPAYER BY  
49 SUBDIVISION ONE OF SECTION TWO HUNDRED NINE OF THIS ARTICLE IS THE  
50 AMOUNT PRESCRIBED IN PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION TWO  
51 HUNDRED TEN OF THIS ARTICLE, THE TAXPAYER SHALL BE ALLOWED A CREDIT  
52 AGAINST THE TAX IMPOSED UNDER THIS ARTICLE EQUAL TO THE AMOUNT OF TAX  
53 PAID TO ANOTHER STATE COMPUTED ON A TAX BASE IDENTICAL TO THE TAX BASE  
54 PRESCRIBED IN SUCH PARAGRAPH (B). IF THE TAX IMPOSED ON A TAXPAYER BY  
55 SUBDIVISION ONE OF SECTION TWO HUNDRED NINE OF THIS ARTICLE IS THE  
56 AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO

1 HUNDRED TEN OF THIS ARTICLE, THE TAXPAYER SHALL BE ALLOWED A CREDIT  
2 AGAINST THE TAX IMPOSED UNDER THIS ARTICLE EQUAL TO THE AMOUNT OF TAX  
3 PAID TO ANOTHER STATE COMPUTED ON A TAX BASE IDENTICAL TO THE TAX BASE  
4 PRESCRIBED IN SUCH PARAGRAPH (D).

5 (B) IN NO EVENT SHALL THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR  
6 ANY TAXABLE YEAR REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE  
7 AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO  
8 HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED  
9 UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH  
10 AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR  
11 MINIMUM AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE  
12 YEAR SHALL BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND MAY BE  
13 DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

14 43. REAL PROPERTY TAX CREDIT FOR MANUFACTURERS. (A) A QUALIFIED NEW  
15 YORK MANUFACTURER, AS DEFINED IN SUBPARAGRAPH (VI) OF PARAGRAPH (A) OF  
16 SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE, WILL BE  
17 ALLOWED A CREDIT EQUAL TO TWENTY PERCENT OF THE REAL PROPERTY TAX IT  
18 PAID DURING THE TAXABLE YEAR FOR REAL PROPERTY OWNED BY SUCH MANUFACTUR-  
19 ER IN NEW YORK WHICH WAS PRINCIPALLY USED DURING THE TAXABLE YEAR FOR  
20 MANUFACTURING TO THE EXTENT NOT DEDUCTED IN DETERMINING ENTIRE NET  
21 INCOME. THIS CREDIT WILL NOT BE ALLOWED IF THE REAL PROPERTY TAXES THAT  
22 ARE THE BASIS FOR THIS CREDIT ARE INCLUDED IN THE CALCULATION OF ANOTHER  
23 CREDIT CLAIMED BY THE TAXPAYER.

24 (B) (1) FOR PURPOSES OF THIS SUBDIVISION, THE TERM REAL PROPERTY TAX  
25 MEANS A CHARGE IMPOSED UPON REAL PROPERTY BY OR ON BEHALF OF A COUNTY,  
26 CITY, TOWN, VILLAGE OR SCHOOL DISTRICT FOR MUNICIPAL OR SCHOOL DISTRICT  
27 PURPOSES, PROVIDED THAT THE CHARGE IS LEVIED FOR THE GENERAL PUBLIC  
28 WELFARE BY THE PROPER TAXING AUTHORITIES AT A LIKE RATE AGAINST ALL  
29 PROPERTY OVER WHICH SUCH AUTHORITIES HAVE JURISDICTION, AND PROVIDED  
30 THAT WHERE TAXES ARE LEVIED PURSUANT TO ARTICLE EIGHTEEN OR NINETEEN OF  
31 THE REAL PROPERTY TAX LAW, THE PROPERTY MUST HAVE BEEN TAXED AT THE RATE  
32 DETERMINED FOR THE CLASS IN WHICH IT IS CONTAINED, AS PROVIDED BY SUCH  
33 ARTICLE EIGHTEEN OR NINETEEN, WHICHEVER IS APPLICABLE. THE TERM REAL  
34 PROPERTY TAX DOES NOT INCLUDE A CHARGE FOR LOCAL BENEFITS, INCLUDING ANY  
35 PORTION OF THAT CHARGE THAT IS PROPERLY ALLOCATED TO THE COSTS ATTRIBUT-  
36 ABLE TO MAINTENANCE OR INTEREST, WHEN (I) THE PROPERTY SUBJECT TO THE  
37 CHARGE IS LIMITED TO THE PROPERTY THAT BENEFITS FROM THE CHARGE, OR (II)  
38 THE AMOUNT OF THE CHARGE IS DETERMINED BY THE BENEFIT TO THE PROPERTY  
39 ASSESSED, OR (III) THE IMPROVEMENT FOR WHICH THE CHARGE IS ASSESSED  
40 TENDS TO INCREASE THE PROPERTY VALUE.

41 (2) IN ADDITION, THE TERM REAL PROPERTY TAX INCLUDES TAXES PAID BY THE  
42 TAXPAYER UPON REAL PROPERTY PRINCIPALLY USED DURING THE TAXABLE YEAR BY  
43 THE TAXPAYER IN MANUFACTURING WHERE THE TAXPAYER LEASES SUCH REAL PROP-  
44 erty FROM AN UNRELATED THIRD PARTY IF THE FOLLOWING CONDITIONS ARE  
45 SATISFIED: (I) THE TAX MUST BE PAID BY THE TAXPAYER AS LESSEE PURSUANT  
46 TO EXPLICIT REQUIREMENTS IN A WRITTEN LEASE, AND (II) THE TAXPAYER AS  
47 LESSEE HAS PAID SUCH TAXES DIRECTLY TO THE TAXING AUTHORITY AND HAS  
48 RECEIVED A WRITTEN RECEIPT FOR PAYMENT OF TAXES FROM THE TAXING AUTHORI-  
49 TY. IN THE CASE OF A COMBINED GROUP THAT CONSTITUTES A QUALIFIED NEW  
50 YORK MANUFACTURER, THE CONDITIONS IN THE PRECEDING SENTENCE ARE SATIS-  
51 FIED IF ONE CORPORATION IN THE COMBINED GROUP IS THE LESSEE AND ANOTHER  
52 CORPORATION IN THE COMBINED GROUP MAKES THE PAYMENTS TO THE TAXING  
53 AUTHORITY.

54 (3) THE TERM REAL PROPERTY TAX DOES NOT INCLUDE A PAYMENT MADE BY THE  
55 TAXPAYER IN CONNECTION WITH AN AGREEMENT FOR THE PAYMENT IN LIEU OF

1 TAXES ON REAL PROPERTY, WHETHER SUCH PROPERTY IS OWNED OR LEASED BY THE  
2 TAXPAYER.

3 (4) THE REAL PROPERTY TAXES MUST BE PAID BY THE TAXPAYER IN THE YEAR  
4 SUCH TAXES BECOME A LIEN ON THE REAL PROPERTY.

5 (C) CREDIT RECAPTURE. WHERE A QUALIFIED NEW YORK MANUFACTURER'S REAL  
6 PROPERTY TAXES WHICH WERE THE BASIS FOR THE ALLOWANCE OF THE CREDIT  
7 PROVIDED FOR UNDER THIS SUBDIVISION ARE SUBSEQUENTLY REDUCED AS A RESULT  
8 OF A FINAL ORDER IN ANY PROCEEDING UNDER ARTICLE SEVEN OF THE REAL PROP-  
9 erty TAX LAW OR OTHER PROVISION OF LAW, THE TAXPAYER SHALL ADD BACK, IN  
10 THE TAXABLE YEAR IN WHICH SUCH FINAL ORDER IS ISSUED, THE EXCESS OF (1)  
11 THE AMOUNT OF CREDIT ORIGINALLY ALLOWED FOR A TAXABLE YEAR OVER (2) THE  
12 AMOUNT OF CREDIT DETERMINED BASED UPON THE REDUCED REAL PROPERTY TAXES.  
13 IF SUCH FINAL ORDER REDUCES REAL PROPERTY TAXES FOR MORE THAN ONE YEAR,  
14 THE TAXPAYER MUST DETERMINE HOW MUCH OF SUCH REDUCTION IS ATTRIBUTABLE  
15 TO EACH YEAR COVERED BY SUCH FINAL ORDER AND CALCULATE THE AMOUNT OF  
16 CREDIT WHICH IS REQUIRED BY THIS SUBDIVISION TO BE RECAPTURED FOR EACH  
17 YEAR BASED ON SUCH REDUCTION.

18 (D) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR  
19 SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN TWENTY-FIVE  
20 DOLLARS.

21 44. THE TAX-FREE NY AREA EXCISE TAX ON TELECOMMUNICATION SERVICES  
22 CREDIT. A TAXPAYER THAT IS A BUSINESS OR OWNER OF A BUSINESS THAT IS  
23 LOCATED IN A TAX-FREE NY AREA APPROVED PURSUANT TO ARTICLE TWENTY-ONE OF  
24 THE ECONOMIC DEVELOPMENT LAW SHALL BE ALLOWED A CREDIT EQUAL TO THE  
25 EXCISE TAX ON TELECOMMUNICATION SERVICES IMPOSED BY SECTION ONE HUNDRED  
26 EIGHTY-SIX-E OF THIS CHAPTER AND PASSED THROUGH TO SUCH BUSINESS DURING  
27 THE TAXABLE YEAR TO THE EXTENT NOT OTHERWISE DEDUCTED IN COMPUTING  
28 ENTIRE NET INCOME UNDER THIS ARTICLE. HOWEVER, ANY AMOUNT OF CREDIT NOT  
29 DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF  
30 TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF  
31 SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. THIS CREDIT MAY BE  
32 CLAIMED ONLY WHERE ANY TAX IMPOSED BY SUCH SECTION ONE HUNDRED  
33 EIGHTY-SIX-E HAS BEEN SEPARATELY STATED ON A BILL FROM THE PROVIDER OF  
34 TELECOMMUNICATION SERVICES AND PAID BY SUCH BUSINESS WITH RESPECT TO  
35 SUCH SERVICES RENDERED WITHIN A TAX-FREE NY AREA DURING THE TAXABLE  
36 YEAR. UNLESS THE TAXPAYER HAS A TAX-FREE NY AREA ALLOCATION FACTOR OF  
37 ONE HUNDRED PERCENT, THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY  
38 TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE  
39 AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO  
40 HUNDRED TEN OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF  
41 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER  
42 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

43 45. ORDER OF CREDITS. (A) CREDITS ALLOWABLE UNDER THIS ARTICLE WHICH  
44 CANNOT BE CARRIED OVER AND WHICH ARE NOT REFUNDABLE SHALL BE DEDUCTED  
45 FIRST. THE CREDIT ALLOWABLE UNDER SUBDIVISION SIX OF THIS SECTION SHALL  
46 BE DEDUCTED IMMEDIATELY AFTER THE DEDUCTION OF ALL CREDITS ALLOWABLE  
47 UNDER THIS ARTICLE WHICH CANNOT BE CARRIED OVER AND WHICH ARE NOT  
48 REFUNDABLE, WHETHER OR NOT A PORTION OF SUCH CREDIT IS REFUNDABLE.  
49 CREDITS ALLOWABLE UNDER THIS ARTICLE WHICH CAN BE CARRIED OVER, AND  
50 CARRYOVERS OF SUCH CREDITS, SHALL BE DEDUCTED NEXT AFTER THE DEDUCTION  
51 OF THE CREDIT ALLOWABLE UNDER SUBDIVISION SIX OF THIS SECTION, AND AMONG  
52 SUCH CREDITS, THOSE WHOSE CARRYOVER IS OF LIMITED DURATION SHALL BE  
53 DEDUCTED BEFORE THOSE WHOSE CARRYOVER IS OF UNLIMITED DURATION. CREDITS  
54 ALLOWABLE UNDER THIS ARTICLE WHICH ARE REFUNDABLE (OTHER THAN THE CREDIT  
55 ALLOWABLE UNDER SUBDIVISION SIX OF THIS SECTION) SHALL BE DEDUCTED LAST.

1 46. NOTWITHSTANDING THE REPEAL OF THE CREDIT PROVISIONS CONTAINED IN  
2 SECTION TWO HUNDRED TEN OF THIS ARTICLE OR IN ARTICLE THIRTY-TWO OF THIS  
3 CHAPTER AND THE ENACTMENT OF THIS SECTION BY A CHAPTER OF THE LAWS OF  
4 TWO THOUSAND FOURTEEN:

5 (A) A TAXPAYER SHALL BE ALLOWED TO UTILIZE ANY CARRYFORWARD AMOUNTS OF  
6 CREDITS TO WHICH THE TAXPAYER WAS ENTITLED AS OF THE CLOSE OF THE TAXA-  
7 BLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN AND  
8 BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, OTHER THAN THE CARRYFORWARD  
9 AMOUNT OF THE MINIMUM TAX CREDIT PROVIDED UNDER SUBDIVISION THIRTEEN OF  
10 SECTION TWO HUNDRED TEN, AS THAT SUBDIVISION WAS IN EFFECT ON DECEMBER  
11 THIRTY-FIRST, TWO THOUSAND FOURTEEN.

12 (B) A TAXPAYER SHALL BE REQUIRED IN A TAXABLE YEAR BEGINNING ON OR  
13 AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, TO RECAPTURE ALL OR A PORTION  
14 OF A CREDIT ALLOWED UNDER A CREDIT PROVISION IN SECTION TWO HUNDRED TEN  
15 OR ARTICLE THIRTY-TWO OF THIS CHAPTER FOR A TAXABLE YEAR BEGINNING PRIOR  
16 TO JANUARY FIRST, TWO THOUSAND FIFTEEN IF RECAPTURE WOULD HAVE BEEN  
17 REQUIRED UNDER SUCH CREDIT PROVISION.

18 S 18. The tax law is amended by adding a new section 210-C to read as  
19 follows:

20 S 210-C. COMBINED REPORTS. 1. TAX. THE TAX ON A COMBINED REPORT SHALL  
21 BE THE HIGHEST OF (I) THE COMBINED BUSINESS INCOME BASE MULTIPLIED BY  
22 THE TAX RATE SPECIFIED IN PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION  
23 TWO HUNDRED TEN OF THIS ARTICLE; (II) THE COMBINED CAPITAL BASE MULTI-  
24 PLIED BY THE TAX RATE SPECIFIED IN PARAGRAPH (B) OF SUBDIVISION ONE OF  
25 SECTION TWO HUNDRED TEN OF THIS ARTICLE, BUT NOT EXCEEDING THE LIMITA-  
26 TION PROVIDED FOR IN THAT PARAGRAPH (B); OR (III) THE FIXED DOLLAR MINI-  
27 MUM THAT IS ATTRIBUTABLE TO THE DESIGNATED AGENT OF THE COMBINED GROUP.  
28 IN ADDITION, THE TAX ON A COMBINED REPORT SHALL INCLUDE THE FIXED DOLLAR  
29 MINIMUM TAX SPECIFIED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO  
30 HUNDRED TEN OF THIS ARTICLE FOR EACH MEMBER OF THE COMBINED GROUP, OTHER  
31 THAN THE DESIGNATED AGENT, THAT IS A TAXPAYER.

32 (B) THE COMBINED BUSINESS INCOME BASE IS THE AMOUNT OF THE COMBINED  
33 BUSINESS INCOME OF THE COMBINED GROUP THAT IS APPORTIONED TO THE STATE,  
34 REDUCED BY ANY NET OPERATING LOSS DEDUCTION FOR THE COMBINED GROUP. THE  
35 COMBINED CAPITAL BASE IS THE AMOUNT OF THE COMBINED CAPITAL OF THE  
36 COMBINED GROUP THAT IS APPORTIONED TO THE STATE.

37 2. COMBINED REPORTS REQUIRED. (A) EXCEPT AS PROVIDED IN PARAGRAPH (C)  
38 OF THIS SUBDIVISION, ANY TAXPAYER (I) WHICH OWNS OR CONTROLS EITHER  
39 DIRECTLY OR INDIRECTLY MORE THAN FIFTY PERCENT OF THE VOTING POWER OF  
40 THE CAPITAL STOCK OF ONE OR MORE OTHER CORPORATIONS, OR (II) MORE THAN  
41 FIFTY PERCENT OF THE VOTING POWER OF THE CAPITAL STOCK OF WHICH IS OWNED  
42 OR CONTROLLED EITHER DIRECTLY OR INDIRECTLY BY ONE OR MORE OTHER CORPO-  
43 RATIONS, OR (III) MORE THAN FIFTY PERCENT OF THE VOTING POWER OF THE  
44 CAPITAL STOCK OF WHICH AND THE CAPITAL STOCK OF ONE OR MORE OTHER CORPO-  
45 RATIONS, IS OWNED OR CONTROLLED, DIRECTLY OR INDIRECTLY, BY THE SAME  
46 INTERESTS, AND (IV) THAT IS ENGAGED IN A UNITARY BUSINESS WITH THOSE  
47 CORPORATIONS (HEREINAFTER REFERRED TO AS "RELATED CORPORATIONS"), SHALL  
48 MAKE A COMBINED REPORT WITH THOSE OTHER CORPORATIONS.

49 (B) A CORPORATION REQUIRED TO MAKE A COMBINED REPORT WITHIN THE MEAN-  
50 ING OF THIS SECTION SHALL ALSO INCLUDE (I) A CAPTIVE REIT AND A CAPTIVE  
51 RIC IF THE CAPTIVE REIT OR CAPTIVE RIC IS NOT REQUIRED TO BE INCLUDED IN  
52 A COMBINED REPORT UNDER ARTICLE THIRTY-THREE OF THIS CHAPTER; (II) A  
53 COMBINABLE CAPTIVE INSURANCE COMPANY; AND (III) AN ALIEN CORPORATION  
54 THAT SATISFIES THE CONDITIONS IN PARAGRAPH (A) OF THIS SUBDIVISION IF  
55 (I) UNDER ANY PROVISION OF THE INTERNAL REVENUE CODE, THAT CORPORATION  
56 IS TREATED AS A "DOMESTIC CORPORATION" AS DEFINED IN SECTION SEVEN THOU-



1 SAND SEVEN HUNDRED ONE OF THE INTERNAL REVENUE CODE, OR (II) IT HAS  
2 EFFECTIVELY CONNECTED INCOME FOR THE TAXABLE YEAR PURSUANT TO CLAUSE  
3 (IV) OF THE OPENING PARAGRAPH OF SUBDIVISION NINE OF SECTION TWO HUNDRED  
4 EIGHT OF THIS ARTICLE.

5 (C) A CORPORATION REQUIRED OR PERMITTED TO MAKE A COMBINED REPORT  
6 UNDER THIS SECTION DOES NOT INCLUDE (I) A CORPORATION THAT IS TAXABLE  
7 UNDER A FRANCHISE TAX IMPOSED BY ARTICLE NINE OR ARTICLE THIRTY-THREE OF  
8 THIS CHAPTER OR WOULD BE TAXABLE UNDER A FRANCHISE TAX IMPOSED BY ARTI-  
9 CLE NINE OR THIRTY-THREE OF THIS CHAPTER IF SUBJECT TO TAX; (II) A REIT  
10 THAT IS NOT A CAPTIVE REIT, AND A RIC THAT IS NOT A CAPTIVE RIC; (III) A  
11 NEW YORK S CORPORATION; OR (IV) AN ALIEN CORPORATION THAT UNDER ANY  
12 PROVISION OF THE INTERNAL REVENUE CODE IS NOT TREATED AS A "DOMESTIC  
13 CORPORATION" AS DEFINED IN SECTION SEVEN THOUSAND SEVEN HUNDRED ONE OF  
14 SUCH CODE AND HAS NO EFFECTIVELY CONNECTED INCOME FOR THE TAXABLE YEAR  
15 PURSUANT TO CLAUSE (IV) OF THE OPENING PARAGRAPH OF SUBDIVISION NINE OF  
16 SECTION TWO HUNDRED EIGHT OF THIS ARTICLE. IF A CORPORATION IS SUBJECT  
17 TO TAX UNDER THIS ARTICLE SOLELY AS A RESULT OF ITS OWNERSHIP OF A  
18 LIMITED PARTNER INTEREST IN A LIMITED PARTNERSHIP THAT IS DOING BUSI-  
19 NESS, EMPLOYING CAPITAL, OWNING OR LEASING PROPERTY, MAINTAINING AN  
20 OFFICE IN THIS STATE, OR DERIVING RECEIPTS FROM ACTIVITY IN THIS STATE,  
21 AND NONE OF THE CORPORATION'S RELATED CORPORATIONS ARE SUBJECT TO TAX  
22 UNDER THIS ARTICLE, SUCH CORPORATION SHALL NOT BE REQUIRED OR PERMITTED  
23 TO FILE A COMBINED REPORT UNDER THIS SECTION WITH SUCH RELATED CORPO-  
24 RATIONS.

25 (D) A COMBINED REPORT SHALL BE FILED BY THE DESIGNATED AGENT OF THE  
26 COMBINED GROUP AS DETERMINED UNDER SUBDIVISION SEVEN OF THIS SECTION.

27 3. COMMONLY OWNED GROUP ELECTION. (A) SUBJECT TO THE PROVISIONS OF  
28 PARAGRAPH (C) OF SUBDIVISION TWO OF THIS SECTION, A TAXPAYER MAY ELECT  
29 TO TREAT AS ITS COMBINED GROUP ALL CORPORATIONS THAT MEET THE OWNERSHIP  
30 REQUIREMENTS DESCRIBED IN PARAGRAPH (A) OF SUBDIVISION TWO OF THIS  
31 SECTION (SUCH CORPORATIONS COLLECTIVELY REFERRED TO IN THIS SUBDIVISION  
32 AS THE "COMMONLY OWNED GROUP"). IF THAT ELECTION IS MADE, THE COMMONLY  
33 OWNED GROUP SHALL CALCULATE THE COMBINED BUSINESS INCOME, COMBINED CAPI-  
34 TAL, AND FIXED DOLLAR MINIMUM BASES OF ALL MEMBERS OF THE GROUP IN  
35 ACCORDANCE WITH PARAGRAPH FOUR OF THIS SUBDIVISION, WHETHER OR NOT THAT  
36 BUSINESS INCOME OR BUSINESS CAPITAL IS FROM A SINGLE UNITARY BUSINESS.

37 (B) THE ELECTION UNDER THIS SUBDIVISION SHALL BE MADE ON AN ORIGINAL,  
38 TIMELY FILED RETURN OF THE COMBINED GROUP. ANY CORPORATION ENTERING A  
39 COMMONLY OWNED GROUP SUBSEQUENT TO THE YEAR OF ELECTION SHALL BE  
40 INCLUDED IN THE COMBINED GROUP AND IS CONSIDERED TO HAVE WAIVED ANY  
41 OBJECTION TO ITS INCLUSION IN THE COMBINED GROUP.

42 (C) THE ELECTION SHALL BE IRREVOCABLE, AND BINDING FOR AND APPLICABLE  
43 TO THE TAXABLE YEAR FOR WHICH IT IS MADE AND FOR THE NEXT SIX TAXABLE  
44 YEARS. THE ELECTION WILL AUTOMATICALLY BE RENEWED FOR ANOTHER SEVEN  
45 TAXABLE YEARS AFTER IT HAS BEEN IN EFFECT FOR SEVEN TAXABLE YEARS UNLESS  
46 IT IS AFFIRMATIVELY REVOKED. THE REVOCATION SHALL BE MADE ON AN  
47 ORIGINAL, TIMELY FILED RETURN FOR THE FIRST TAXABLE YEAR AFTER THE  
48 COMPLETION OF A SEVEN YEAR PERIOD FOR WHICH AN ELECTION UNDER THIS  
49 SUBDIVISION WAS IN PLACE. IN THE CASE OF A REVOCATION, A NEW ELECTION  
50 UNDER THIS SUBDIVISION SHALL NOT BE PERMITTED IN ANY OF THE IMMEDIATELY  
51 FOLLOWING THREE TAXABLE YEARS. IN DETERMINING THE SEVEN AND THREE YEAR  
52 PERIODS DESCRIBED IN THIS PARAGRAPH, SHORT TAXABLE YEARS SHALL NOT BE  
53 CONSIDERED OR COUNTED.

54 4. COMPUTATION OF TAX BASES ON A COMBINED REPORT. (A) IN COMPUTING THE  
55 TAX BASES FOR A COMBINED REPORT, THE COMBINED GROUP SHALL GENERALLY BE  
56 TREATED AS A SINGLE CORPORATION, EXCEPT AS OTHERWISE PROVIDED, AND

1 SUBJECT TO ANY REGULATIONS OR GUIDANCE ISSUED BY THE COMMISSIONER OR THE  
2 DEPARTMENT.

3 (B)(I) IN COMPUTING COMBINED BUSINESS INCOME, ALL INTERCORPORATE DIVI-  
4 DENDS SHALL BE ELIMINATED, AND ALL OTHER INTERCORPORATE TRANSACTIONS  
5 SHALL BE DEFERRED IN A MANNER SIMILAR TO THE UNITED STATES TREASURY  
6 REGULATIONS RELATING TO INTERCOMPANY TRANSACTIONS UNDER SECTION FIFTEEN  
7 HUNDRED TWO OF THE INTERNAL REVENUE CODE.

8 (II) IN COMPUTING COMBINED CAPITAL, ALL INTERCORPORATE STOCKHOLDINGS,  
9 INTERCORPORATE BILLS, INTERCORPORATE NOTES RECEIVABLE AND PAYABLE,  
10 INTERCORPORATE ACCOUNTS RECEIVABLE AND PAYABLE, AND OTHER INTERCORPORATE  
11 INDEBTEDNESS, SHALL BE ELIMINATED.

12 (C) QUALIFICATION FOR CREDITS, INCLUDING ANY LIMITATIONS THEREON,  
13 SHALL BE DETERMINED SEPARATELY FOR EACH OF THE MEMBERS OF THE COMBINED  
14 GROUP, AND SHALL NOT BE DETERMINED ON A COMBINED GROUP BASIS, EXCEPT AS  
15 OTHERWISE PROVIDED. HOWEVER, THE CREDITS SHALL BE APPLIED AGAINST THE  
16 COMBINED TAX OF THE GROUP. TO THE EXTENT THAT A PROVISION OF SECTION TWO  
17 HUNDRED TEN-B OF THIS ARTICLE LIMITS A CREDIT TO THE FIXED DOLLAR MINI-  
18 MUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO  
19 HUNDRED TEN OF THIS ARTICLE, SUCH FIXED DOLLAR MINIMUM AMOUNT SHALL BE  
20 THE FIXED DOLLAR MINIMUM AMOUNT THAT IS ATTRIBUTABLE TO THE DESIGNATED  
21 AGENT OF THE COMBINED GROUP.

22 (D)(I) A NET OPERATING LOSS DEDUCTION IS ALLOWED IN COMPUTING THE  
23 COMBINED BUSINESS INCOME BASE. SUCH DEDUCTION MAY REDUCE THE TAX ON THE  
24 COMBINED BUSINESS INCOME BASE TO THE HIGHER OF THE TAX ON THE COMBINED  
25 CAPITAL BASE OR THE FIXED DOLLAR MINIMUM AMOUNT THAT IS ATTRIBUTABLE TO  
26 THE DESIGNATED AGENT OF THE COMBINED GROUP. A COMBINED NET OPERATING  
27 LOSS DEDUCTION IS EQUAL TO THE AMOUNT OF COMBINED NET OPERATING LOSS OR  
28 LOSSES FROM ONE OR MORE TAXABLE YEARS THAT ARE CARRIED FORWARD TO A  
29 PARTICULAR INCOME YEAR. A COMBINED NET OPERATING LOSS IS THE COMBINED  
30 BUSINESS LOSS INCURRED IN A PARTICULAR TAXABLE YEAR MULTIPLIED BY THE  
31 COMBINED APPORTIONMENT FACTOR FOR THAT YEAR DETERMINED AS PROVIDED IN  
32 SUBDIVISION FIVE OF THIS SECTION.

33 (II) THE COMBINED NET OPERATING LOSS DEDUCTION AND COMBINED NET OPER-  
34 ATING LOSS ARE ALSO SUBJECT TO THE PROVISIONS CONTAINED IN CLAUSES ONE  
35 THROUGH SIX OF SUBPARAGRAPH (IX) OF PARAGRAPH (A) OF SUBDIVISION ONE OF  
36 SECTION TWO HUNDRED TEN OF THIS ARTICLE.

37 (III) IN THE CASE OF A CORPORATION THAT FILES A COMBINED REPORT,  
38 EITHER IN THE YEAR THE NET OPERATING LOSS IS INCURRED OR IN THE YEAR IN  
39 WHICH A DEDUCTION IS CLAIMED ON ACCOUNT OF THE LOSS, THE COMBINED NET  
40 OPERATING LOSS DEDUCTION IS DETERMINED AS IF THE COMBINED GROUP IS A  
41 SINGLE CORPORATION AND, TO THE EXTENT POSSIBLE AND NOT OTHERWISE INCON-  
42 SISTENT WITH THIS SUBDIVISION, IS SUBJECT TO THE SAME LIMITATIONS THAT  
43 WOULD APPLY FOR FEDERAL INCOME TAX PURPOSES UNDER THE INTERNAL REVENUE  
44 CODE AND THE CODE OF FEDERAL REGULATIONS AS IF SUCH CORPORATION HAD  
45 FILED FOR SUCH TAXABLE YEAR A CONSOLIDATED FEDERAL INCOME TAX RETURN  
46 WITH THE SAME CORPORATIONS INCLUDED IN THE COMBINED REPORT. IF A CORPO-  
47 RATION FILES A COMBINED REPORT, REGARDLESS OF WHETHER IT FILED A SEPA-  
48 RATE RETURN OR CONSOLIDATED RETURN FOR FEDERAL INCOME TAX PURPOSES, THE  
49 NET OPERATING LOSS AND NET OPERATING LOSS DEDUCTION FOR THE COMBINED  
50 GROUP MUST BE COMPUTED AS IF THE CORPORATION HAD FILED A CONSOLIDATED  
51 RETURN FOR THE SAME CORPORATIONS FOR FEDERAL INCOME TAX PURPOSES.

52 (IV) IN GENERAL, ANY NET OPERATING LOSS CARRYOVER FROM A YEAR IN WHICH  
53 A COMBINED REPORT WAS FILED SHALL BE BASED ON THE COMBINED NET OPERATING  
54 LOSS OF THE GROUP OF CORPORATIONS FILING SUCH REPORT. THE PORTION OF THE  
55 COMBINED LOSS ATTRIBUTABLE TO ANY MEMBER OF THE GROUP THAT FILES A SEPA-  
56 RATE REPORT FOR A SUCCEEDING TAXABLE YEAR WILL BE AN AMOUNT BEARING THE

1 SAME RELATION TO THE COMBINED LOSS AS THE NET OPERATING LOSS OF SUCH  
2 CORPORATION BEARS TO THE TOTAL NET OPERATING LOSS OF ALL MEMBERS OF THE  
3 GROUP HAVING SUCH LOSSES TO THE EXTENT THAT THEY ARE TAKEN INTO ACCOUNT  
4 IN COMPUTING THE COMBINED NET OPERATING LOSS.

5 (D-1) A NET OPERATING LOSS CONVERSION SUBTRACTION IS ALLOWED IN  
6 COMPUTING THE COMBINED BUSINESS INCOME BASE, AS PROVIDED IN SUBPARAGRAPH  
7 (VIII) OF PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF  
8 THIS ARTICLE. SUCH SUBTRACTION MAY REDUCE THE TAX ON THE COMBINED BUSI-  
9 NESS INCOME BASE TO THE HIGHER OF THE TAX ON THE COMBINED CAPITAL BASE  
10 OR THE FIXED DOLLAR MINIMUM AMOUNT THAT IS ATTRIBUTABLE TO THE DESIG-  
11 NATED AGENT OF THE COMBINED GROUP.

12 (E) ANY ELECTION MADE PURSUANT TO PARAGRAPH (B) OF SUBDIVISION SIX,  
13 AND PARAGRAPHS (B) AND (C) OF SUBDIVISION SIX-A OF SECTION TWO HUNDRED  
14 EIGHT OF THIS ARTICLE SHALL APPLY TO ALL MEMBERS OF THE COMBINED GROUP.

15 (F)(I) IN THE CASE OF A CAPTIVE REIT OR CAPTIVE RIC REQUIRED UNDER  
16 THIS SECTION TO BE INCLUDED IN A COMBINED REPORT, ENTIRE NET INCOME  
17 SHALL BE COMPUTED AS REQUIRED UNDER SUBDIVISION FIVE (IN THE CASE OF A  
18 CAPTIVE REIT) OR SUBDIVISION SEVEN (IN THE CASE OF A CAPTIVE RIC) OF  
19 SECTION TWO HUNDRED NINE OF THIS ARTICLE. HOWEVER, THE DEDUCTION UNDER  
20 THE INTERNAL REVENUE CODE FOR DIVIDENDS PAID BY THE CAPTIVE REIT OR  
21 CAPTIVE RIC TO ANY MEMBER OF THE AFFILIATED GROUP THAT INCLUDES THE  
22 CORPORATION THAT DIRECTLY OR INDIRECTLY OWNS OVER FIFTY PERCENT OF THE  
23 VOTING STOCK OF THE CAPTIVE REIT OR CAPTIVE RIC SHALL NOT BE ALLOWED.  
24 FOR PURPOSES OF THIS SUBPARAGRAPH, THE TERM "AFFILIATED GROUP" MEANS  
25 "AFFILIATED GROUP" AS DEFINED IN SECTION FIFTEEN HUNDRED FOUR OF THE  
26 INTERNAL REVENUE CODE, BUT WITHOUT REGARD TO THE EXCEPTIONS PROVIDED FOR  
27 IN SUBSECTION (B) OF THAT SECTION.

28 (II) IN THE CASE OF A COMBINABLE CAPTIVE INSURANCE COMPANY REQUIRED  
29 UNDER THIS SECTION TO BE INCLUDED IN A COMBINED REPORT, ENTIRE NET  
30 INCOME SHALL BE COMPUTED AS REQUIRED BY SUBDIVISION NINE OF SECTION TWO  
31 HUNDRED EIGHT OF THIS ARTICLE.

32 (G) IF MORE THAN ONE MEMBER OF A COMBINED GROUP IS ELIGIBLE FOR ANY OF  
33 THE MODIFICATIONS DESCRIBED IN PARAGRAPHS (R), (S) AND (T) OF SUBDIVI-  
34 SION NINE OF SECTION TWO HUNDRED EIGHT OF THIS ARTICLE, ALL SUCH MEMBERS  
35 MUST UTILIZE THE SAME MODIFICATION.

36 5. APPORTIONMENT ON A COMBINED REPORT. (A) IN DETERMINING THE APPOR-  
37 TIONMENT FACTOR FOR A COMBINED REPORT, THE RECEIPTS, NET INCOME, NET  
38 GAINS AND OTHER ITEMS OF ALL MEMBERS OF THE COMBINED GROUP, WHETHER OR  
39 NOT THEY ARE A TAXPAYER, ARE INCLUDED AND INTERCORPORATE RECEIPTS,  
40 INCOME AND GAINS ARE ELIMINATED. RECEIPTS, NET INCOME, NET GAINS AND  
41 OTHER ITEMS ARE SOURCED, AND THE AMOUNTS ALLOWED IN THE APPORTIONMENT  
42 FACTOR ARE DETERMINED, AS PROVIDED IN SECTION TWO HUNDRED TEN-A OF THIS  
43 ARTICLE.

44 (B) AN ELECTION MADE TO APPORTION INCOME AND GAINS FROM QUALIFYING  
45 FINANCIAL INSTRUMENTS PURSUANT TO SUBPARAGRAPH ONE OF PARAGRAPH (A) OF  
46 SUBDIVISION FIVE OF SECTION TWO HUNDRED TEN-A OF THIS ARTICLE SHALL  
47 APPLY TO ALL MEMBERS OF THE COMBINED GROUP.

48 6. LIABILITY OF COMBINED GROUP MEMBERS. EVERY MEMBER OF THE COMBINED  
49 GROUP THAT IS SUBJECT TO TAX UNDER THIS ARTICLE SHALL BE JOINTLY AND  
50 SEVERALLY LIABLE FOR THE TAX DUE PURSUANT TO A COMBINED REPORT.

51 7. DESIGNATED AGENT. EACH COMBINED GROUP SHALL HAVE ONE DESIGNATED  
52 AGENT, WHICH SHALL BE A TAXPAYER. THE DESIGNATED AGENT IS THE PARENT  
53 CORPORATION OF THE COMBINED GROUP. IF THERE IS NO SUCH PARENT CORPO-  
54 RATION, OR THE PARENT CORPORATION IS NOT A TAXPAYER, THEN ANOTHER MEMBER  
55 OF THE COMBINED GROUP THAT IS A TAXPAYER MAY BE APPOINTED AS THE DESIG-

1 NATED AGENT. ONLY THE DESIGNATED AGENT MAY ACT ON BEHALF OF THE MEMBERS  
2 OF THE COMBINED GROUP FOR MATTERS RELATING TO THE COMBINED REPORT.

3 S 19. Subdivisions 2-a, 3, 4 and 5 of section 211 of the tax law,  
4 subdivision 2-a as added and subdivision 5 as amended by chapter 817 of  
5 the laws of 1987, subdivision 3 as amended by chapter 770 of the laws of  
6 1992, subdivision 4 as amended by section 2 of part T of chapter 407 of  
7 the laws of 1999, the opening paragraph and the second undesignated  
8 paragraph of paragraph (a) of subdivision 4 as amended by section 1,  
9 subparagraph 4 of paragraph (a) of subdivision 4 as amended by section  
10 2, and subparagraph 5 of paragraph (a) of subdivision 4 as amended by  
11 section 3 of part J of chapter 60 of the laws of 2007, subparagraph 6 of  
12 paragraph (a) of subdivision 4 as added by section 3 of part FF1 of  
13 chapter 57 of the laws of 2008, subparagraph 7 of paragraph (a) of  
14 subdivision 4 as added by section 2 and subparagraph 1 of paragraph (b)  
15 of subdivision 4 as amended by section 3 of part E1 of chapter 57 of the  
16 laws of 2009, are amended to read as follows:

17 2-a. The [tax commission] COMMISSIONER may prescribe regulations and  
18 instructions requiring returns of information to be made and filed in  
19 conjunction with the reports required to be filed pursuant to [section  
20 two hundred eleven] THIS ARTICLE, relating to payments made to share-  
21 holders owning, directly or indirectly, individually or in the aggre-  
22 gate, more than fifty percent of the issued capital stock of the taxpay-  
23 er, where such payments are treated as payments of interest in the  
24 computation of entire net income [or minimum taxable income] reported on  
25 such reports.

26 3. If the amount of taxable income [or alternative minimum taxable  
27 income] for any year of any taxpayer (including any taxpayer which has  
28 elected to be taxed under subchapter s of chapter one of the internal  
29 revenue code), as returned to the United States treasury department is  
30 changed or corrected by the commissioner of internal revenue or other  
31 officer of the United States or other competent authority, or where a  
32 renegotiation of a contract or subcontract with the United States  
33 results in a change in taxable income [or alternative minimum taxable  
34 income], such taxpayer shall report such changed or corrected taxable  
35 income [or alternative minimum taxable income], or the results of such  
36 renegotiation, within ninety days (or one hundred twenty days, in the  
37 case of a taxpayer making a combined report under this article for such  
38 year) after the final determination of such change or correction or  
39 renegotiation, or as required by the commissioner, and shall concede the  
40 accuracy of such determination or state wherein it is erroneous. The  
41 allowance of a tentative carryback adjustment based upon a net operating  
42 loss carryback or net capital loss carryback pursuant to section sixty-  
43 four hundred eleven of the internal revenue code, as amended, shall be  
44 treated as a final determination for purposes of this subdivision. Any  
45 taxpayer filing an amended return with such department shall also file  
46 within ninety days (OR ONE HUNDRED TWENTY DAYS, IN THE CASE OF A TAXPAY-  
47 ER MAKING A COMBINED REPORT UNDER THIS ARTICLE FOR SUCH YEAR) thereafter  
48 an amended report with the commissioner.

49 4. [(a) Combined reports permitted or required. Any taxpayer, which  
50 owns or controls either directly or indirectly substantially all the  
51 capital stock of one or more other corporations, or substantially all  
52 the capital stock of which is owned or controlled either directly or  
53 indirectly by one or more other corporations or by interests which own  
54 or control either directly or indirectly substantially all the capital  
55 stock of one or more other corporations, (hereinafter referred to in  
56 this paragraph as "related corporations"), shall make a combined report

1 covering any related corporations if there are substantial intercorpo-  
2 rate transactions among the related corporations, regardless of the  
3 transfer price for such intercorporate transactions. It is not necessary  
4 that there be substantial intercorporate transactions between any one  
5 corporation and every other related corporation. It is necessary, howev-  
6 er, that there be substantial intercorporate transactions between the  
7 taxpayer and a related corporation or collectively, a group of such  
8 related corporations. The report shall set forth such information as the  
9 commissioner may require, subject to the provisions of subparagraphs one  
10 through five of this paragraph.

11 In determining whether there are substantial intercorporate trans-  
12 actions, the commissioner shall consider and evaluate all activities and  
13 transactions of the taxpayer and its related corporations. Activities  
14 and transactions that will be considered include, but are not limited  
15 to: (i) manufacturing, acquiring goods or property, or performing  
16 services, for related corporations; (ii) selling goods acquired from  
17 related corporations; (iii) financing sales of related corporations;  
18 (iv) performing related customer services using common facilities and  
19 employees for related corporations; (v) incurring expenses that benefit,  
20 directly or indirectly, one or more related corporations, and (vi)  
21 transferring assets, including such assets as accounts receivable,  
22 patents or trademarks from one or more related corporations.

23 (1) Any corporation which owns or controls either directly or indi-  
24 rectly substantially all the capital stock of a DISC not exempt from tax  
25 under paragraph (i) of subdivision nine of section two hundred eight of  
26 this article shall be allowed, at the election of such corporation, to  
27 make a report on a combined basis covering such DISC, but the failure of  
28 such corporation to make such election shall not prohibit the commis-  
29 sioner from requiring a combined report covering such corporation and  
30 such DISC.

31 (2)(i) No taxpayer may be permitted to make a report on a combined  
32 basis covering any such other corporations where such taxpayer or any  
33 such other corporation allocates in accordance with clause (A) of  
34 subparagraph seven of paragraph (a) of subdivision three of section two  
35 hundred ten of this article (relating to aviation corporations) and such  
36 taxpayer or any such other corporation does not so allocate, unless such  
37 taxpayer or such other corporation is a qualified air freight forwarder  
38 with respect to such other corporation or such taxpayer, respectively,  
39 and all taxpayers included on such combined report elect, by filing such  
40 combined report, to have such qualified air freight forwarder so  
41 included.

42 (ii) A corporation is a qualified air freight forwarder with respect  
43 to another corporation:

44 (A) if it owns or controls either directly or indirectly all of the  
45 capital stock of such other corporation, or if all of its capital stock  
46 is owned or controlled either directly or indirectly by such other  
47 corporation, or if all of the capital stock of both corporations is  
48 owned or controlled either directly or indirectly by the same interests,

49 (B) if it is principally engaged in the business of air freight  
50 forwarding, and

51 (C) if its air freight forwarding business is carried on principally  
52 with the airline or airlines operated by such other corporation.

53 (3) No taxpayer may be permitted to make a report on a combined basis  
54 covering any such other corporations where such taxpayer or any such  
55 other corporation allocates in accordance with subparagraph eight of  
56 paragraph (a) of subdivision three of section two hundred ten of this

1 article (relating to railroad and trucking corporations) and such  
2 taxpayer or any such other corporation does not so allocate.

3 (4) Except as provided in the first undesignated paragraph of this  
4 paragraph, no combined report covering any corporation shall be required  
5 unless the commissioner deems such a report necessary, because of  
6 inter-company transactions or some agreement, understanding, arrangement  
7 or transaction referred to in subdivision five of this section, in order  
8 properly to reflect the tax liability under this article.

9 (5) A corporation organized under the laws of a country other than the  
10 United States shall not be required or permitted to make a report on a  
11 combined basis.

12 (6) (i) For purposes of this subparagraph, the term "closest control-  
13 ling stockholder" means the corporation that indirectly owns or controls  
14 over fifty percent of the voting stock of a captive REIT or captive RIC,  
15 is subject to tax under this article, article thirty-two or thirty-three  
16 of this chapter or otherwise required to be included in a combined  
17 return or report under this article, article thirty-two or thirty-three  
18 of this chapter, and is the fewest tiers of corporations away in the  
19 ownership structure from the captive REIT or captive RIC. The commis-  
20 sioner is authorized to prescribe by regulation or published guidance  
21 the criteria for determining the closest controlling stockholder.

22 (ii) A captive REIT or a captive RIC must be included in a combined  
23 report with the corporation that directly owns or controls over fifty  
24 percent of the voting stock of the captive REIT or captive RIC if that  
25 corporation is subject to tax or required to be included in a combined  
26 report under this article.

27 (iii) If over fifty percent of the voting stock of a captive REIT or  
28 captive RIC is not directly owned or controlled by a corporation that is  
29 subject to tax or required to be included in a combined report under  
30 this article, then the captive REIT or captive RIC must be included in a  
31 combined return or report with the corporation that is the closest  
32 controlling stockholder of the captive REIT or captive RIC. If the clos-  
33 est controlling stockholder of the captive REIT or captive RIC is  
34 subject to tax or otherwise required to be included in a combined report  
35 under this article, then the captive REIT or captive RIC must be  
36 included in a combined report under this article.

37 (iv) If the corporation that directly owns or controls the voting  
38 stock of the captive REIT or captive RIC is described in subparagraph  
39 two, three or five of this paragraph as a corporation not permitted to  
40 make a combined report, then the provisions in clause (iii) of this  
41 subparagraph must be applied to determine the corporation in whose  
42 combined return or report the captive REIT or captive RIC should be  
43 included. If, under clause (iii) of this subparagraph, the corporation  
44 that is the closest controlling stockholder of the captive REIT or  
45 captive RIC is described in subparagraph two, three or five of this  
46 paragraph as a corporation not permitted to make a combined return, then  
47 that corporation is deemed to not be in the ownership structure of the  
48 captive REIT or captive RIC, and the closest controlling stockholder  
49 will be determined without regard to that corporation.

50 (v) If a captive REIT owns the stock of a qualified REIT subsidiary  
51 (as defined in paragraph two of subsection (i) of section eight hundred  
52 fifty-six of the internal revenue code), then the qualified REIT subsid-  
53 iary must be included in a combined report with the captive REIT.

54 (vi) If a captive REIT or a captive RIC is required under this subpar-  
55 agraph to be included in a combined report with another corporation, and  
56 that other corporation is also required to be included in a combined

1 report with another related corporation or corporations under this para-  
2 graph, then the captive REIT or the captive RIC must be included in that  
3 combined report with those corporations.

4 (vii) If a captive REIT or a captive RIC is not required to be  
5 included in a combined report with another corporation under clause (ii)  
6 or (iii) of this subparagraph, or in a combined return under the  
7 provisions of either subparagraph (v) of paragraph two of subsection (f)  
8 of section fourteen hundred sixty-two or paragraph four of subdivision  
9 (f) of section fifteen hundred fifteen of this chapter, then the captive  
10 REIT or captive RIC is subject to the opening provisions of this para-  
11 graph and the provisions of subparagraph four of this paragraph. The  
12 captive REIT or captive RIC must be included in a combined report under  
13 this article with another corporation if either the substantial inter-  
14 corporate transactions requirement in the opening provisions of this  
15 paragraph or the inter-company transactions or agreement, understanding,  
16 arrangement or transaction requirement of subparagraph four of this  
17 paragraph is satisfied and more than fifty percent of the voting stock  
18 of the captive REIT or the captive RIC and substantially all of the  
19 capital stock of that other corporation are owned and controlled,  
20 directly or indirectly, by the same corporation.

21 (7) (i) For purposes of this subparagraph, the term "closest control-  
22 ling stockholder" means the corporation that indirectly owns or controls  
23 over fifty percent of the voting stock of an overcapitalized captive  
24 insurance company; is subject to tax under this article or article thirty-  
25 two of this chapter, or is otherwise required to be included in a  
26 combined return or report under this article or article thirty-two of  
27 this chapter; and is the fewest tiers of corporations away in the owner-  
28 ship structure from the overcapitalized captive insurance company. The  
29 commissioner is authorized to prescribe by regulation or published guid-  
30 ance the criteria for determining the closest controlling stockholder.

31 (ii) An overcapitalized captive insurance company must be included in  
32 a combined report with the corporation that directly owns or controls  
33 over fifty percent of the voting stock of the overcapitalized captive  
34 insurance company if that corporation is subject to tax or required to  
35 be included in a combined report under this article.

36 (iii) If over fifty percent of the voting stock of an overcapitalized  
37 captive insurance company is not directly owned or controlled by a  
38 corporation that is subject to tax or required to be included in a  
39 combined report under this article, then the overcapitalized captive  
40 insurance company must be included in a combined return or report with  
41 the corporation that is the closest controlling stockholder of the over-  
42 capitalized captive insurance company. If the closest controlling stock-  
43 holder of the overcapitalized captive insurance company is subject to  
44 tax or otherwise required to be included in a combined report under this  
45 article, then the overcapitalized captive insurance company must be  
46 included in a combined report under this article.

47 (iv) If the corporation that directly owns or controls the voting  
48 stock of the overcapitalized captive insurance company is described in  
49 subparagraph two, three, or five of this paragraph as a corporation not  
50 permitted to make a combined report, then the provisions in clause (iii)  
51 of this subparagraph must be applied to determine the corporation in  
52 whose combined return or report the overcapitalized captive insurance  
53 company should be included. If, under clause (iii) of this subparagraph,  
54 the corporation that is the closest controlling stockholder of the over-  
55 capitalized captive insurance company is described in subparagraph two,  
56 three or five of this paragraph as a corporation not permitted to make a

1 combined return, then that corporation is deemed not to be in the owner-  
2 ship structure of the overcapitalized captive insurance company, and the  
3 closest controlling stockholder will be determined without regard to  
4 that corporation.

5 (v) If an overcapitalized captive insurance company is required under  
6 this subparagraph to be included in a combined report with another  
7 corporation, and that other corporation is also required to be included  
8 in a combined report with another related corporation or corporations  
9 under this paragraph, then the overcapitalized captive insurance company  
10 must be included in that combined report with those corporations.

11 (vi) If an overcapitalized captive insurance company is not required  
12 to be included in a combined report with another corporation under  
13 clause (ii) or (iii) of this subparagraph, or in a combined return under  
14 the provisions of subparagraph (v) of paragraph two of subsection (f) of  
15 section fourteen hundred sixty-two of this chapter, then the overcap-  
16 italized captive insurance company is subject to the opening provisions  
17 of this paragraph and the provisions of subparagraph four of this para-  
18 graph. The overcapitalized captive insurance company must be included in  
19 a combined report under this article with another corporation if either  
20 the substantial intercorporate transactions requirement in the opening  
21 provisions of this paragraph or the inter-company transactions or agree-  
22 ment, understanding, arrangement or transaction requirement of subpara-  
23 graph four of this paragraph is satisfied, and both more than fifty  
24 percent of the voting stock of the overcapitalized captive insurance  
25 company and substantially all of the capital stock of that other corpo-  
26 ration are owned and controlled, directly or indirectly, by the same  
27 corporation.

28 (b) Computation. (1) Tax. (i) In the case of a combined report the tax  
29 shall be measured by the combined entire net income, combined minimum  
30 taxable income, combined pre-nineteen hundred ninety minimum taxable  
31 income or combined capital, of all the corporations included in the  
32 report, including any captive REIT, captive RIC or overcapitalized  
33 captive insurance company; provided, however, in no event shall the tax  
34 measured by combined capital exceed the limitation provided for in para-  
35 graph (b) of subdivision one of section two hundred ten of this article.

36 (ii) In the case of a captive REIT or captive RIC required under this  
37 subdivision to be included in a combined report, entire net income must  
38 be computed as required under subdivision five (in the case of a captive  
39 REIT) or subdivision seven (in the case of a captive RIC) of section two  
40 hundred nine of this article. However, the deduction under the internal  
41 revenue code for dividends paid by the captive REIT or captive RIC to  
42 any member of the affiliated group that includes the corporation that  
43 directly or indirectly owns over fifty percent of the voting stock of  
44 the captive REIT or captive RIC shall not be allowed for taxable years  
45 beginning on or after January first, two thousand eight. The term  
46 "affiliated group" means "affiliated group" as defined in section  
47 fifteen hundred four of the internal revenue code, but without regard to  
48 the exceptions provided for in subsection (b) of that section.

49 (iii) In the case of an overcapitalized captive insurance company  
50 required under this subdivision to be included in a combined report,  
51 entire net income must be computed as required by subdivision nine of  
52 section two hundred eight of this article.

53 (2) Tax bases. In computing combined entire net income, combined mini-  
54 mum taxable income or combined pre-nineteen hundred ninety minimum taxa-  
55 ble income intercorporate dividends shall be eliminated, in computing  
56 combined business and investment capital intercorporate stockholdings



1 and intercorporate bills, notes and accounts receivable and payable and  
2 other intercorporate indebtedness shall be eliminated and in computing  
3 combined subsidiary capital intercorporate stockholdings shall be elimi-  
4 nated, provided, however, that intercorporate dividends from a DISC or a  
5 former DISC not exempt from tax under paragraph (i) of subdivision nine  
6 of section two hundred eight of this article which are taxable as busi-  
7 ness income under this article shall not be eliminated.

8 (3) Air freight forwarders: allocation. Notwithstanding any provision  
9 of law to the contrary, where a combined report includes a qualified air  
10 freight forwarder and a corporation described in subparagraph seven of  
11 paragraph (a) of subdivision three of section two hundred ten of this  
12 chapter (relating to aviation corporations), in computing the combined  
13 business allocation percentage such subparagraph seven shall be applied  
14 with respect to such qualified air freight forwarder] FOR PROVISIONS  
15 RELATING TO COMBINED REPORTS, SEE SECTION TWO HUNDRED TEN-C OF THIS  
16 ARTICLE.

17 5. In case it shall appear to the [tax commission] COMMISSIONER that  
18 any agreement, understanding or arrangement exists between the taxpayer  
19 and any other corporation or any person or firm, whereby the activity,  
20 business, income or capital of the taxpayer within the state is improper-  
21 ly or inaccurately reflected, the [tax commission] COMMISSIONER is  
22 authorized and empowered, in [its] THE COMMISSIONER'S discretion and in  
23 such manner as [it] THE COMMISSIONER may determine, to adjust items of  
24 income, deductions and capital, and to eliminate assets in computing any  
25 [allocation] APPORTIONMENT percentage provided only that any income  
26 directly traceable thereto be also excluded from entire net income,  
27 [minimum taxable income or pre-nineteen hundred ninety minimum taxable  
28 income,] so as equitably to determine the tax. Where (a) any taxpayer  
29 conducts its activity or business under any agreement, arrangement or  
30 understanding in such manner as either directly or indirectly to benefit  
31 its members or stockholders, or any of them, or any person or persons  
32 directly or indirectly interested in such activity or business, by  
33 entering into any transaction at more or less than a fair price which,  
34 but for such agreement, arrangement or understanding, might have been  
35 paid or received therefor, or (b) any taxpayer, a substantial portion of  
36 whose capital stock is owned either directly or indirectly by another  
37 corporation, enters into any transaction with such other corporation on  
38 such terms as to create an improper loss or net income, the [tax commis-  
39 sion] COMMISSIONER may include in the entire net income[, minimum taxa-  
40 ble income or pre-nineteen hundred ninety minimum taxable income] of the  
41 taxpayer the fair profits which, but for such agreement, arrangement or  
42 understanding, the taxpayer might have derived from such transaction.  
43 WHERE ANY TAXPAYER OWNS, DIRECTLY OR INDIRECTLY, MORE THAN FIFTY PERCENT  
44 OF THE CAPITAL STOCK OF ANOTHER CORPORATION SUBJECT TO TAX UNDER SECTION  
45 FIFTEEN HUNDRED TWO-A OF THIS CHAPTER AND FIFTY PERCENT OR LESS OF WHOSE  
46 GROSS RECEIPTS FOR THE TAXABLE YEAR CONSIST OF PREMIUMS, THE COMMISSION-  
47 ER MAY INCLUDE IN THE ENTIRE NET INCOME OF THE TAXPAYER, AS A DEEMED  
48 DISTRIBUTION, THE AMOUNT OF THE NET INCOME OF THE OTHER CORPORATION THAT  
49 IS IN EXCESS OF ITS NET PREMIUM INCOME.

50 S 19-a. Subdivision 13 of section 211 of the tax law is REPEALED.

51 S 20. Subdivision 11 of section 2 of the tax law, as added by section  
52 1 of part E-1 of chapter 57 of the laws of 2009, is amended to read as  
53 follows:

54 11. The term "[overcapitalized] COMBINABLE captive insurance company"  
55 means an entity that is treated as an association taxable as a corpo-  
56 ration under the internal revenue code (a) more than fifty percent of

1 the voting stock of which is owned or controlled, directly or indirect-  
2 ly, by a single entity that is treated as an association taxable as a  
3 corporation under the internal revenue code and not exempt from federal  
4 income tax; (b) that is licensed as a captive insurance company under  
5 the laws of this state or another jurisdiction; (c) whose business  
6 includes providing, directly and indirectly, insurance or reinsurance  
7 covering the risks of its parent and/or members of its affiliated group;  
8 and (d) fifty percent or less of whose gross receipts for the taxable  
9 year consist of premiums FROM ARRANGEMENTS THAT CONSTITUTE INSURANCE FOR  
10 FEDERAL INCOME TAX PURPOSES. For purposes of this subdivision, "affil-  
11 iated group" has the same meaning as that term is given in section 1504  
12 of the internal revenue code, except that the term "common parent corpo-  
13 ration" in that section is deemed to mean any person, as defined in  
14 section 7701 of the internal revenue code[;] AND references to "at least  
15 eighty percent" in section 1504 of the internal revenue code are to be  
16 read as "fifty percent or more;" section 1504 of the internal revenue  
17 code is to be read without regard to the exclusions provided for in  
18 subsection (b) of that section; "premiums" has the same meaning as that  
19 term is given in paragraph one of subdivision (c) of section fifteen  
20 hundred ten of this chapter, except that it includes consideration for  
21 annuity contracts and excludes any part of the consideration for insur-  
22 ance, reinsurance or annuity contracts that do not provide bona fide  
23 insurance, reinsurance or annuity benefits; and "gross receipts"  
24 includes the amounts included in gross receipts for purposes of section  
25 501(c) (15) of the internal revenue code, except that those amounts also  
26 include all premiums as defined in this subdivision.

27 S 21. Subdivision (a) of section 1500 of the tax law, as separately  
28 amended by section 1 of part B-1 and section 8 of part E-1 of chapter 57  
29 of the laws of 2009, is amended to read as follows:

30 (a) The term "insurance corporation" includes a corporation, associ-  
31 ation, joint stock company or association, person, society, aggregation  
32 or partnership, by whatever name known, doing an insurance business,  
33 and, notwithstanding the provisions of section fifteen hundred twelve of  
34 this article, shall include (1) a risk retention group as defined in  
35 subsection (n) of section five thousand nine hundred two of the insur-  
36 ance law, (2) the state insurance fund and (3) a corporation, associ-  
37 ation, joint stock company or association, person, society, aggregation  
38 or partnership doing an insurance business as a member of the New York  
39 insurance exchange described in section six thousand two hundred one of  
40 the insurance law. The definition of the "state insurance fund"  
41 contained in this subdivision shall be limited in its effect to the  
42 provisions of this article and the related provisions of this chapter  
43 and shall have no force and effect other than with respect to such  
44 provisions. The term "insurance corporation" shall also include a  
45 captive insurance company doing a captive insurance business, as defined  
46 in subsections (c) and (b), respectively, of section seven thousand two  
47 of the insurance law; provided, however, "insurance corporation" shall  
48 not include the metropolitan transportation authority, or a public bene-  
49 fit corporation or not-for-profit corporation formed by a city with a  
50 population of one million or more pursuant to subsection (a) of section  
51 seven thousand five of the insurance law, each of which is expressly  
52 exempt from the payment of fees, taxes or assessments, whether state or  
53 local; and provided further "insurance corporation" does not include any  
54 [overcapitalized] COMBINABLE captive insurance company. The term "insur-  
55 ance corporation" shall also include an unauthorized insurer operating  
56 from an office within the state, pursuant to paragraph five of

1 subsection (b) of section one thousand one hundred one and subsection  
2 (i) of section two thousand one hundred seventeen of the insurance law.  
3 The term "insurance corporation" also includes a health maintenance  
4 organization required to obtain a certificate of authority under article  
5 forty-four of the public health law.

6 S 22. Subdivision (a) of section 1502-b of the tax law, as amended by  
7 section 9 of part E-1 of chapter 57 of the laws of 2009 and as further  
8 amended by section 104 of part A of chapter 62 of the laws of 2011, is  
9 amended to read as follows:

10 (a) In lieu of the taxes and tax surcharge imposed by sections fifteen  
11 hundred one, fifteen hundred two-a, fifteen hundred five-a, and fifteen  
12 hundred ten of this article, every captive insurance company licensed by  
13 the superintendent of financial services pursuant to the provisions of  
14 article seventy of the insurance law, other than the metropolitan trans-  
15 portation authority and a public benefit corporation or not-for-profit  
16 corporation formed by a city with a population of one million or more  
17 pursuant to subsection (a) of section seven thousand five of the insur-  
18 ance law, each of which is expressly exempt from the payment of fees,  
19 taxes or assessments whether state or local, and other than [an overcap-  
20 italized] COMBINABLE captive insurance company, shall, for the privilege  
21 of exercising its corporate franchise, pay a tax on (1) all gross direct  
22 premiums, less return premiums thereon, written on risks located or  
23 resident in this state and (2) all assumed reinsurance premiums, less  
24 return premiums thereon, written on risks located or resident in this  
25 state. The rate of the tax imposed on gross direct premiums shall be  
26 four-tenths of one percent on all or any part of the first twenty  
27 million dollars of premiums, three-tenths of one percent on all or any  
28 part of the second twenty million dollars of premiums, two-tenths of one  
29 percent on all or any part of the third twenty million dollars of premi-  
30 ums, and seventy-five thousandths of one percent on each dollar of  
31 premiums thereafter. The rate of the tax on assumed reinsurance premiums  
32 shall be two hundred twenty-five thousandths of one percent on all or  
33 any part of the first twenty million dollars of premiums, one hundred  
34 and fifty thousandths of one percent on all or any part of the second  
35 twenty million dollars of premiums, fifty thousandths of one percent on  
36 all or any part of the third twenty million dollars of premiums and  
37 twenty-five thousandths of one percent on each dollar of premiums there-  
38 after. The tax imposed by this section shall be equal to the greater of  
39 (i) the sum of the tax imposed on gross direct premiums and the tax  
40 imposed on assumed reinsurance premiums or (ii) five thousand dollars.

41 S 23. Paragraph 4 of subdivision (f) of section 1515 of the tax law,  
42 as amended by section 16 of part FF-1 of chapter 57 of the laws of 2008,  
43 is amended to read as follows:

44 (4)(i) For purposes of this paragraph, the term "closest controlling  
45 stockholder" means the corporation that indirectly owns or controls over  
46 fifty percent of the voting stock of a captive REIT or captive RIC, is  
47 subject to tax under section fifteen hundred one of this article[, ] OR  
48 article nine-A [or article thirty-two] of this chapter or required to be  
49 included in a combined return or report under this article[, ] OR article  
50 nine-A [or article thirty-two] of this chapter, and is the fewest tiers  
51 of corporations away in the ownership structure from the captive REIT or  
52 captive RIC. The commissioner is authorized to prescribe by regulation  
53 or published guidance the criteria for determining the closest control-  
54 ling stockholder.

55 (ii) A captive REIT or a captive RIC must be included in a combined  
56 return with the corporation that directly owns or controls over fifty

1 percent of the voting stock of the captive REIT or captive RIC if that  
2 corporation is a life insurance corporation and is subject to tax or  
3 required to be included in a combined return under this article.

4 (iii) If over fifty percent of the voting stock of a captive REIT or  
5 captive RIC is not directly owned or controlled by a life insurance  
6 corporation that is subject to tax or required to be included in a  
7 combined return under this article, [then the captive REIT or captive  
8 RIC must be included in a combined report or return with the corporation  
9 that is the closest controlling stockholder of the captive REIT or  
10 captive RIC. If] AND the closest controlling stockholder of the captive  
11 REIT or captive RIC is a life insurance corporation that is subject to  
12 tax or required to be included in a combined return under this article,  
13 then the captive REIT or captive RIC must be included in a combined  
14 return WITH THE CLOSEST CONTROLLING STOCKHOLDER under this article.

15 (iv) If a captive REIT owns the stock of a qualified REIT subsidiary  
16 (as defined in paragraph two of subsection (i) of section eight hundred  
17 fifty-six of the internal revenue code) AND THE CAPTIVE REIT IS REQUIRED  
18 TO BE INCLUDED IN A COMBINED RETURN UNDER SUBPARAGRAPHS (II) OR (III) OF  
19 THIS PARAGRAPH, then the qualified REIT subsidiary must be included in  
20 any combined return required to be made by the captive REIT that owns  
21 the stock of the qualified REIT subsidiary.

22 (v) If a captive REIT or a captive RIC is required under this para-  
23 graph to be included in a combined return with another corporation, and  
24 that other corporation is required to be included in a combined return  
25 with another [related] corporation under this subdivision, then the  
26 captive REIT or the captive RIC must be included in that combined return  
27 with the other [related] corporation.

28 S 24. Subdivisions (a), (b) and (c) of section 12 of the tax law, as  
29 added by chapter 615 of the laws of 1998, are amended to read as  
30 follows:

31 (a) For purposes of subdivision (b) of this section, the term "person"  
32 shall mean a corporation, joint stock company or association, insurance  
33 corporation, or banking corporation, as such terms are defined in  
34 section one hundred eighty-three, one hundred eighty-four, or one  
35 hundred eighty-six, or in article nine-A[, thirty-two] or thirty-three  
36 of this chapter, imposing tax on such entities.

37 (b) No person shall be subject to the taxes imposed under section one  
38 hundred eighty-three, one hundred eighty-four or one hundred eighty-six,  
39 or article nine-A[, thirty-two] or thirty-three of this chapter, solely  
40 by reason of (1) having its advertising stored on a server or other  
41 computer equipment located in this state (other than a server or other  
42 computer equipment owned or leased by such person), or (2) having its  
43 advertising disseminated or displayed on the Internet by an individual  
44 or entity subject to tax under section one hundred eighty-three, one  
45 hundred eighty-four or one hundred eighty-six, or article nine-A, twen-  
46 ty-two[, thirty-two] or thirty-three of this chapter.

47 (c) A person, as such term is defined in subdivision (a) of section  
48 eleven hundred one of this chapter, shall not be deemed to be a vendor,  
49 for purposes of article twenty-eight of this chapter, solely by reason  
50 of (1) having its advertising stored on a server or other computer  
51 equipment located in this state (other than a server or other computer  
52 equipment owned or leased by such person), or (2) having its advertising  
53 disseminated or displayed on the Internet by an individual or entity  
54 subject to tax under section one hundred eighty-three, one hundred  
55 eighty-four or one hundred eighty-six, or article nine-A, twenty-two[,  
56 thirty-two] or thirty-three of this chapter.

1 S 25. Paragraph 1 of subdivision (a) of section 14 of the tax law, as  
2 amended by section 3 of part VI of chapter 109 of the laws of 2006, is  
3 amended to read as follows:

4 (1) except as provided in paragraphs one-a and one-b of this subdivi-  
5 sion, for purposes of section one hundred eighty-seven-j and articles  
6 nine-A, twenty-two[, thirty-two] and thirty-three of this chapter, for  
7 each of the taxable years within the "business tax benefit period,"  
8 which period shall consist of (A) in the case of a business enterprise  
9 with a test date occurring on or before December thirty-first, two thou-  
10 sand one, the first fifteen taxable years beginning on or after January  
11 first, two thousand one, (B) in the case of a business enterprise with a  
12 test date occurring on or after January first, two thousand two, but  
13 prior to April first, two thousand five, the fifteen taxable years next  
14 following the business enterprise's test year, and (C) in the case of a  
15 business enterprise which is first certified under article eighteen-B of  
16 the general municipal law on or after April first, two thousand five,  
17 the ten taxable years starting with the taxable year in which the busi-  
18 ness enterprise's first date of certification under article eighteen-B  
19 of the general municipal law occurs, but only with respect to each of  
20 such business tax benefit period years for which the employment test is  
21 met,

22 S 26. Subdivision (f) of section 14 of the tax law, as amended by  
23 section 10 of part CC of chapter 85 of the laws of 2002, is amended to  
24 read as follows:

25 (f) Taxable year. The term "taxable year" means the taxable year of  
26 the business enterprise under section one hundred eighty-three, one  
27 hundred eighty-four, one hundred eighty-five or former section one  
28 hundred eighty-six of article nine, or under article nine-A, twenty-  
29 two[, thirty-two] or thirty-three of this chapter. If a business enter-  
30 prise does not have a taxable year because it is exempt from taxation or  
31 otherwise not required to file a return under any of such sections of  
32 article nine or under article nine-A, twenty-two[, thirty-two] or thir-  
33 ty-three, then the term "taxable year" means (i) the business enter-  
34 prise's federal taxable year, or, (ii) if the enterprise does not have a  
35 federal taxable year, the calendar year.

36 S 27. Paragraph 1 of subdivision (i) of section 14 of the tax law, as  
37 amended by section 5 of part A of chapter 63 of the laws of 2005, is  
38 amended to read as follows:

39 (1) for purposes of section one hundred eighty-seven-j of article  
40 nine, and articles nine-A, twenty-two[, thirty-two] and thirty-three of  
41 this chapter, on the first day of the taxable year during which revoca-  
42 tion of its certification under article eighteen-B of the general munic-  
43 ipal law occurs, and

44 S 28. Paragraphs 1 and 2 of subdivision (j) of section 14 of the tax  
45 law, as amended by section 10 of part CC of chapter 85 of the laws of  
46 2002, are amended to read as follows:

47 (1) A new business shall include any corporation, except a corporation  
48 which is substantially similar in operation and in ownership to a busi-  
49 ness entity (or entities) taxable, or previously taxable, under section  
50 one hundred eighty-three, one hundred eighty-four, one hundred eighty-  
51 five or one hundred eighty-six of article nine; article nine-A[, article  
52 thirty-two] or thirty-three of this chapter; article twenty-three of  
53 this chapter or which would have been subject to tax under such article  
54 twenty-three (as such article was in effect on January first, nineteen  
55 hundred eighty), ARTICLE THIRTY-TWO OF THIS CHAPTER OR WHICH WOULD HAVE  
56 BEEN SUBJECT TO TAX UNDER SUCH ARTICLE THIRTY-TWO (AS SUCH ARTICLE WAS

1 IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN) or the income  
2 (or losses) of which is (or was) includable under article twenty-two of  
3 this chapter.

4 (2) For purposes of article twenty-two of this chapter, an individual  
5 who is either a sole proprietor or a member of a partnership shall qual-  
6 ify as an owner of a new business unless the business of which the indi-  
7 vidual is an owner is substantially similar in operation and in owner-  
8 ship to a business entity taxable, or previously taxable, under section  
9 one hundred eighty-three, one hundred eighty-four, one hundred eighty-  
10 five or one hundred eighty-six of article nine; article nine-A[, thir-  
11 ty-two] or ARTICLE thirty-three of this chapter; article twenty-three of  
12 this chapter or which would have been subject to tax under such article  
13 twenty-three (as such article was in effect on January first, nineteen  
14 hundred eighty); ARTICLE THIRTY-TWO OF THIS CHAPTER OR WHICH WOULD HAVE  
15 BEEN SUBJECT TO TAX UNDER SUCH ARTICLE THIRTY-TWO AS SUCH ARTICLE WAS IN  
16 EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN or the income (or  
17 losses) of which is (or was) includable under article twenty-two.

18 S 29. Clauses (i) and (ii) of subparagraph (A) of paragraph 4 of  
19 subdivision (j) of section 14 of the tax law, as added by section 5 of  
20 part A of chapter 63 of the laws of 2005, are amended to read as  
21 follows:

22 (i) Notwithstanding paragraphs one and two of this subdivision, a new  
23 business shall include any corporation which is identical in operation  
24 and ownership to a business entity (or entities) taxable under section  
25 one hundred eighty-three, one hundred eighty-four or one hundred eight-  
26 y-five of article nine; article nine-A[, article thirty-two] or thirty-  
27 three of this chapter or the income (or losses) of which is includable  
28 under article twenty-two of this chapter, provided such corporation and  
29 such business entity or entities are operating in different counties in  
30 the state.

31 (ii) Notwithstanding paragraphs one and two of this subdivision, an  
32 individual who is either a sole proprietor or a member of a partnership  
33 shall qualify as an owner of a new business if the business of which the  
34 individual is an owner is identical in operation and in ownership to a  
35 business entity (or entities) taxable under section one hundred eighty-  
36 three, one hundred eighty-four or one hundred eighty-five of article  
37 nine; article nine-A[, article thirty-two] or thirty-three of this chap-  
38 ter or the income (or losses) of which is includable under article twen-  
39 ty-two of this chapter, provided such business and such business entity  
40 or entities are operating in different counties in the state.

41 S 30. Subparagraph (B) of paragraph 4 of subdivision (j) of section 14  
42 of the tax law, as amended by chapter 161 of the laws of 2005, is  
43 amended to read as follows:

44 (B) Notwithstanding any provisions of this subdivision to the contrary  
45 and notwithstanding subdivision c of section eighteen of part CC of  
46 chapter eighty-five of the laws of two thousand two, a corporation or  
47 partnership, which was first certified under article eighteen-B of the  
48 general municipal law before August first, two thousand two, has a base  
49 period of zero years or zero employment for its base period, and is  
50 similar in operation and in ownership to a business entity or entities  
51 taxable, or previously taxable, under sections specified in paragraph  
52 one or two of this subdivision or which would have been subject to tax  
53 under article twenty-three of this chapter (as such article was in  
54 effect on January first, nineteen hundred eighty) OR WHICH WOULD HAVE  
55 BEEN SUBJECT TO TAX UNDER ARTICLE THIRTY-TWO OF THIS CHAPTER (AS SUCH  
56 ARTICLE WAS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN)

1 or the income or losses of which is or was includable under article  
2 twenty-two of this chapter shall not be deemed a new business if it was  
3 not formed for a valid business purpose, as such term is defined in  
4 clause (D) of subparagraph one of paragraph (o) of subdivision nine of  
5 section two hundred eight of this chapter and was formed solely to gain  
6 empire zone benefits.

7 S 31. Subdivision (k) of section 14 of the tax law, as amended by  
8 section 5 of part A of chapter 63 of the laws of 2005, is amended to  
9 read as follows:

10 (k) If the designation of an area as an empire zone is no longer in  
11 effect because section nine hundred sixty-nine of the general municipal  
12 law was not amended to extend the effective date of such designation so  
13 that the designations of all empire zones pursuant to article eighteen-B  
14 of the general municipal law have expired, a business enterprise that  
15 was certified pursuant to article eighteen-B of the general municipal  
16 law on the day immediately preceding the day on which such designation  
17 expired shall be deemed to continue to be certified under such article  
18 eighteen-B for purposes of this section, and sections fifteen, sixteen,  
19 section one hundred eighty-seven-j, subdivisions [twenty-seven] FIVE and  
20 [twenty-eight] SIX of section two hundred [ten] TEN-B, subsections (bb)  
21 and (cc) of section six hundred six, subdivision (z) of section eleven  
22 hundred fifteen[, subsections (o) and (p) of section fourteen hundred  
23 fifty-six,] and subdivisions (r) and (s) of section fifteen hundred  
24 eleven of this chapter. In addition, if the designation of an area as an  
25 empire zone is no longer in effect because section nine hundred sixty-  
26 nine of the general municipal law was not amended to extend the effec-  
27 tive date of such designation so that the designations of all empire  
28 zones pursuant to article eighteen-B of the general municipal law have  
29 expired, all references to empire zones in the provisions of this chap-  
30 ter listed in the previous sentence shall be read as meaning areas  
31 designated as empire zones on the day immediately preceding the day on  
32 which such designation expired.

33 S 32. Subdivisions (a) and (h) of section 15 of the tax law, as  
34 amended by section 5 of part A of chapter 63 of the laws of 2005, are  
35 amended to read as follows:

36 (a) Allowance of credit. A taxpayer which is a qualified empire zone  
37 enterprise (QEZE), or which is a sole proprietor of a QEZE or a member  
38 of a partnership which is a QEZE, and which is subject to tax under  
39 article nine-A, twenty-two[, thirty-two] or thirty-three of this chap-  
40 ter, shall be allowed a credit against such tax, pursuant to the  
41 provisions referenced in subdivision (h) of this section, for eligible  
42 real property taxes.

43 (h) Definitions and cross-references. For definitions of terms used in  
44 this section see section fourteen of this article. For application of  
45 the credit provided for in this section, see the following provisions of  
46 this chapter:

47 (1) Article 9: Section 187-j.

48 (2) Article 9-A: Section [210] 210-B: subdivision [27] 5.

49 (3) Article 22: Section 606: subsections (i) and (bb).

50 (4) [Article 32: Section 1456: subsection (o).

51 (5)] Article 33: Section 1511: subdivision (r).

52 S 33. Subdivision (a) of section 16 of the tax law, as added by  
53 section 2 of part GG of chapter 63 of the laws of 2000, is amended to  
54 read as follows:

55 (a) Allowance of credit. A taxpayer which is a qualified empire zone  
56 enterprise (QEZE), or which is a sole proprietor of a QEZE or a member

1 of a partnership which is a QEZE, and which is subject to tax under  
2 article nine-A, twenty-two[, thirty-two] or thirty-three of this chap-  
3 ter, shall be allowed a credit against such tax, pursuant to the  
4 provisions referenced in subdivision (g) of this section, to be computed  
5 as hereinafter provided.

6 S 34. Paragraph 1, clause (ii) of subparagraph (B) of paragraph 2, and  
7 subparagraph (A) of paragraph 3 of subdivision (f) of section 16 of the  
8 tax law, as amended by section 14 of part CC of chapter 85 of the laws  
9 of 2002, are amended to read as follows:

10 (1) General. The tax factor shall be, in the case of article nine-A of  
11 this chapter, the [larger of the amounts] AMOUNT of tax determined for  
12 the taxable year under [paragraphs] PARAGRAPH (a) [and (c)] of subdivi-  
13 sion one of section two hundred ten of such article. The tax factor  
14 shall be, in the case of article twenty-two of this chapter, the tax  
15 determined for the taxable year under subsections (a) through (d) of  
16 section six hundred one of such article. [The tax factor shall be, in  
17 the case of article thirty-two of this chapter, the larger of the  
18 amounts of tax determined for the taxable year under subsection (a) and  
19 paragraph two of subsection (b) of section fourteen hundred fifty-five  
20 of such article.] The tax factor shall be, in the case of article thir-  
21 ty-three of this chapter, the larger of the amounts of tax determined  
22 for the taxable year under paragraphs one and three of subdivision (a)  
23 of section fifteen hundred two of such article.

24 (ii) For purposes of article nine-A[, thirty-two or thirty-three] of  
25 this chapter, the term "partner's income from the partnership" means  
26 partnership items of income, gain, loss and deduction, and New York  
27 modifications thereto, entering into [entire net] BUSINESS income[,  
28 minimum taxable income, alternative entire net income or entire net  
29 income plus compensation] and the term "partner's entire income" means  
30 [entire net] BUSINESS income[, minimum taxable income, alternative  
31 entire net income or entire net income plus compensation,] allocated  
32 within the state. FOR PURPOSES OF ARTICLE THIRTY-THREE OF THIS CHAPTER,  
33 THE TERM "PARTNER'S INCOME FROM THE PARTNERSHIP" MEANS PARTNERSHIP ITEMS  
34 OF INCOME, GAIN, LOSS AND DEDUCTION, AND NEW YORK MODIFICATIONS THERETO,  
35 ENTERING INTO ENTIRE NET INCOME OR ENTIRE NET INCOME PLUS COMPENSATION  
36 AND THE TERM "PARTNER'S ENTIRE INCOME" MEANS ENTIRE NET INCOME, OR  
37 ENTIRE NET INCOME PLUS COMPENSATION, ALLOCATED WITHIN THE STATE. For  
38 purposes of article twenty-two of this chapter, the term "partner's  
39 income from the partnership" means partnership items of income, gain,  
40 loss and deduction, and New York modifications thereto, entering into  
41 New York adjusted gross income, and the term "partner's entire income"  
42 means New York adjusted gross income.

43 (A) Where the taxpayer is a qualified empire zone enterprise and is  
44 required or permitted to make a return or report on a combined basis  
45 under article nine-A[, thirty-two] or ARTICLE thirty-three of this chap-  
46 ter, the taxpayer's tax factor shall be the amount determined in para-  
47 graph one of this subdivision which is attributable to the income of the  
48 qualified empire zone enterprise. Such attribution shall be made in  
49 accordance with the ratio of the qualified empire zone enterprise's  
50 income allocated within the state to the combined group's income, or in  
51 accordance with such other methods as the commissioner may prescribe as  
52 providing an apportionment which reasonably reflects the portion of the  
53 combined group's tax attributable to the income of the qualified empire  
54 zone enterprise. In no event may the ratio so determined exceed 1.0.



1 S 35. Subdivision (g) of section 16 of the tax law, as added by  
2 section 2 of part GG of chapter 63 of the laws of 2000, is amended to  
3 read as follows:

4 (g) Definitions and cross-references. For definitions of terms used in  
5 this section see sections fourteen and fifteen of this article. For  
6 application of the credit provided for in this section, see the follow-  
7 ing provisions of this chapter:

8 (1) Article 9-A: Section [210] 210-B: subdivision [28]6.

9 (2) Article 22: Section 606: subsections (i) and (cc).

10 (3) [Article 32: Section 1456: subsection (p).

11 (4)] Article 33: Section 1511: subdivision (s).

12 S 36. Paragraph 1 of subdivision (b) of section 17 of the tax law, as  
13 added by section 43 of part S1 of chapter 57 of the laws of 2009, is  
14 amended to read as follows:

15 (1) The empire zones tax benefits report must contain the following  
16 information about the empire zone tax credits claimed under articles  
17 nine, nine-A, twenty-two[, thirty-two] and thirty-three of this chapter  
18 during the previous calendar year:

19 (A) the name of each taxpayer claiming a credit; and

20 (B) the amount of each credit earned by each taxpayer.

21 S 37. Subdivisions (a) and (d) of section 18 of the tax law, as added  
22 by section 2 of part CC of chapter 63 of the laws of 2000, are amended  
23 to read as follows:

24 (a) Allowance of credit. A taxpayer subject to tax under article  
25 nine-A, twenty-two[, thirty-two] or thirty-three of this chapter shall  
26 be allowed a credit against such tax, pursuant to the provisions refer-  
27 enced in subdivision (d) of this section, with respect to the ownership  
28 of eligible low-income buildings for which an eligibility statement has  
29 been issued by the commissioner of housing and community renewal. The  
30 amount of the credit shall be the credit amount for each such building  
31 allocated by such commissioner as provided in article two-A of the  
32 public housing law. The credit amount shall be allowed for each of the  
33 ten taxable years in the credit period, and any reduction in first-year  
34 credit as provided in subdivision two of section twenty-two of such law  
35 shall be allowed in the eleventh taxable year.

36 (d) Cross-references. For application of the credit provided for in  
37 this section, see the following provisions of this chapter:

38 (1) Article 9-A: Section [210] 210-B: subdivision [30] 15,

39 (2) Article 22: Section 606: subsections (i) and (x),

40 (3) [Article 32: Section 1456: subsection (l),

41 (4)] Article 33: Section 1511: subdivision (n).

42 S 38. Subparagraph (A) of paragraph 1 of subdivision (a) and subdivi-  
43 sion (f) of section 19 of the tax law, as added by section 2 of part II  
44 of chapter 63 of the laws of 2000, are amended to read as follows:

45 (A) Green building credit. A taxpayer subject to tax under article  
46 nine, nine-A, twenty-two[, thirty-two] or thirty-three of this chapter  
47 shall be allowed a green building credit against such tax, pursuant to  
48 the provisions referenced in subdivision (f) of this section. Provided,  
49 however, no credit shall be allowed under this section unless the  
50 taxpayer has complied with the applicable requirements of paragraph two  
51 of subdivision (d) of this section (relating to reports to DEC). The  
52 amount of the credit shall be the sum of the credit components specified  
53 in paragraphs two through seven of this subdivision. Provided, however,  
54 the amount of each such credit component shall not exceed the limit set  
55 forth in the initial credit component certificate obtained pursuant to  
56 subdivision (c) of this section. In the determination of such credit

components, no cost paid or incurred by the taxpayer shall be the basis for more than one such component.

(f) Cross-references. For application of the credit provided for in this section, see the following provisions of this chapter:

(1) Article nine: Section one hundred eighty-seven-d;

(2) Article nine-A: Subdivision [thirty-one] SIXTEEN of section two hundred [ten] TEN-B;

(3) Article twenty-two: Subsections (i) and (y) of section six hundred six;

(4) [Article thirty-two: Subsection (m) of section fourteen hundred fifty-six;

(5)] Article thirty-three: Subdivision (o) of section fifteen hundred eleven.

S 39. Paragraphs 1 and 5 of subdivision (a) of section 21 of the tax law, as amended by section 1 of part H of chapter 577 of the laws of 2004, are amended to read as follows:

(1) General. A taxpayer subject to tax under article nine, nine-A, twenty-two[, thirty-two] or thirty-three of this chapter shall be allowed a credit against such tax, pursuant to the provisions referenced in subdivision (f) of this section. Such credit shall be allowed with respect to a qualified site, as such term is defined in paragraph one of subdivision (b) of this section. The amount of the credit in a taxable year shall be the sum of the credit components specified in paragraphs two, three and four of this subdivision applicable in such year.

(5) Applicable percentage. For purposes of paragraphs two, three and four of this subdivision, the applicable percentage shall be twelve percent in the case of credits claimed under article nine, nine-A[, thirty-two] or thirty-three of this chapter, and ten percent in the case of credits claimed under article twenty-two of this chapter, except that where at least fifty percent of the area of the qualified site relating to the credit provided for in this section is located in an environmental zone as defined in paragraph six of subdivision (b) of this section, the applicable percentage shall be increased by an additional eight percent. Provided, however, as afforded in section 27-1419 of the environmental conservation law, if the certificate of completion indicates that the qualified site has been remediated to Track 1 as that term is described in subdivision four of section 27-1415 of the environmental conservation law, the applicable percentage set forth in the first sentence of this paragraph shall be increased by an additional two percent.

S 39-a. Subdivisions (c) and (f) of section 21 of the tax law, as added by section 1 of part H of chapter 1 of the laws of 2003, are amended to read as follows:

(c) Qualifying property. Property which qualifies for the credit provided for under this section and also for a credit provided for (1) under either subdivision [twelve] ONE or subdivision [twelve-B] THREE of section two hundred [ten] TEN-B of this chapter, or both, OR (2) subsection (a) or subsection (j) of section six hundred six of this chapter, or both[, (3) the credit provided for under subsection (i) of section fourteen hundred fifty-six of this chapter, or (4) the credit provided under subdivision (q) of section fifteen hundred eleven of this chapter] may be the basis for either the credit provided for under this section or one of the credits enumerated in paragraph one[, ] OR two[, three or four] of this subdivision, but not both.

(f) Cross-references. For application of the credit provided for in this section, see the following provisions of this chapter:

(1) Article 9: Section 187-g

(2) Article 9-A: Section [210] 210-B, subdivision [33] 17

(3) Article 22: Section 606, subsections (i) and (dd)

(4) [Article 32: Section 1456, subsection (q)

(5)] Article 33: Section 1511, subdivision (u).

S 40. Paragraph 3 of subdivision (a) and paragraphs 1 and 9 of subdivision (b) of section 22 of the tax law, as amended by section 4 of part H of chapter 577 of the laws of 2004, are amended to read as follows:

(3) Developer. (i) A "developer" is a taxpayer under article nine, nine-A, twenty-two[, thirty-two] or thirty-three of this chapter who or which either (I) has been issued a certificate of completion with respect to a qualified site or (II) has purchased or in any other way has been conveyed all or any portion of a qualified site from a taxpayer or any other party who or which has been issued a certificate of completion with respect to such site provided, such purchase or conveyance occurs within seven years of the effective date of the certificate of completion issued with respect to such qualified site. Provided further, that the taxpayer who or which is purchasing all or any portion of a qualified site and the taxpayer or any other party who or which has been issued a certificate of completion with respect to such site may not be related persons, as such term is defined in subparagraph (C) of paragraph three of subsection (b) of section four hundred sixty-five of the internal revenue code.

(ii) Where the entity to whom a certificate of completion has been issued is a partnership, or where the entity which has purchased all or any portion of a qualified site from a taxpayer who or which has been issued a certificate of completion with respect to such site within the applicable time limit is a partnership, any partner in such partnership who or which is taxable under article nine, nine-A, twenty-two[, thirty-two] or thirty-three of this chapter shall be a developer under this paragraph. Where the entity to whom a certificate of completion has been issued is a New York S corporation, or where the entity which has purchased all or any portion of a qualified site from a taxpayer who or which has been issued a certificate of completion with respect to such site within the applicable time limit is a New York S corporation, any shareholder in such New York S corporation shall be a developer under this paragraph.

(1) Allowance of credit. A developer of a qualified site who or which is subject to tax under article nine, nine-A, twenty-two[, thirty-two] or thirty-three of this chapter, shall be allowed a credit against such tax, pursuant to the provisions referenced in paragraph nine of this subdivision, for eligible real property taxes imposed on such site.

(9) Cross-references. For application of the credit provided for in this subdivision, see the following provisions of this chapter:

(i) Article 9: Section 187-h.

(ii) Article 9-A: Section [210] 210-B: subdivision [34] 18.

(iii) Article 22: Section 606: subsections (i) and (ee).

(iv) [Article 32: Section 1456: subsection (r).

(v)] Article 33: Section 1511: subdivision (v).

S 41. Subdivision (a) of section 23 of the tax law, as amended by section 10 of part H chapter 577 of the laws of 2004, is amended to read as follows:

(a) Allowance of credit. General. A taxpayer subject to tax under article nine, nine-A, twenty-two[, thirty-two] or thirty-three of this chapter shall be allowed a credit against such tax, pursuant to the provisions referenced in subdivision (e) of this section. The amount of

1 such credit shall be equal to the lesser of thirty thousand dollars or  
2 fifty percent of the premiums paid on or after the date of the brown-  
3 field site cleanup agreement executed by the taxpayer and the department  
4 of environmental conservation pursuant to section 27-1409 of the envi-  
5 ronmental conservation law by the taxpayer for environmental remediation  
6 insurance issued with respect to a qualified site.

7 S 42. Subdivision (e) of section 23 of the tax law, as added by  
8 section 19 of part H of chapter 1 of the laws of 2003, is amended to  
9 read as follows:

10 (e) Cross-references. For application of the credit provided for in  
11 this section, see the following provisions of this chapter:

12 (1) Article 9: Section 187-i

13 (2) Article 9-A: Section [210] 210-B, subdivision [35] 19

14 (3) Article 22: Section 606, subsections (i) and (ff)

15 (4) [Article 32: Section 1456, subsection (s)

16 (5)] Article 33: Section 1511, subdivision (w).

17 S 43. Paragraphs 1 and 2 of subdivision (a) and clause (i) of subpara-  
18 graph (D) of paragraph 1 of subdivision (b) of section 25 of the tax  
19 law, as added by section 1 of part N of chapter 61 of the laws of 2005,  
20 are amended to read as follows:

21 (1) Every taxpayer, or person as defined in section seven thousand  
22 seven hundred one of the internal revenue code, required to file a  
23 disclosure statement with the internal revenue service pursuant to  
24 section six thousand eleven of the internal revenue code, or the regu-  
25 lations promulgated thereunder, related to a reportable transaction or a  
26 listed transaction, as those terms are defined in such section or regu-  
27 lations, must attach a duplicate of such disclosure statement to the  
28 return or report required to be filed by such taxpayer or person for the  
29 taxable year under article nine, nine-A, twenty-two[, thirty-two] or  
30 thirty-three of this chapter, and provide such other information related  
31 to such disclosure as prescribed by the commissioner. Such disclosure  
32 shall be made notwithstanding that one member of an affiliated group, as  
33 defined by section fifteen hundred four of the internal revenue code,  
34 may file such disclosure statement with the internal revenue service on  
35 behalf of its affiliates including such taxpayer or person.

36 (2) Every taxpayer or such person who participates in a New York  
37 reportable transaction for a taxable year must disclose such partic-  
38 ipation with its return or report required to be filed under article  
39 nine, nine-A, twenty-two[, thirty-two] or thirty-three of this chapter  
40 for the taxable year in a form prescribed by the commissioner, and  
41 provide such other information related to such transaction as prescribed  
42 by the commissioner. A New York reportable transaction is a transaction  
43 that has the potential to be a tax avoidance transaction as determined  
44 by the commissioner.

45 (i) the list required to be maintained by such person pursuant to  
46 section six thousand one hundred twelve of the internal revenue code  
47 identifies or is required to identify a taxpayer subject to tax under  
48 article nine, nine-A, twenty-two[, thirty-two] or thirty-three of this  
49 chapter, and

50 S 44. Subdivisions (a) and (f) of section 26 of the tax law, as added  
51 by chapter 537 of the laws of 2005, are amended to read as follows:

52 (a) Allowance of credit. A taxpayer, which is subject to tax under  
53 article nine, nine-A, twenty-two[, thirty-two] or thirty-three of this  
54 chapter and which is a qualified building owner, shall be allowed a  
55 credit against such tax. The amount of the credit allowed under this  
56 section shall equal the sum of the number of qualified security officers

1 providing protection to a building or buildings owned by the taxpayer  
2 multiplied by three thousand dollars. Provided, however, that in the  
3 case of a worker not so employed for a full year, such amount shall be  
4 prorated to reflect the length of such employment under regulations of  
5 the commissioner.

6 (f) Cross-references. For application of the credit provided for in  
7 this section, see the following provisions of this chapter:

8 (1) article 9: section 187-n.

9 (2) article 9-A: section [210] 210-B: subdivision [37] 21.

10 (3) article 22: section 606: subsection (ii).

11 (4) [article 32: section 1456: subsection (t).

12 (5)] article 33: section 1511: subdivision (x).

13 S 45. Paragraph 3 of subdivision (a) and subdivision (c) of section 28  
14 of the tax law, as added by section 2 of part V of chapter 62 of the  
15 laws of 2006, are amended to read as follows:

16 (3) No qualified production costs used by a taxpayer either as the  
17 basis for the allowance of the credit provided for under this section or  
18 used in the calculation of the credit provided for under this section  
19 shall be used by such taxpayer to claim any other credit allowed pursu-  
20 ant to this chapter.

21 Notwithstanding any provisions of this section to the contrary, a  
22 corporation or partnership, which otherwise qualifies as a qualified  
23 commercial production company, and is similar in operation and in owner-  
24 ship to a business entity or entities taxable, or previously taxable,  
25 under section one hundred eighty-three, one hundred eighty-four or one  
26 hundred eighty-five of article nine; article nine-A[, article thirty-  
27 two] or thirty-three of this chapter or which would have been subject to  
28 tax under article twenty-three of this chapter (as such article was in  
29 effect on January first, nineteen hundred eighty) OR WHICH WOULD HAVE  
30 BEEN SUBJECT TO TAX UNDER ARTICLE THIRTY-TWO OF THIS CHAPTER (AS SUCH  
31 ARTICLE WAS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN)  
32 or the income or losses of which is or was includable under article  
33 twenty-two of this chapter shall not be deemed a new or separate busi-  
34 ness, and therefore shall not be eligible for empire state commercial  
35 production benefits, if it was not formed for a valid business purpose,  
36 as such term is defined in clause (D) of subparagraph one of paragraph  
37 (o) of subdivision nine of section two hundred eight of this chapter and  
38 was formed solely to gain empire state commercial production credit  
39 benefits.

40 (c) Cross-references. For application of the credit provided for in  
41 this section, see the following provision of this chapter:

42 (1) article 9-A: section [210] 210-B: subdivision [38] 23.

43 (2) article 22: section 606: subsection (jj).

44 S 46. Subdivision (d) of section 28 of the tax law, as added by  
45 section 1 of part X of chapter 62 of the laws of 2006, is amended to  
46 read as follows:

47 (d) Cross-references. For application of the credit provided for in  
48 this section, see the following provisions of this chapter:

49 (1) Article 9: Section 187-c.

50 (2) Article 9-A: Section [210] 210-B, subdivision [38] 24.

51 (3) Article 22: Section 606, subsections (i) and (jj).

52 S 47. The opening paragraph of subdivision (a) and subdivisions (c)  
53 and (g) of section 31 of the tax law, the opening paragraph of subdivi-  
54 sion (a) and subdivision (g) as amended by section 7 of part G of chap-  
55 ter 61 of the laws of 2011, subdivision (c) as added by section 2 of

1 part MM of chapter 59 of the laws of 2010, are amended to read as  
2 follows:

3 General. A taxpayer subject to tax under section one hundred eighty-  
4 five, article nine-A, twenty-two[, thirty-two] or thirty-three of this  
5 chapter shall be allowed a credit against such tax, pursuant to the  
6 provisions referenced in subdivision (g) of this section. The amount of  
7 the credit, allowable for up to ten consecutive taxable years, is the  
8 sum of the following four credit components:

9 (c) Election of credit. A taxpayer who or which is qualified to claim  
10 the excelsior investment tax credit component and is also qualified to  
11 claim the investment tax credit provided for under subdivision [twelve]  
12 ONE of section two hundred [ten,] TEN-B OR subsection (a) of section six  
13 hundred six[, or subsection (i) of section fourteen hundred fifty-six]  
14 of this chapter, may claim either the excelsior investment tax credit  
15 component or the investment tax credit, but not both with regard to a  
16 particular piece of property. In addition, a taxpayer who or which is  
17 qualified to claim the excelsior investment tax credit component and is  
18 also qualified to claim the brownfield tangible property credit compo-  
19 nent under section twenty-one of this article, as added by chapter one  
20 of the laws of two thousand three, may claim either the excelsior  
21 investment tax credit component or such tangible property credit compo-  
22 nent, but not both with regard to a particular piece of property. The  
23 election to claim the excelsior investment tax credit component, the  
24 investment tax credit or the brownfield tangible property credit compo-  
25 nent, with regard to the same property, is irrevocable.

26 (g) Cross-references. For application of the credit provided for in  
27 this section, see the following provisions of this chapter:

- 28 (1) article 9: section 187-q.
- 29 (2) article 9-A: section [210] 210-B: subdivision [41] 31.
- 30 (3) article 22: section 606: subsection (qq).
- 31 (4) [article 32: section 1456: subsection (u).
- 32 (5)] article 33: section 1511: subdivision (y).

33 S 48. Subdivision (d) of section 31 of the tax law, as added by  
34 section 12 of part Q of chapter 57 of the laws of 2010, is amended to  
35 read as follows:

36 (d) Cross-references. For application of the credit provided for in  
37 this section, see the following provisions of this chapter:

- 38 (1) article 9-A: section [210] 210-B: subdivision [41] 32.
- 39 (2) article 22: section 606: subsection (qq).

40 S 49. Subdivision 3 of section 34 of the tax law, as added by section  
41 2 of part Y of chapter 57 of the laws of 2010, is amended to read as  
42 follows:

43 3. (a) For application of the temporary deferral nonrefundable payout  
44 credit, see the following provisions of this chapter:

- 45 (1) Article 9: section [187-0] 187-0
- 46 (2) Article 9-A: section [210(41)] 210-B(33)
- 47 (3) Article 22: section 606(qq)
- 48 (4) [Article 32: section 1456(v)
- 49 (5)] Article 33: section 1511(y)

50 (b) For application of the temporary deferral refundable payout cred-  
51 it, see the following provisions of this chapter:

- 52 (1) Article 9: section 187-p
- 53 (2) Article 9-A: section [210(42)] 210-B(34)
- 54 (3) Article 22: section 606(rr)
- 55 (4) [Article 32: section 1456(w)
- 56 (5)] Article 33: section 1511(z)

1 S 50. The opening paragraph of subdivision (a), subparagraph (C) of  
2 paragraph 2 of subdivision (e), and subdivision (f) of section 35 of the  
3 tax law, as added by section 3 of part V of chapter 61 of the laws of  
4 2011, are amended to read as follows:

5 A taxpayer which is a participant or the owner of a participant in the  
6 economic transformation and facility redevelopment program under article  
7 eighteen of the economic development law that is subject to tax under  
8 section one hundred eighty-five of article nine, or article nine-A,  
9 twenty-two[, thirty-two] or thirty-three of this chapter shall be  
10 allowed the sum of following components against such tax, pursuant to  
11 the provisions referenced in subdivision (f) of this section.

12 (C) the business entity must not be substantially similar in ownership  
13 and operation to another taxpayer taxable or previously taxable under  
14 section one hundred eighty-three, one hundred eighty-four or one hundred  
15 eighty-five of article nine, former section one hundred eighty-six of  
16 this chapter or article nine-A, twenty-two[, thirty-two] or thirty-three  
17 of this chapter OR FORMER ARTICLE THIRTY-TWO OF THIS CHAPTER or the  
18 income or losses of which is or was includable under article twenty-two  
19 of this chapter;

20 (f) Cross-references. For application of the credits provided for in  
21 this section, see the following provisions of this chapter:

22 (1) section 185: section 187-r.

23 (2) article 9-A: section [210(43)] 210-B(35).

24 (3) article 22: section 606 (ss).

25 (4) [article 32: section 1456(x).

26 (5)] article 33: section 1511 (aa).

27 S 51. Subdivisions (a) and (e) of section 36 of the tax law, as added  
28 by section 2 of part E of chapter 56 of the laws of 2011, are amended to  
29 read as follows:

30 (a) Allowance of credit. A taxpayer subject to tax under article  
31 nine-A, twenty-two[, thirty-two] or thirty-three of this chapter shall  
32 be allowed a credit against such tax, pursuant to the provisions refer-  
33 enced in subdivision (e) of this section. The amount of the credit,  
34 allowable for ten consecutive tax years, is equal to the amount deter-  
35 mined pursuant to section four hundred twenty-five of the economic  
36 development law.

37 (e) Cross-references. For application of the credit provided for in  
38 this section, see the following provisions of this chapter:

39 (1) article 9-A: section [210] 210-B, subdivision [44] 37;

40 (2) article 22: section 606, subsection (tt);

41 (3) [article 32: section 1456, subsection (y);

42 (4)] article 33, section 1511, subdivision (bb).

43 S 52. Subdivision (c) of section 37 of the tax law, as added by chap-  
44 ter 109 of the laws of 2012, is amended to read as follows:

45 (c) Cross-references. For application of the credit provided for in  
46 this section, see the following provisions of this chapter:

47 (1) Article 9-A: Section [210] 210-B, subdivision [45] 39.

48 (2) Article 22: Section 606, subsections (i) and (uu).

49 S 52-a. Subdivision (c) of section 39 of the tax law is REPEALED.

50 S 53. Paragraphs 2, 3 and 4 of subdivision (k) of section 39 of the  
51 tax law, paragraphs 2 and 3 as added by section 2 of part A of chapter  
52 68 of the laws of 2013, paragraph 4 as added by section 2 of part A of  
53 chapter 68 of the laws of 2013, are amended to read as follows:

54 [(2) Article 9: section 180, subdivision 3.

55 (3) Article 9: section 181, subdivision 3.]

1 (4) Article 9-A: section [210] 210-B, subdivision [47] 41 AND SUBDIVI-  
2 SION 44.

3 S 54. Subdivision 1 of section 171-a of the tax law, as amended by  
4 section 1 of part R of chapter 60 of the laws of 2004, is amended to  
5 read as follows:

6 1. All taxes, interest, penalties and fees collected or received by  
7 the commissioner or the commissioner's duly authorized agent under arti-  
8 cles nine (except section one hundred eighty-two-a thereof and except as  
9 otherwise provided in section two hundred five thereof), nine-A,  
10 twelve-A (except as otherwise provided in section two hundred eighty-  
11 four-d thereof), thirteen, thirteen-A (except as otherwise provided in  
12 section three hundred twelve thereof), eighteen, nineteen, twenty  
13 (except as otherwise provided in section four hundred eighty-two there-  
14 of), twenty-one, twenty-two, twenty-six, twenty-six-B, twenty-eight  
15 (except as otherwise provided in section eleven hundred two or eleven  
16 hundred three thereof), twenty-eight-A, thirty-one (except as otherwise  
17 provided in section fourteen hundred twenty-one thereof), [thirty-two,]  
18 thirty-three and thirty-three-A of this chapter shall be deposited daily  
19 in one account with such responsible banks, banking houses or trust  
20 companies as may be designated by the comptroller, to the credit of the  
21 comptroller. Such an account may be established in one or more of such  
22 depositories. Such deposits shall be kept separate and apart from all  
23 other money in the possession of the comptroller. The comptroller shall  
24 require adequate security from all such depositories. Of the total  
25 revenue collected or received under such articles of this chapter, the  
26 comptroller shall retain in the comptroller's hands such amount as the  
27 commissioner may determine to be necessary for refunds or reimbursements  
28 under such articles of this chapter [and article ten thereof] out of  
29 which amount the comptroller shall pay any refunds or reimbursements to  
30 which taxpayers shall be entitled under the provisions of such articles  
31 of this chapter [and article ten thereof]. The commissioner and the  
32 comptroller shall maintain a system of accounts showing the amount of  
33 revenue collected or received from each of the taxes imposed by such  
34 articles. The comptroller, after reserving the amount to pay such  
35 refunds or reimbursements, shall, on or before the tenth day of each  
36 month, pay into the state treasury to the credit of the general fund all  
37 revenue deposited under this section during the preceding calendar month  
38 and remaining to the comptroller's credit on the last day of such  
39 preceding month, (i) except that the comptroller shall pay to the state  
40 department of social services that amount of overpayments of tax imposed  
41 by article twenty-two of this chapter and the interest on such amount  
42 which is certified to the comptroller by the commissioner as the amount  
43 to be credited against past-due support pursuant to subdivision six of  
44 section one hundred seventy-one-c of this [chapter] ARTICLE, (ii) and  
45 except that the comptroller shall pay to the New York state higher  
46 education services corporation and the state university of New York or  
47 the city university of New York respectively that amount of overpayments  
48 of tax imposed by article twenty-two of this chapter and the interest on  
49 such amount which is certified to the comptroller by the commissioner as  
50 the amount to be credited against the amount of defaults in repayment of  
51 guaranteed student loans and state university loans or city university  
52 loans pursuant to subdivision five of section one hundred seventy-one-d  
53 and subdivision six of section one hundred seventy-one-e of this [chap-  
54 ter] ARTICLE, (iii) and except further that, notwithstanding any law,  
55 the comptroller shall credit to the revenue arrearage account, pursuant  
56 to section ninety-one-a of the state finance law, that amount of over-



1 payment of tax imposed by article nine, nine-A, twenty-two, thirty,  
2 thirty-A, thirty-B[, thirty-two] or thirty-three of this chapter, and  
3 any interest thereon, which is certified to the comptroller by the  
4 commissioner as the amount to be credited against a past-due legally  
5 enforceable debt owed to a state agency pursuant to paragraph (a) of  
6 subdivision six of section one hundred seventy-one-f of this article,  
7 provided, however, he shall credit to the special offset fiduciary  
8 account, pursuant to section ninety-one-c of the state finance law, any  
9 such amount creditable as a liability as set forth in paragraph (b) of  
10 subdivision six of section one hundred seventy-one-f of this article,  
11 (iv) and except further that the comptroller shall pay to the city of  
12 New York that amount of overpayment of tax imposed by article nine,  
13 nine-A, twenty-two, thirty, thirty-A, thirty-B[, thirty-two,] or thir-  
14 ty-three of this chapter and any interest thereon that is certified to  
15 the comptroller by the commissioner as the amount to be credited against  
16 city of New York tax warrant judgment debt pursuant to section one  
17 hundred seventy-one-l of this article, (v) and except further that the  
18 comptroller shall pay to a non-obligated spouse that amount of overpay-  
19 ment of tax imposed by article twenty-two of this chapter and the inter-  
20 est on such amount which has been credited pursuant to section one  
21 hundred seventy-one-c, one hundred seventy-one-d, one hundred seventy-  
22 one-e, one hundred seventy-one-f or one hundred seventy-one-l of this  
23 article and which is certified to the comptroller by the commissioner as  
24 the amount due such non-obligated spouse pursuant to paragraph six of  
25 subsection (b) of section six hundred fifty-one of this chapter; and  
26 (vi) the comptroller shall deduct a like amount which the comptroller  
27 shall pay into the treasury to the credit of the general fund from  
28 amounts subsequently payable to the department of social services, the  
29 state university of New York, the city university of New York, or the  
30 higher education services corporation, or the revenue arrearage account  
31 or special offset fiduciary account pursuant to section ninety-one-a or  
32 ninety-one-c of the state finance law, as the case may be, whichever had  
33 been credited the amount originally withheld from such overpayment, and  
34 (vii) with respect to amounts originally withheld from such overpayment  
35 pursuant to section one hundred seventy-one-l of this article and paid  
36 to the city of New York, the comptroller shall collect a like amount  
37 from the city of New York.

38 S 55. Subdivision 2 of section 171-a of the tax law, as amended by  
39 chapter 57 of the laws of 1993, is amended to read as follows:

40 2. Notwithstanding subdivision one of this section or any other  
41 provision of law to the contrary, the taxes imposed pursuant to sections  
42 one hundred eighty-three-a, one hundred eighty-four-a, [one hundred  
43 eighty-six-b,] one hundred eighty-six-c, [one hundred eighty-nine-a,]  
44 two hundred nine-B[, fourteen hundred fifty-five-b] and fifteen hundred  
45 five-a of this chapter, reduced by an amount for administrative costs,  
46 shall be deposited to the credit of the metropolitan mass transportation  
47 operating assistance account in the mass transportation operating  
48 assistance fund, created pursuant to section eighty-eight-a of the state  
49 finance law, as such taxes are received. The amount for administrative  
50 costs shall be determined by the commissioner to represent reasonable  
51 costs of the department of taxation and finance in administering,  
52 collecting, determining and distributing such taxes. Of the total reven-  
53 ue collected or received under such sections of this chapter, the comp-  
54 troller shall retain in his hands such amount as the commissioner may  
55 determine to be necessary for refunds or reimbursements under such  
56 sections of this chapter out of which amount the comptroller shall pay

1 any refunds or reimbursements to which taxpayers shall be entitled under  
2 provisions of such sections. The tax commissioner and the comptroller  
3 shall maintain a system of accounts showing the amount of revenue  
4 collected or received from each of the taxes imposed by such sections.

5 S 56. Paragraphs (b) and (c) of subdivision 1 of section 171-f of the  
6 tax law, as amended by chapter 81 of the laws of 1995, are amended to  
7 read as follows:

8 (b) "taxpayer" shall mean a corporation, association, company, part-  
9 nership, estate, trust, liquidator, fiduciary or other entity or indi-  
10 vidual who or which is liable for any tax or other imposition imposed by  
11 or pursuant to article nine, nine-A, twenty-two, thirty, thirty-A, thir-  
12 ty-B[, thirty-two,] or thirty-three of this chapter or article two-E of  
13 the general city law, which tax or other imposition is administered by  
14 the commissioner of taxation and finance, or who or which is under a  
15 duty to perform an act under or pursuant to such tax or imposition,  
16 excluding a state agency, a municipal corporation or a district corpo-  
17 ration; and (c) "overpayment" shall mean an overpayment which has been  
18 requested or determined to be refunded, a refund or a reimbursement, of  
19 a tax or other imposition imposed by or pursuant to article nine,  
20 nine-A, twenty-two, thirty, thirty-A, thirty-B[, thirty-two,] or thir-  
21 ty-three of this chapter or article two-E of the general city law, which  
22 is administered by the commissioner of taxation and finance.

23 S 57. Subdivision 2 of section 171-f of the tax law, as added by chap-  
24 ter 55 of the laws of 1992, is amended to read as follows:

25 (2) The commissioner of taxation and finance, upon agreement with the  
26 state comptroller and acting as an agent for the state comptroller,  
27 shall set forth the procedures for crediting any overpayment by a  
28 taxpayer of any tax or other imposition imposed by or authorized to be  
29 imposed pursuant to article nine, nine-A, twenty-two, thirty, thirty-A,  
30 thirty-B[, thirty-two,] or thirty-three of this chapter or article two-E  
31 of the general city law, which is administered by the commissioner of  
32 taxation and finance, and the interest on any such overpayments, against  
33 the amount of a past-due legally enforceable debt owed by such taxpayer  
34 to a state agency. An implementation plan shall be developed by the  
35 division of the budget and the department of taxation and finance which  
36 shall provide, but not be limited to, guidance with respect to coordi-  
37 nation of debt collection pursuant to this section and subdivision twen-  
38 ty-seventh of section one hundred seventy-one of this article. This  
39 section shall not be deemed to abrogate or limit in any way the powers  
40 and authority of the state comptroller to set off debts owed the state  
41 against payments from the state, under the constitution of the state or  
42 any other law.

43 S 58. Paragraphs (a) and (b) of subdivision 1 of section 171-l of the  
44 tax law, as added by section 6 of part R of chapter 60 of the laws of  
45 2004, are amended to read as follows:

46 (a) "taxpayer" shall mean a corporation, association, company, part-  
47 nership, estate, trust, liquidator, fiduciary or other entity or indi-  
48 vidual who or which is liable for any tax or other imposition imposed by  
49 or pursuant to article nine, nine-A, twenty-two, thirty, thirty-A, thir-  
50 ty-B[, thirty-two,] or thirty-three of this chapter, which tax or other  
51 imposition is administered by the commissioner of taxation and finance,  
52 or who or which is under a duty to perform an act under or pursuant to  
53 such tax or imposition, excluding a state agency, a municipal corpo-  
54 ration or a district corporation;

55 (b) "overpayment" shall mean an overpayment which has been requested  
56 or determined to be refunded, a refund or a reimbursement, of a tax or

1 other imposition imposed by or pursuant to article nine, nine-A, twen-  
2 ty-two, thirty, thirty-A, thirty-B[, thirty-two,] or thirty-three of  
3 this chapter, which is administered by the commissioner of taxation and  
4 finance; and

5 S 59. Paragraph (b) of subdivision 1 of section 183 of the tax law, as  
6 amended by section 1 of part Y of chapter 63 of the laws of 2000, is  
7 amended to read as follows:

8 (b) For the privilege of exercising its corporate franchise, or of  
9 doing business, or of employing capital, or of owning or leasing proper-  
10 ty in this state in a corporate or organized capacity, or of maintaining  
11 an office in this state, every domestic corporation, joint-stock company  
12 or association formed for or principally engaged in the conduct of  
13 canal, steamboat, ferry (except a ferry company operating between any of  
14 the boroughs of the city of New York under a lease granted by the city),  
15 express, navigation, pipe line, transfer, baggage express, omnibus,  
16 taxicab, telegraph, or telephone business, or formed for or principally  
17 engaged in the conduct of two or more of such businesses, and every  
18 domestic corporation, joint-stock company or association formed for or  
19 principally engaged in the conduct of a railroad, palace car, sleeping  
20 car or trucking business or formed for or principally engaged in the  
21 conduct of two or more of such businesses and which has made an election  
22 pursuant to subdivision ten of this section, and every other domestic  
23 corporation, joint-stock company or association principally engaged in  
24 the conduct of a transportation or transmission business, except a  
25 corporation, joint-stock company or association formed for or principal-  
26 ly engaged in the conduct of a railroad, palace car, sleeping car or  
27 trucking business or formed for or principally engaged in the conduct of  
28 two or more of such businesses and which has not made the election  
29 provided for in subdivision ten of this section, and except a corpo-  
30 ration, joint-stock company or association principally engaged in the  
31 conduct of aviation (including air freight forwarders acting as princi-  
32 pal and like indirect air carriers) and except a corporation principally  
33 engaged in providing telecommunication services between aircraft and  
34 dispatcher, aircraft and air traffic control or ground station and  
35 ground station (or any combination of the foregoing), at least ninety  
36 percent of the voting stock of which corporation is owned, directly or  
37 indirectly, by air carriers and which corporation's principal function  
38 is to fulfill the requirements of (i) the federal aviation adminis-  
39 tration (or the successor thereto) or (ii) the international civil  
40 aviation organization (or the successor thereto), relating to the exist-  
41 ence of a communication system between aircraft and dispatcher, aircraft  
42 and air traffic control or ground station and ground station (or any  
43 combination of the foregoing) for the purposes of air safety and naviga-  
44 tion [and except a corporation, joint-stock company or association  
45 subject to taxation under article thirty-two of this chapter,] shall  
46 pay, in advance, an annual tax to be computed upon the basis of the  
47 amount of its capital stock within this state during the preceding year,  
48 and upon each dollar of such amount. Provided, however, a corporation,  
49 joint-stock company or association formed for or principally engaged in  
50 the transportation, transmission or distribution of gas, electricity or  
51 steam shall not be subject to tax under this section or section one  
52 hundred eighty-four of this article.

53 S 60. Subdivision 10 of section 183 of the tax law, as added by chap-  
54 ter 309 of the laws of 1996, is amended to read as follows:

55 10. Election. [With respect to taxable years beginning after nineteen  
56 hundred ninety-seven, every] EVERY corporation, joint-stock company or

1 association formed for or principally engaged in the conduct of a rail-  
2 road (including surface railroad, whether or not operated by steam,  
3 subway railroad or elevated railroad), palace car, sleeping car or  
4 trucking business or formed for or principally engaged in the conduct of  
5 two or more of such businesses, which would be subject to article nine-A  
6 [or thirty-two] of this chapter if the election provided for under this  
7 subdivision were not made, may elect to be subject to the provisions of  
8 this section and, as applicable, section one hundred eighty-four of this  
9 article, rather than the provisions of such article nine-A [or thirty-  
10 two]. [In the case of such a corporation, joint-stock company or associ-  
11 ation subject to the tax imposed under this section and, as applicable,  
12 section one hundred eighty-four of this article, for the taxable year  
13 ending December thirty-first, nineteen hundred ninety-seven, such corpo-  
14 ration, joint-stock company or association must make such election on or  
15 before March fifteenth, nineteen hundred ninety-eight, and such election  
16 shall apply to the taxable year ending on December thirty-first, nine-  
17 teen hundred ninety-eight and to succeeding taxable years, until  
18 revoked. In the case of such a corporation, joint-stock company or asso-  
19 ciation which is not subject to the tax imposed under this section and,  
20 as applicable, section one hundred eighty-four of this article for the  
21 taxable year ending December thirty-first, nineteen hundred ninety-sev-  
22 en, but thereafter would be subject to article nine-A or thirty-two of  
23 this chapter if the election provided for under this subdivision were  
24 not made, such] SUCH corporation, joint-stock company or association  
25 must make such election by the first day on which such corporation,  
26 joint-stock company or association would be required to file a return or  
27 report (without regard to extensions) under this section or section one  
28 hundred eighty-four of this article, or section one hundred eighty-  
29 three-a or one hundred[-]eighty-four-a of this article, or article  
30 nine-A [or thirty-two] of this chapter. An election made pursuant to  
31 this subdivision shall continue to be in effect until revoked by the  
32 taxpayer. A revocation of the election to be subject to this section  
33 and, as applicable, section one hundred eighty-four of this article,  
34 shall be irrevocable. Such election, and a revocation thereof, shall be  
35 made in the manner prescribed by the commissioner, whether by regulation  
36 or otherwise. Such revocation shall apply as of the first day of January  
37 next following the end of a taxable year with respect to which the  
38 taxpayer had been subject to this section and, as applicable, section  
39 one hundred eighty-four of this article, by reason of an election made  
40 pursuant to this subdivision.

41 S 61. The section heading and subdivisions 1 and 5 of section 183-a of  
42 the tax law, the section heading as added by chapter 931 of the laws of  
43 1982, subdivision 1 as amended by section 1 of part A of chapter 59 of  
44 the laws of 2013 and subdivision 5 as amended by chapter 945 of the laws  
45 of 1990, are amended to read as follows:

46 [Temporary metropolitan] METROPOLITAN transportation business tax  
47 surcharge on transportation and transmission corporations and associ-  
48 ations. 1. The term "corporation" as used in this section shall include  
49 an association, within the meaning of paragraph three of subsection (a)  
50 of section seventy-seven hundred one of the internal revenue code  
51 (including a limited liability company), a publicly traded partnership  
52 treated as a corporation for purposes of the internal revenue code  
53 pursuant to section seventy-seven hundred four thereof and any business  
54 conducted by a trustee or trustees wherein interest or ownership is  
55 evidenced by certificates or other written instruments. Every corpo-  
56 ration, joint-stock company or association formed for or principally

1 engaged in the conduct of canal, steamboat, ferry (except a ferry compa-  
2 ny operating between any of the boroughs of the city of New York under a  
3 lease granted by the city), express, navigation, pipe line, transfer,  
4 baggage express, omnibus, taxicab, telegraph, or telephone business, or  
5 formed for or principally engaged in the conduct of two or more such  
6 businesses, and every corporation, joint-stock company or association  
7 formed for or principally engaged in the conduct of a railroad, palace  
8 car, sleeping car or trucking business or formed for or principally  
9 engaged in the conduct of two or more of such businesses and which has  
10 made an election pursuant to subdivision ten of section one hundred  
11 eighty-three of this article, and every other corporation, joint-stock  
12 company or association principally engaged in the conduct of a transpor-  
13 tation or transmission business, except a corporation, joint-stock  
14 company or association formed for or principally engaged in the conduct  
15 of a railroad, palace car, sleeping car or trucking business or formed  
16 for or principally engaged in the conduct of two or more of such busi-  
17 nesses and which has not made the election provided for in subdivision  
18 ten of section one hundred eighty-three of this article, and except a  
19 corporation, joint-stock company or association principally engaged in  
20 the conduct of aviation (including air freight forwarders acting as  
21 principal and like indirect air carriers) and except a corporation prin-  
22 cipally engaged in providing telecommunication services between aircraft  
23 and dispatcher, aircraft and air traffic control or ground station and  
24 ground station (or any combination of the foregoing), at least ninety  
25 percent of the voting stock of which corporation is owned, directly or  
26 indirectly, by air carriers and which corporation's principal function  
27 is to fulfill the requirements of (i) the federal aviation adminis-  
28 tration (or the successor thereto) or (ii) the international civil  
29 aviation organization (or the successor thereto), relating to the exist-  
30 ence of a communication system between aircraft and dispatcher, aircraft  
31 and air traffic control or ground station and ground station (or any  
32 combination of the foregoing) for the purposes of air safety and naviga-  
33 tion [and except a corporation, joint-stock company or association which  
34 is liable to taxation under article thirty-two of this chapter], shall  
35 pay for the privilege of exercising its corporate franchise, or of doing  
36 business, or of employing capital, or of owning or leasing property in  
37 the metropolitan commuter transportation district in such corporate or  
38 organized capacity, or of maintaining an office in such district, a tax  
39 surcharge [for all or any part of its years commencing on or after Janu-  
40 ary first, nineteen hundred eighty-two but ending before December thir-  
41 ty-first, two thousand eighteen], which tax surcharge, in addition to  
42 the tax imposed by section one hundred eighty-three of this article,  
43 shall be computed at the rate of [eighteen percent of the tax imposed  
44 under such section one hundred eighty-three for such years or any part  
45 of such years ending before December thirty-first, nineteen hundred  
46 eighty-three after the deduction of any credits otherwise allowable  
47 under this article, and at the rate of] seventeen percent of the tax  
48 imposed under such section for such years or any part of such years  
49 [ending on or after December thirty-first, nineteen hundred eighty-  
50 three] after the deduction of any credits otherwise allowable under this  
51 article; provided, however, that such rates of tax surcharge shall be  
52 applied only to that portion of the tax imposed under section one  
53 hundred eighty-three of this article after the deduction of any credits  
54 otherwise allowable under this article which is attributable to the  
55 taxpayer's business activity carried on within the metropolitan commuter  
56 transportation district as so determined in the manner prescribed by the

1 rules and regulations promulgated by the commissioner[; and provided,  
2 further, that the tax surcharge imposed by this section shall not be  
3 imposed upon any taxpayer for more than four hundred thirty-two months].  
4 5. [The report covering the tax surcharge which must be calculated  
5 pursuant to this section based upon the tax reportable on the report due  
6 by March fifteenth, nineteen hundred eighty-two under section one  
7 hundred eighty-three of this article shall be filed on or before March  
8 fifteenth, nineteen hundred eighty-three. The report covering the tax  
9 surcharge which must be calculated pursuant to this section based upon  
10 the tax reportable on the report due by March fifteenth, nineteen  
11 hundred eighty-three under section one hundred eighty-three of this  
12 article shall be filed on or before March fifteenth, nineteen hundred  
13 eighty-four. The report covering the tax surcharge which must be calcu-  
14 lated pursuant to this section based upon the tax reportable on the  
15 report due by March fifteenth, nineteen hundred eighty-four under  
16 section one hundred eighty-three of this article shall be filed on or  
17 before March fifteenth, nineteen hundred eighty-five. The report cover-  
18 ing the tax surcharge which must be calculated pursuant to this section  
19 based upon the tax reportable on the report due by March fifteenth,  
20 nineteen hundred eighty-five under section one hundred eighty-three of  
21 this article shall be filed on or before March fifteenth, nineteen  
22 hundred eighty-six. The report covering the tax surcharge which must be  
23 calculated pursuant to this section based upon the tax reportable on the  
24 report due by March fifteenth, nineteen hundred eighty-six under section  
25 one hundred eighty-three of this article shall be filed on or before  
26 March fifteenth, nineteen hundred eighty-seven. The report covering the  
27 tax surcharge which must be calculated pursuant to this section based  
28 upon the tax reportable on the report due by March fifteenth, nineteen  
29 hundred eighty-seven under section one hundred eighty-three of this  
30 article shall be filed on or before March fifteenth, nineteen hundred  
31 eighty-eight. The report covering the tax surcharge which must be calcu-  
32 lated pursuant to this section based upon the tax reportable on the  
33 report due by March fifteenth, nineteen hundred eighty-eight under  
34 section one hundred eighty-three of this article shall be filed on or  
35 before March fifteenth, nineteen hundred eighty-nine. The report cover-  
36 ing the tax surcharge which must be calculated pursuant to this section  
37 based upon the tax reportable on the report due by March fifteenth,  
38 nineteen hundred eighty-nine under section one hundred eighty-three of  
39 this article shall be filed on or before March fifteenth, nineteen  
40 hundred ninety.] The report covering the tax surcharge which must be  
41 calculated pursuant to this section based upon the tax reportable on the  
42 report due by March fifteenth of any year [subsequent to nineteen  
43 hundred eighty-nine] under section one hundred eighty-three of this  
44 article shall be filed on or before March fifteenth of the year next  
45 succeeding such year. An extension pursuant to section one hundred nine-  
46 ty-three OF THIS ARTICLE shall be allowed only if a taxpayer files with  
47 the commissioner an application for extension in such form as said  
48 commissioner may prescribe by regulation and pays on or before the date  
49 of such filing in addition to any other amounts required under this  
50 article, either ninety percent of the entire tax surcharge required to  
51 be paid under this section for the applicable period, or not less than  
52 the tax surcharge shown on the taxpayer's report for the preceding year,  
53 if such preceding year consisted of twelve months. The tax surcharge  
54 imposed by this section shall be payable to the commissioner in full at  
55 the time the report is required to be filed, and such tax surcharge or  
56 the balance thereof, imposed on any taxpayer which ceases to exercise

1 its franchise or be subject to the tax surcharge imposed by this section  
2 shall be payable to the commissioner at the time the report is required  
3 to be filed, provided such tax surcharge of a domestic corporation which  
4 continues to possess its franchise shall be subject to adjustment as the  
5 circumstances may require; all other tax surcharges of any such taxpay-  
6 er, which pursuant to the foregoing provisions of this section would  
7 otherwise be payable subsequent to the time such report is required to  
8 be filed, shall nevertheless be payable at such time. All of the  
9 provisions of this article presently applicable to section one hundred  
10 eighty-three of this article are applicable to the tax surcharge imposed  
11 by this section except for section one hundred ninety-two of this arti-  
12 cle.

13 S 62. Subdivision 1 of section 184 of the tax law, as amended by  
14 section 2 of part Y of chapter 63 of the laws of 2000, is amended to  
15 read as follows:

16 1. The term "corporation" as used in this section shall include an  
17 association, within the meaning of paragraph three of subsection (a) of  
18 section seventy-seven hundred one of the internal revenue code (includ-  
19 ing a limited liability company), a publicly traded partnership treated  
20 as a corporation for purposes of the internal revenue code pursuant to  
21 section seventy-seven hundred four thereof.

22 Every corporation, joint-stock company or association formed for or  
23 principally engaged in the conduct of canal, steamboat, ferry (except a  
24 ferry company operating between any of the boroughs of the city of New  
25 York under a lease granted by the city), express, navigation, pipe line,  
26 transfer, baggage express, omnibus, taxicab, telegraph or local tele-  
27 phone business, or formed for or principally engaged in the conduct of  
28 two or more of such businesses, and every corporation, joint-stock  
29 company or association formed for or principally engaged in the conduct  
30 of surface railroad, whether or not operated by steam, subway railroad,  
31 elevated railroad, palace car, sleeping car or trucking business or  
32 formed for or principally engaged in the conduct of two or more such  
33 businesses and which has made an election pursuant to subdivision ten of  
34 section one hundred eighty-three of this article, and every other corpo-  
35 ration, joint-stock company or association formed for or principally  
36 engaged in the conduct of a transportation or transmission business  
37 (other than a telephone business), except a corporation, joint-stock  
38 company or association formed for or principally engaged in the conduct  
39 of a surface railroad, whether or not operated by steam, subway rail-  
40 road, elevated railroad, palace car, sleeping car or trucking business  
41 or formed for or principally engaged in the conduct of two or more of  
42 such businesses and which has not made the election provided for in  
43 subdivision ten of section one hundred eighty-three of this article,  
44 and, except a corporation, joint-stock company or association principal-  
45 ly engaged in the conduct of aviation (including air freight forwarders  
46 acting as principal and like indirect air carriers) and except a corpo-  
47 ration principally engaged in providing telecommunication services  
48 between aircraft and dispatcher, aircraft and air traffic control or  
49 ground station and ground station (or any combination of the foregoing),  
50 at least ninety percent of the voting stock of which corporation is  
51 owned, directly or indirectly, by air carriers and which corporation's  
52 principal function is to fulfill the requirements of (i) the federal  
53 aviation administration (or the successor thereto) or (ii) the interna-  
54 tional civil aviation organization (or the successor thereto), relating  
55 to the existence of a communication system between aircraft and  
56 dispatcher, aircraft and air traffic control or ground station and

1 ground station (or any combination of the foregoing) for the purposes of  
2 air safety and navigation and [except a corporation, joint-stock company  
3 or association which is liable to taxation under article thirty-two of  
4 this chapter,] for the privilege of exercising its corporate franchise,  
5 or of doing business, or of employing capital, or of owning or leasing  
6 property in this state in a corporate or organized capacity, or main-  
7 taining an office in this state, shall pay a franchise tax which shall  
8 be equal to [(i) three-quarters of one percent for taxable years ending  
9 before two thousand one, provided that for a taxable year ending in two  
10 thousand the rate shall be reduced to three-eighths of one percent  
11 effective July first, two thousand with the result that for purposes of  
12 implementation of such change in rate the applicable rate for such a  
13 year shall be nine-sixteenths of one percent, and (ii)] three-eighths of  
14 one percent for taxable years commencing after two thousand, upon its  
15 gross earnings from all sources within this state; except that, [for  
16 taxable years commencing on or after January first, nineteen hundred  
17 eighty-five and ending on or before December thirty-first, nineteen  
18 hundred eighty-nine, every corporation, joint-stock company or associ-  
19 ation formed for or principally engaged in the conduct of telephone or  
20 telegraph business shall pay a franchise tax which shall be equal to  
21 three-tenths of one per centum upon its gross earnings from all sources  
22 within this state and,] for taxable years commencing on or after January  
23 first, nineteen hundred ninety, every corporation, joint-stock company  
24 or association formed for or principally engaged in the conduct of local  
25 telephone business, or telegraph business shall pay a franchise tax  
26 which shall be equal to [(i) three-quarters of one percent for taxable  
27 years ending before two thousand one, provided that for a taxable year  
28 ending in two thousand the rate shall be reduced to three-eighths of one  
29 percent effective July first, two thousand with the result that for  
30 purposes of implementation of such change in rate the applicable rate  
31 for such a year shall be nine-sixteenths of one percent, and (ii)]  
32 three-eighths of one percent for taxable years commencing after two  
33 thousand, upon its gross earnings from all sources within this state,  
34 except that a corporation, joint-stock company or association formed for  
35 or principally engaged in the conduct of a local telephone business  
36 shall exclude the following earnings (but not in any event earnings  
37 derived by such taxpayer from the provision of carrier access services)  
38 derived by such taxpayer from sales for ultimate consumption of telecom-  
39 munications service to its customers (i) thirty percent of separately  
40 charged intra-LATA toll service (which shall also include interregion  
41 regional calling plan service) and (ii) one hundred percent of separate-  
42 ly charged inter-LATA, interstate or international telecommunications  
43 service; and except that [corporations, joint-stock companies or associ-  
44 ations formed for or principally engaged in the conduct of surface rail-  
45 road, whether or not operated by steam, subway railroad, elevated rail-  
46 road, palace car or sleeping car, business or any other corporation  
47 formed for or principally engaged in the conduct of a railroad business,  
48 for taxable years prior to nineteen hundred ninety-seven, and] corpo-  
49 rations, joint-stock companies or associations formed for or principally  
50 engaged in the conduct of canal, steamboat, ferry (except a ferry compa-  
51 ny operating between any of the boroughs of the city of New York under a  
52 lease granted by the city), navigation or any corporation formed for or  
53 principally engaged in the operation of vessels, shall pay a franchise  
54 tax which shall be equal to three-quarters of one per centum upon its  
55 gross earnings from all sources within this state, excluding earnings  
56 derived from business of an interstate or foreign character; except that



1 for taxable years beginning in nineteen hundred ninety-seven or there-  
2 after, in the case of a corporation, joint-stock company or association  
3 which, with respect to taxable years beginning after nineteen hundred  
4 ninety-seven, has made an election pursuant to subdivision ten of  
5 section one hundred eighty-three of this article and which is formed for  
6 or principally engaged in the conduct of surface railroad, whether or  
7 not operated by steam, subway railroad, elevated railroad, palace car,  
8 sleeping car or trucking business or formed for or principally engaged  
9 in the conduct of two or more of such businesses, such corporation,  
10 joint-stock company or association shall pay a franchise tax which shall  
11 be equal to [(i) six-tenths of one percent for taxable years ending  
12 before two thousand one, provided that for a taxable year ending in two  
13 thousand the rate shall be reduced to three-eighths of one percent  
14 effective July first, two thousand with the result that for purposes of  
15 implementation of such change in rate the applicable rate for such a  
16 year shall be thirty-nine eightieths of one percent, and (ii)] three-  
17 eighths of one percent for taxable years commencing after two thousand,  
18 upon its gross earnings from all sources within this state, provided  
19 that in the case of a corporation, joint-stock company or association  
20 formed for or principally engaged in the conduct of surface railroad,  
21 whether or not operated by steam, subway railroad, elevated railroad,  
22 palace car or sleeping car business, or formed for or principally  
23 engaged in the conduct of two or more of such businesses, such gross  
24 earnings shall not include earnings derived from business of an inter-  
25 state or foreign character.

26 Provided, however, with respect to railroad, elevated railroad, palace  
27 car or sleeping car business or any other corporation formed for or  
28 principally engaged in the conduct of a railroad business and canal,  
29 steamboat, ferry (except a ferry company operating between any of the  
30 boroughs of the city of New York under a lease granted by the city),  
31 navigation or any corporation formed for or principally engaged in the  
32 operation of vessels where the gross earnings from such transportation  
33 business both originating and terminating within this state and travers-  
34 ing both this state and another state or states or country shall be  
35 subject to the franchise tax imposed by this section (except where such  
36 corporation, joint-stock company or association is formed for or princi-  
37 pally engaged in the conduct of a railroad (including surface railroad,  
38 whether or not operated by steam, subway railroad or elevated railroad),  
39 palace car or sleeping car business or formed for or principally engaged  
40 in the conduct of two or more of such businesses, and has not made the  
41 election provided for under subdivision ten of section one hundred  
42 eighty-three of this article) and such earnings shall be allocated to  
43 this state in the same ratio that the mileage within the state bears to  
44 the total mileage of such business. Provided, further, a corporation,  
45 joint-stock company or association formed for or principally engaged in  
46 the transportation, transmission or distribution of gas, electricity or  
47 steam shall not be subject to tax under this section or section one  
48 hundred eighty-three of this article.

49 The term "local telephone business" means the provision or furnishing  
50 of telecommunication services for hire wherein the service furnished by  
51 the provider thereof consists of carrier access service or the service  
52 originates and terminates within the same local access and transport  
53 area ("LATA"), a local access and transport area being that geographic  
54 area as established and approved, and as so set and in existence on July  
55 first, nineteen hundred ninety-four, pursuant to the modification of  
56 final judgment in United States v. Western Electric Company (civil

1 action no. 82-0192) in the United States district court for the District  
2 of Columbia or within the LATA-like Rochester non-associated independent  
3 area.

4 The term "telecommunication services" shall have the meaning ascribed  
5 to such term in section one hundred eighty-six-e of this article.

6 S 63. The section heading and the opening paragraph of subdivision 1  
7 of section 184-a of the tax law, the section heading as added by chapter  
8 931 of the laws of 1982 and the opening paragraph of subdivision 1 as  
9 amended by section 2 of part A of chapter 59 of the laws of 2013, are  
10 amended to read as follows:

11 Additional [temporary] metropolitan transportation business tax  
12 surcharge on transportation and transmission corporations and associ-  
13 ations services.

14 The term "corporation" as used in this section shall include an asso-  
15 ciation, within the meaning of paragraph three of subsection (a) of  
16 section seventy-seven hundred one of the internal revenue code (includ-  
17 ing a limited liability company), and a publicly traded partnership  
18 treated as a corporation for purposes of the internal revenue code  
19 pursuant to section seventy-seven hundred four thereof. Every corpo-  
20 ration, joint-stock company or association formed for or principally  
21 engaged in the conduct of canal, steamboat, ferry (except a ferry compa-  
22 ny operating between any of the boroughs of the city of New York under a  
23 lease granted by the city), express, navigation, pipe line, transfer,  
24 baggage express, omnibus, taxicab, telegraph or local telephone busi-  
25 ness, or formed for or principally engaged in the conduct of two or more  
26 such businesses, and every corporation, joint-stock company or associ-  
27 ation formed for or principally engaged in the conduct of a surface  
28 railroad, whether or not operated by steam, subway railroad, elevated  
29 railroad, palace car, sleeping car or trucking business or principally  
30 engaged in the conduct of two or more such businesses and which has made  
31 an election pursuant to subdivision ten of section one hundred eighty-  
32 three of this article, and every other corporation, joint-stock company  
33 or association formed for or principally engaged in the conduct of a  
34 transportation or transmission business (other than a telephone busi-  
35 ness) except a corporation, joint-stock company or association formed  
36 for or principally engaged in the conduct of a surface railroad, whether  
37 or not operated by steam, subway railroad, elevated railroad, palace  
38 car, sleeping car or trucking business or principally engaged in the  
39 conduct of two or more such businesses and which has not made the  
40 election provided for in subdivision ten of section one hundred eighty-  
41 three of this article, and except a corporation, joint-stock company or  
42 association principally engaged in the conduct of aviation (including  
43 air freight forwarders acting as principal and like indirect air carri-  
44 ers) and except a corporation principally engaged in providing telecom-  
45 munication services between aircraft and dispatcher, aircraft and air  
46 traffic control or ground station and ground station (or any combination  
47 of the foregoing), at least ninety percent of the voting stock of which  
48 corporation is owned, directly or indirectly, by air carriers and which  
49 corporation's principal function is to fulfill the requirements of (i)  
50 the federal aviation administration (or the successor thereto) or (ii)  
51 the international civil aviation organization (or the successor there-  
52 to), relating to the existence of a communication system between  
53 aircraft and dispatcher, aircraft and air traffic control or ground  
54 station and ground station (or any combination of the foregoing) for the  
55 purposes of air safety and navigation [and except a corporation, joint-  
56 stock company or association which is liable to taxation under article

1 thirty-two of this chapter], shall pay for the privilege of exercising  
2 its corporate franchise, or of doing business, or of employing capital,  
3 or of owning or leasing property in the metropolitan commuter transpor-  
4 tation district in such corporate or organized capacity, or of maintain-  
5 ing an office in such district, a tax surcharge [for all or any part of  
6 its taxable years commencing on or after January first, nineteen hundred  
7 eighty-two, but ending before December thirty-first, two thousand eigh-  
8 teen], which tax surcharge, in addition to the tax imposed by section  
9 one hundred eighty-four of this article, shall be computed at the rate  
10 of [eighteen percent of the tax imposed under such section one hundred  
11 eighty-four for such taxable years or any part of such taxable years  
12 ending before December thirty-first, nineteen hundred eighty-three after  
13 the deduction of any credits otherwise allowable under this article, and  
14 at the rate of] seventeen percent of the tax imposed under such section  
15 for such taxable years or any part of such taxable years [ending on or  
16 after December thirty-first, nineteen hundred eighty-three] after the  
17 deduction of any credits otherwise allowable under this article;  
18 provided, however, that such rates of tax surcharge shall be applied  
19 only to that portion of the tax imposed under section one hundred eight-  
20 y-four of this article after the deduction of any credits otherwise  
21 allowable under this article which is attributable to the taxpayer's  
22 business activity carried on within the metropolitan commuter transpor-  
23 tation district[; and provided, further, that the tax surcharge imposed  
24 by this section on corporations, joint-stock companies and associations  
25 formed for or principally engaged in the conduct of telephone or tele-  
26 graph business shall be computed in accordance with this subdivision and  
27 paragraph (c) of subdivision two of this section as if the three-quar-  
28 ters of one percent rate of tax provided for in subdivision one of  
29 section one hundred eighty-four of this article were applicable to such  
30 telephone and telegraph businesses for taxable years commencing on or  
31 after January first, nineteen hundred eighty-five and ending on or  
32 before December thirty-first, nineteen hundred eighty-nine; and  
33 provided, further, that the tax surcharge imposed by this section shall  
34 not be imposed upon any taxpayer for more than four hundred thirty-two  
35 months]. Provided, however, that for taxable years beginning in two  
36 thousand and thereafter, for purposes of this subdivision the tax  
37 imposed under section one hundred eighty-four of this article shall be  
38 deemed to have been imposed at the rate of three-quarters of one  
39 percent, except that in the case of a corporation, joint-stock company  
40 or association which has made an election pursuant to subdivision ten of  
41 section one hundred eighty-three of this article, for purposes of this  
42 subdivision the tax imposed under section one hundred eighty-four of  
43 this article shall be deemed to have been imposed at the rate of six-  
44 tenths of one percent.

45 S 64. Subdivision 8 of section 186-a of the tax law is REPEALED.

46 S 65. The section heading and subdivision 1 of section 186-c of the  
47 tax law, the section heading as amended by chapter 2 of the laws of  
48 1995, subdivision 1 as amended by section 3 of part II-1 of chapter 57  
49 of the laws of 2008, subparagraph 1 of paragraph (a) of subdivision 1 as  
50 amended by section 3 of part A of chapter 59 of the laws of 2013, are  
51 amended to read as follows:

52 [Temporary metropolitan] METROPOLITAN transportation business tax  
53 surcharge on utility services and excise tax on sale of telecommuni-  
54 cation services. 1. (a) (1) Every utility doing business in the metro-  
55 politan commuter transportation district shall pay a tax surcharge, in  
56 addition to the tax imposed by section one hundred eighty-six-a of this

1 article[, for all or any parts of its taxable years commencing on or  
2 after January first, nineteen hundred eighty-two but ending before  
3 December thirty-first, two thousand eighteen], to be computed [at the  
4 rate of eighteen percent of the tax imposed under section one hundred  
5 eighty-six-a of this article for such taxable years or any part of such  
6 taxable years ending before December thirty-first, nineteen hundred  
7 eighty-three after the deduction of any credits otherwise allowable  
8 under this article, and] at the rate of seventeen percent of the tax  
9 imposed under such section [for such taxable years or any part of such  
10 taxable years ending on or after December thirty-first, nineteen hundred  
11 eighty-three] after the deduction of credits otherwise allowable under  
12 this article except any utility credit provided for by article thir-  
13 teen-A of this chapter; provided, however, that such rates of tax  
14 surcharge shall be applied only to that portion of the tax imposed under  
15 section one hundred eighty-six-a of this article after the deduction of  
16 credits otherwise allowable under this article, except any utility cred-  
17 it provided for by article thirteen-A of this chapter, which is attrib-  
18 utable to the taxpayer's gross income or gross operating income from  
19 business activity carried on within the metropolitan commuter transpor-  
20 tation district[; and provided, further, that the tax surcharge imposed  
21 by this section shall not be imposed upon any taxpayer for more than  
22 four hundred thirty-two months].

23 (2) Provided however, that [commencing January first, two thousand,]  
24 in the case of the tax imposed under paragraph (a) of subdivision one of  
25 section one hundred eighty-six-a of this article (relating to providers  
26 of telecommunications services) such tax surcharge shall be calculated  
27 as if the tax imposed under section one hundred eighty-six-a of this  
28 article were imposed at a rate of three and one-half percent.

29 (b) In addition to the surcharge imposed by paragraph (a) of this  
30 subdivision, there is hereby imposed a surcharge on the gross receipts  
31 from telecommunication services relating to the metropolitan commuter  
32 transportation district at the rate of seventeen percent of the state  
33 tax rate under section one hundred eighty-six-e of this article [for all  
34 or part of taxable years commencing on and after January first, nineteen  
35 hundred ninety-five but ending before December thirty-first, two thou-  
36 sand thirteen]. All the definitions and other provisions of section one  
37 hundred eighty-six-e of this article shall apply to the tax imposed by  
38 this paragraph with such modification and limitation as may be necessary  
39 (including substituting the words "metropolitan commuter transportation  
40 district" for "state" where appropriate) in order to adapt the language  
41 of such section one hundred eighty-six-e of this article to the  
42 surcharge imposed by this paragraph within such metropolitan commuter  
43 transportation district so as to include (1) any intra-district telecom-  
44 munication services, except any telecommunication services the gross  
45 receipts from which are subject to tax under subparagraph four of this  
46 paragraph, (2) any inter-district telecommunication services which orig-  
47 inate or terminate in such district and are charged to a service address  
48 therein regardless of where the amounts charged for such services are  
49 billed or ultimately paid, except any telecommunications services the  
50 gross receipts from which are subject to tax under subparagraph four of  
51 this paragraph, (3) as apportioned to such district, private telecommu-  
52 nication services, except any telecommunication services the gross  
53 receipts from which are subject to tax under subparagraph four of this  
54 paragraph, and (4) mobile telecommunications service provided by a home  
55 service provider where the place of primary use is within such metropol-  
56 itan commuter transportation district. Provided however, [commencing

1 October first, nineteen hundred ninety-eight] such tax surcharge shall  
2 be calculated as if the tax imposed under section one hundred eighty-  
3 six-e of this article were imposed at a rate of three and one-half  
4 percent.

5 S 66. Clause (iii) of subparagraph (D) of paragraph 3 of subsection  
6 (b) of section 605 of the tax law, as added by chapter 658 of the laws  
7 of 2003, is amended to read as follows:

8 (iii) Provided further, that for the purposes of item (I) of clause  
9 (i) of this subparagraph, a trustee which is a banking corporation as  
10 defined in subsection (a) of section fourteen hundred fifty-two of this  
11 chapter, AS SUCH SECTION WAS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO  
12 THOUSAND FOURTEEN, and which is domiciled outside the state of New York  
13 at the time it becomes a trustee of the trust shall be deemed to contin-  
14 ue to be a trustee domiciled outside the state of New York notwithstand-  
15 ing that it thereafter otherwise becomes a trustee domiciled in the  
16 state of New York by virtue of being acquired by, or becoming an office  
17 or branch of, a corporate trustee domiciled within the state of New  
18 York.

19 S 67. Subparagraph (A) of paragraph 10 of subsection (a) of section  
20 606 of the tax law, as amended by section 3 of part CC of chapter 85 of  
21 the laws of 2002, is amended to read as follows:

22 (A) the business of which the individual is an owner is substantially  
23 similar in operation and in ownership to a business entity taxable, or  
24 previously taxable, under section one hundred eighty-three, one hundred  
25 eighty-four[, ] OR one hundred eighty-five [or one hundred eighty-six] of  
26 article nine; article nine-A[, thirty-two] or thirty-three of this chap-  
27 ter; article twenty-three of this chapter or which would have been  
28 subject to tax under such article twenty-three (as such article was in  
29 effect on January first, nineteen hundred eighty), ARTICLE THIRTY-TWO OF  
30 THIS CHAPTER OR WHICH WOULD HAVE BEEN SUBJECT TO TAX UNDER SUCH ARTICLE  
31 THIRTY-TWO (AS SUCH ARTICLE WAS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO  
32 THOUSAND FOURTEEN) or the income (or losses) of which is (or was)  
33 includable under article twenty-two of this chapter whereby the intent  
34 and purpose of this paragraph and paragraph five of this subsection with  
35 respect to refunding of credit to new business would be evaded; or

36 S 68. Subparagraph (B) of paragraph 1 of subsection (i) of section 606  
37 of the tax law, as amended by section 7 of part C-1 of chapter 57 of the  
38 laws of 2009, clause (ix) as amended by section 4 of part G of chapter  
39 59 of the laws of 2013, clause (xxxix) as added by section 5 of part MM  
40 of chapter 59 of the laws of 2010, clause (xxxix) as added by section 14  
41 of part Q of chapter 57 of the laws of 2010, clause (xxxix) as added by  
42 section 6 of part V of chapter 61 of the laws of 2011, clause (xxxixiii)  
43 as added by section 4 of part D of chapter 56 of the laws of 2011,  
44 clause (xxxixiii) as added by section 5 of part E of chapter 56 of the  
45 laws of 2011, clause (xxxixiii) as added by chapter 604 of the laws of  
46 2011, clause (xxxixiv) as added by chapter 109 of the laws of 2012, clause  
47 (xxxixv) as added by section 2 of part AA of chapter 59 of the laws of  
48 2013, clause (xxxixv) as added by section 4 of part EE of chapter 59 of  
49 the laws of 2013, and clause (xxxixvi) as added by section 8 of part A of  
50 chapter 68 of the laws of 2013, is amended to read as follows:

51 (B) shall be treated as the owner of a new business with respect to  
52 such share if the corporation qualifies as a new business pursuant to  
53 paragraph [(j)] (F) of subdivision [twelve] ONE of section two hundred  
54 [ten] TEN-B of this chapter.

55 With respect to the following

The corporation's credit base under

1	credit under this section:	section two hundred [ten or section
2		fourteen hundred fifty-six] TEN-B
3		of this chapter is:
4	(i) Investment tax credit under	Investment credit base or qualified
5	subsection (a)	rehabilitation expenditures under
6		subdivision [twelve] ONE of section
7		two hundred [ten] TEN-B
8	(ii) Empire zone investment	Cost or other basis under
9	tax credit under subsection (j)	subdivision [twelve-B] THREE
10		of section two hundred [ten] TEN-B
11	[(iii) Empire zone wage tax credit	Eligible wages under subdivision
12	under subsection (k)	nineteen of section two hundred
13		ten or subsection (e) of section
14		fourteen hundred fifty-six
15	(iv) Empire zone capital tax	Qualified investments and
16	credit under subsection (l)	contributions under subdivision
17		twenty of section two hundred ten
18		or subsection (d) of section
19		fourteen hundred fifty-six]
20	(v) Agricultural property tax	Allowable school district property
21	credit under subsection (n)	taxes under subdivision
22		[twenty-two] ELEVEN of
23		section two hundred [ten]
24		TEN-B
25	(vi) Credit for employment of	Qualified first-year wages or
26	persons with disabilities	qualified second-year wages under
27	under subsection (o)	subdivision [twenty-three] TWELVE
28		of section two hundred [ten or
29		subsection (f) of section
30		fourteen hundred fifty-six] TEN-B
31	(vii) Employment incentive credit	Applicable investment credit base
32	under subsection (a-1)	under subdivision [twelve-D] TWO
33		of section two hundred [ten]
34		TEN-B
35	(viii) Empire zone employment	Applicable investment credit
36	incentive credit under subsection	under subdivision [twelve-C]
37	(j-1)	FOUR of section
38		two hundred [ten] TEN-B
39	(ix) Alternative fuels	Amount of credit under subdivision
40	and electric vehicle	[twenty-four] THIRTY of section
41	recharging property	two hundred [ten] TEN-B
42	credit under subsection (p)	
43	(x) Qualified emerging technology	Applicable credit base under
44	company employment credit under	subdivision [twelve-E] SEVEN
45	subsection (q)	of section two hundred [ten] TEN-B

1	(xi) Qualified emerging technology	Qualified investments under
2	company capital tax credit under	subdivision [twelve-F] EIGHT
3	subsection (r)	of section two hundred [ten] TEN-B
4	(xii) Credit for purchase of an	Cost of an automated external
5	automated external defibrillator	defibrillator under subdivision
6	under subsection (s)	[twenty-five] THIRTEEN of section
7		two hundred [ten or subsection
8		(j) of section fourteen hundred
9		fifty-six] TEN-B
10	(xiii) Low-income housing credit	Credit amount under subdivision
11	under subsection (x)	[thirty] FIFTEEN of section
12		two hundred [ten or subsection
13		(l) of section fourteen
14		hundred fifty-six] TEN-B
15	[(xiv) Credit for transportation	For taxable years beginning
16	improvement contributions under	before January first, two thousand
17	subsection (z)	nine, amount of credit under
18		subdivision thirty-two of
19		section two hundred ten
20		or subsection (n) of section
21		fourteen hundred fifty-six]
22	(xv) QEZE credit for real property	Amount of credit under subdivision
23	taxes under subsection (bb)	[twenty-seven] FIVE of
24		section two hundred [ten
25		or subsection (o) of section
26		fourteen hundred fifty-six]
27		TEN-B
28	(xvi) QEZE tax reduction credit	Amount of benefit period factor,
29	under subsection (cc)	employment increase factor and zone
30		allocation factor (without regard
31		to pro ration) under subdivision
32		[twenty-eight] SIX of
33		section two hundred [ten
34		or subsection (p) of section
35		fourteen hundred fifty-six]
36		TEN-B and amount
37		of tax factor as determined under
38		subdivision (f) of section sixteen
39	(xvii) Green building credit under	Amount of green building credit
40	subsection (y)	under subdivision [thirty-one]
41		SIXTEEN of section two
42		hundred [ten or subsection (m)
43		of section fourteen hundred
44		fifty-six] TEN-B
45	(xviii) Credit for long-term care	Qualified costs under subdivision
46	insurance premiums under subsection	[twenty-five-a] FOURTEEN
47	(aa)	of section two hundred [ten
48		or subsection (k) of
49		section fourteen hundred fifty-six]

1		TEN-B
2	(xix) Brownfield redevelopment	Amount of credit under subdivision
3	credit under subsection (dd)	[thirty-three] SEVENTEEN
4		of section two hundred
5		[ten or subsection (q) of section
6		fourteen hundred fifty-six]
7		TEN-B
8	(xx) Remediated brownfield credit	Amount of credit under subdivision
9	for real property taxes for	[thirty-four] EIGHTEEN
10	qualified sites under subsection	of section two hundred
11	(ee)	[ten of subsection (r) of section
12		fourteen hundred fifty-six]
13		TEN-B
14	(xxi) Environmental remediation	Amount of credit under subdivision
15	insurance credit under subsection	[thirty-five] NINETEEN
16	(ff)	of section two hundred
17		[ten or subsection (s) of section
18		fourteen hundred fifty-six]
19		TEN-B
20	(xxii) Empire state film	Amount of credit for qualified
21	production credit under	production costs in production of a
22	subsection (gg)	qualified film under subdivision
23		[thirty-six] TWENTY of
24		section two hundred [ten] TEN-B
25	[(xxiii) Qualified emerging	Qualifying expenditures and
26	technology company facilities,	development activities under
27	operations and training credit	subdivision twelve-G of section two
28	under subsection (nn)	hundred ten]
29	(xxiv) Security training tax credit	Amount of credit under subdivision
30	under subsection (ii)	[thirty-seven] TWENTY-ONE
31		of section two hundred
32		[ten or under subsection (t) of
33		section fourteen hundred fifty-six]
34		TEN-B
35	[(xxv) Credit for qualified fuel	For taxable years beginning before
36	cell electric generating	January first, two thousand nine,
37	equipment expenditures	amount of credit under subdivision
38	under subsection (g-2)	thirty-seven of section two hundred
39		ten or subsection (t) of section
40		fourteen hundred fifty-six]
41	(xxvi) Empire state commercial	Amount of credit for qualified
42	production credit under subsection	production costs in production of
43	(jj)	a qualified commercial under
44		subdivision [thirty-eight]
45		TWENTY-THREE of
46		section two hundred [ten]
47		TEN-B



1 (xxvii) Biofuel production tax	Amount of credit under subdivision
2 credit under subsection (jj)	[thirty-eight] TWENTY-FOUR
3	of section two hundred [ten]
4	TEN-B
5 (xxviii) Clean heating fuel credit	Amount of credit under subdivision
6 under subsection (mm)	[thirty-nine] TWENTY-FIVE of
7	section two hundred [ten]
8	TEN-B
9 (xxix) Credit for rehabilitation	Amount of credit under subdivision
10 of historic properties under	[forty] TWENTY-SIX of
11 subsection (oo)	section two hundred [ten]
12	TEN-B
13 (xxx) Excelsior jobs program tax	Amount of credit under subdivision
14 credit under subsection (qq)	[forty-one] THIRTY-ONE of
15	section two hundred [ten
16	or under subdivision (u) of
17	section fourteen hundred fifty-six]
18	TEN-B
19 (xxxi) Empire state film	Amount of credit for
20 post production credit under	qualified post production
21 subsection (qq)	costs of a qualified film
22	under subdivision [forty-one]
23	THIRTY-TWO of section
24	two hundred [ten] TEN-B
25 (xxxii) Economic transformation	Amount of credit under subdivision
26 and facility redevelopment credit	[forty-three] THIRTY-FIVE
27	of section [210 or under
28	subsection (x) of section fourteen
29	hundred fifty-six] TWO HUNDRED
30	TEN-B
31 (xxxiii) New York youth works	Amount of credit under
32 tax credit	subdivision [forty-four] THIRTY-SIX
33	of section two hundred [ten]
34	TEN-B
35 (xxxiii) Empire state jobs	Amount of credit under
36 retention program credit	subdivision [forty-four]
37	THIRTY-SEVEN of section
38	two hundred [ten or under
39	subsection (y) of section
40	fourteen hundred fifty-six]
41	TEN-B
42 (xxxiii) Credit for companies who	Amount of credit under
43 provide transportation to	subdivision [forty-four]
44 individuals with disabilities	THIRTY-EIGHT of section
45 under subsection (tt)	two hundred [ten] TEN-B
46 (xxxiv) Beer production credit	Amount of credit under
47 under subsection (uu)	[subdivision] subdivision

1 [forty-five] THIRTY-NINE of  
2 section two hundred [ten]  
3 TEN-B

4 (xxxv) Hire a vet credit Amount of credit under subdivision  
5 under subsection (a-2) [twenty-three-a] TWENTY-NINE  
6 of section two hundred [ten  
7 or subsection (e-1) of  
8 of section fourteen hundred  
9 fifty-six] TEN-B

10 (xxxv) Minimum wage reimbursement Amount of credit under subdivision  
11 credit under subsection (aaa) [forty-six] FORTY  
12 of section two hundred  
13 [ten or subsection (z) of  
14 section fourteen hundred  
15 fifty-six] TEN-B

16 (xxxvi) Tax-free NY area tax Amount of credit under  
17 elimination credit subdivision [forty-seven] FORTY-ONE  
18 of section two hundred [ten]  
19 TEN-B

20 (XXXVII) REAL PROPERTY TAX AMOUNT OF CREDIT UNDER  
21 CREDIT FOR MANUFACTURERS SUBDIVISION  
22 UNDER SUBSECTION (XX) FORTY-THREE OF SECTION  
23 TWO HUNDRED TEN-B

24 (XXXVIII) TAX-FREE NY AREA AMOUNT OF CREDIT UNDER  
25 EXCISE TAX ON SUBDIVISION  
26 TELECOMMUNICATIONS SERVICES FORTY-FOUR OF SECTION  
27 CREDIT UNDER SUBSECTION (YY) TWO HUNDRED TEN-B

28 S 69. Subparagraphs (A) and (B) of paragraph 3 of subsection (i) of  
29 section 606 of the tax law, as added by chapter 170 of the laws of 1994,  
30 are amended to read as follows:  
31 (A) Credit carryover. Any excess credit under subparagraph (A) of  
32 paragraph one of this subsection, as it was in effect for taxable years  
33 beginning before nineteen hundred ninety-four, may be carried over to  
34 the shareholder's following year or years and may be deducted from such  
35 shareholder's tax for such year or years, except that any excess credit  
36 attributable to subdivision [twelve] ONE of section two hundred [ten]  
37 TEN-B of this chapter shall in no event be carried over beyond the ten  
38 taxable years next following the taxable year of origin.  
39 (B) Credit recapture. Any redetermination of credit required by this  
40 subsection as it was in effect for taxable years beginning before nine-  
41 teen hundred ninety-four, upon disposition or cessation of qualified use  
42 of property pursuant to paragraph [(g)] (E) of subdivision [twelve] ONE,  
43 OR paragraph (f) of subdivision [twelve-B or paragraph (f) of subdivi-  
44 sion eighteen] THREE of section two hundred [ten] TEN-B of this chapter  
45 shall be attributed in pro rata shares to the shareholders who were  
46 allowed credit under this subsection with respect to such property, and  
47 the reduction of a shareholder's proportionate stock interest shall be  
48 treated as a disposition of property for which a redetermination of  
49 credit under such paragraphs is required with respect to such sharehold-  
50 er.

1 S 70. Subparagraph (B) of paragraph 3 and paragraph 21 of subsection  
2 (b) and paragraph 21 of subsection (c) of section 612 of the tax law,  
3 subparagraph (B) of paragraph 3 of subsection (b) as amended by section  
4 57, paragraph 21 of subsection (b) as amended by section 59 and para-  
5 graph 21 of subsection (c) as amended by section 60 of part A of chapter  
6 389 of the laws of 1997, are amended to read as follows:

7 (B) Shareholders of S corporations. In the case of a shareholder of an  
8 S corporation, with respect to taxes imposed upon or payable by the  
9 corporation, the term "income taxes" in subparagraph (A) of this para-  
10 graph shall also include the taxes imposed under [articles] ARTICLE  
11 nine-A [and thirty-two] of this chapter, regardless of the measure of  
12 such tax, but shall not otherwise include taxes imposed by this or any  
13 other state of the United States, or any political subdivision of this  
14 or any other state, or the District of Columbia.

15 (21) In relation to the disposition of stock or indebtedness of a  
16 corporation which elected under subchapter s of chapter one of the  
17 internal revenue code for any taxable year of such corporation begin-  
18 ning, in the case of a corporation taxable under article nine-A of this  
19 chapter, after December thirty-first, nineteen hundred eighty, [and in  
20 the case of a corporation taxable under article thirty-two of this chap-  
21 ter, after December thirty-first, nineteen hundred ninety-six,] the  
22 amount required to be added to federal adjusted gross income pursuant to  
23 subsection (n) of this section.

24 (21) In relation to the disposition of stock or indebtedness of a  
25 corporation which elected under subchapter s of chapter one of the  
26 internal revenue code for any taxable year of such corporation begin-  
27 ning, in the case of a corporation taxable under article nine-A of this  
28 chapter, after December thirty-first, nineteen hundred eighty, [and in  
29 the case of a corporation taxable under article thirty-two of this chap-  
30 ter, after December thirty-first, nineteen hundred ninety-six,] the  
31 amounts required to be subtracted from federal adjusted gross income  
32 pursuant to subsection (n) of this section.

33 S 71. Paragraph 2 of subsection (a) of section 632 of the tax law, as  
34 amended by section 2 of part C of chapter 57 of the laws of 2010, is  
35 amended to read as follows:

36 (2) In determining New York source income of a nonresident shareholder  
37 of an S corporation where the election provided for in subsection (a) of  
38 section six hundred sixty of this article is in effect, there shall be  
39 included only the portion derived from or connected with New York sourc-  
40 es of such shareholder's pro rata share of items of S corporation  
41 income, loss and deduction entering into his federal adjusted gross  
42 income, increased by reductions for taxes described in paragraphs two  
43 and three of subsection (f) of section thirteen hundred sixty-six of the  
44 internal revenue code, as such portion shall be determined under regu-  
45 lations of the commissioner consistent with the applicable methods and  
46 rules for allocation under article nine-A [or thirty-two] of this chap-  
47 ter, regardless of whether or not such item or reduction is included in  
48 entire net income under article nine-A [or thirty-two] for the tax year.  
49 If a nonresident is a shareholder in an S corporation where the election  
50 provided for in subsection (a) of section six hundred sixty of this  
51 article is in effect, and the S corporation has distributed an install-  
52 ment obligation under section 453(h)(1)(A) of the Internal Revenue Code,  
53 then any gain recognized on the receipt of payments from the installment  
54 obligation for federal income tax purposes will be treated as New York  
55 source income allocated in a manner consistent with the applicable meth-  
56 ods and rules for allocation under article nine-A [or thirty-two] of

1 this chapter in the year that the assets were sold. In addition, if the  
2 shareholders of the S corporation have made an election under section  
3 338(h)(10) of the Internal Revenue Code, then any gain recognized on the  
4 deemed asset sale for federal income tax purposes will be treated as New  
5 York source income allocated in a manner consistent with the applicable  
6 methods and rules for allocation under article nine-A [or thirty-two] of  
7 this chapter in the year that the shareholder made the section  
8 338(h)(10) election. For purposes of a section 338(h)(10) election, when  
9 a nonresident shareholder exchanges his or her S corporation stock as  
10 part of the deemed liquidation, any gain or loss recognized shall be  
11 treated as the disposition of an intangible asset and will not increase  
12 or offset any gain recognized on the deemed assets sale as a result of  
13 the section 338(h)(10) election.

14 S 72. Subparagraph (A) of paragraph 4 of subsection (c) of section 658  
15 of the tax law, as amended by section 1 of part DD of chapter 686 of the  
16 laws of 2003, is amended to read as follows:

17 (A) General. Every entity which is a partnership, other than a public-  
18 ly traded partnership as defined in section 7704 of the federal Internal  
19 Revenue Code, subchapter K limited liability company or an S corporation  
20 for which the election provided for in subsection (a) of section six  
21 hundred sixty of this [article] PART is in effect, which has partners,  
22 members or shareholders who are nonresident individuals, as defined  
23 under subsection (b) of section six hundred five of this article, or C  
24 corporations, and which has any income derived from New York sources,  
25 determined in accordance with the applicable rules of section six  
26 hundred thirty-one of this article as in the case of a nonresident indi-  
27 vidual, shall pay estimated tax on such income on behalf of such part-  
28 ners, members or shareholders in the manner and at the times prescribed  
29 by subsection (c) of section six hundred eighty-five of this article.  
30 For purposes of this paragraph, the term "estimated tax" shall mean a  
31 partner's, member's or shareholder's distributive share or pro rata  
32 share of the entity income derived from New York sources, multiplied by  
33 the highest rate of tax prescribed by section six hundred one of this  
34 article for the taxable year of any partner, member or shareholder who  
35 is an individual taxpayer, or paragraph (a) of subdivision one of  
36 section two hundred ten of this chapter for the taxable year of any  
37 partner, member or shareholder which is a C corporation, whether or not  
38 such C corporation is subject to tax under article nine, nine-A[, thir-  
39 ty-two,] or thirty-three of this chapter, and reduced by the distribu-  
40 tive share or pro rata share of any credits determined under section one  
41 hundred eighty-seven, one hundred eighty-seven-a, six hundred six[,  
42 fourteen hundred fifty-six] or fifteen hundred eleven of this chapter,  
43 whichever is applicable, derived from the entity.

44 S 73. Subsections (a) and (h) of section 660 of the tax law,  
45 subsection (a) as amended by section 50 and subsection (h) as amended by  
46 section 66 of part A of chapter 389 of the laws of 1997, are amended to  
47 read as follows:

48 (a) Election. If a corporation is an eligible S corporation, the  
49 shareholders of the corporation may elect in the manner set forth in  
50 subsection (b) of this section to take into account, to the extent  
51 provided for in this article (or in article thirteen of this chapter, in  
52 the case of a shareholder which is a taxpayer under such article), the S  
53 corporation items of income, loss, deduction and reductions for taxes  
54 described in paragraphs two and three of subsection (f) of section thir-  
55 teen hundred sixty-six of the internal revenue code which are taken into  
56 account for federal income tax purposes for the taxable year. No

1 election under this subsection shall be effective unless all sharehold-  
2 ers of the corporation have so elected. An eligible S corporation is (i)  
3 an S corporation which is subject to tax under article nine-A [or thir-  
4 ty-two] of this chapter, OR (ii) an S corporation which is the parent of  
5 a qualified subchapter S subsidiary subject to tax under article nine-A,  
6 where the shareholders of such parent corporation are entitled to make  
7 the election under this subsection by reason of subparagraph three of  
8 paragraph (k) of subdivision nine of section two hundred eight of this  
9 chapter[; or (iii) an S corporation which is the parent of a qualified  
10 subchapter S corporation subject to tax under article thirty-two, where  
11 the shareholders of such parent are entitled to make the election under  
12 this subsection by reason of paragraph three of subsection (o) of  
13 section fourteen hundred fifty-three of this chapter].

14 (h) Cross reference. For definitions relating to S corporations, see  
15 subdivision one-A of section two hundred eight [and subsections (f) and  
16 (g) of section fourteen hundred fifty] of this chapter.

17 S 74. Paragraph 1 of subsection (i) of section 660 of the tax law, as  
18 added by section 1 of part L of chapter 60 of the laws of 2007, is  
19 amended to read as follows:

20 (1) Notwithstanding the provisions in subsection (a) of this section,  
21 in the case of an eligible S corporation for which the election under  
22 subsection (a) of this section is not in effect for the current taxable  
23 year, the shareholders of an eligible S corporation are deemed to have  
24 made that election effective for the eligible S corporation's entire  
25 current taxable year, if the eligible S corporation's investment income  
26 for the current taxable year is more than fifty percent of its federal  
27 gross income for such year [provided that this subsection shall not  
28 apply to an eligible S corporation that is subject to tax under article  
29 thirty-two of this chapter]. IN DETERMINING AN ELIGIBLE S CORPORATION'S  
30 INVESTMENT INCOME, THE INVESTMENT INCOME OF A QUALIFIED SUBCHAPTER S  
31 SUBSIDIARY OWNED DIRECTLY OR INDIRECTLY BY THE ELIGIBLE S CORPORATION  
32 SHALL BE INCLUDED.

33 S 75. Paragraph 3 of subsection (c) of section 1085 of the tax law, as  
34 amended by section 15 of part Y of chapter 63 of the laws of 2000, is  
35 amended to read as follows:

36 (3) The provisions of this subsection and subsections (d) and (e) of  
37 this section shall apply to the failure of a taxpayer to file a declara-  
38 tion of estimated tax surcharge or the failure to pay all or any part of  
39 an amount which is applied as an installment against such estimated tax  
40 surcharge pursuant to sections one hundred ninety-seven-a, one hundred  
41 ninety-seven-b, two hundred thirteen-a, two hundred thirteen-b, [four-  
42 teen hundred sixty, fourteen hundred sixty-one,] fifteen hundred thir-  
43 teen and fifteen hundred fourteen of this chapter. For purposes of  
44 applying this section and subsections (d) and (e) of this section to the  
45 estimated tax surcharge, where appropriate the term "tax" shall be read  
46 to mean "tax surcharge," and the terms "amount required to be paid,"  
47 "amount which would be required to be paid," and "amount which would  
48 have been required to be paid" shall be computed as the product of (1)  
49 such amount computed without regard to the tax surcharges imposed under  
50 sections one hundred eighty-four-a, one hundred eighty-six-c, one  
51 hundred eighty-eight, two hundred nine-A, two hundred nine-B, [fourteen  
52 hundred fifty-five-A, fourteen hundred fifty-five-B,] fifteen hundred  
53 five-a, and fifteen hundred twenty of this chapter, and (2) the MTA  
54 percentage. The term "MTA percentage" shall mean the product of (A) the  
55 tax rate applicable under such sections imposing such surcharges and (B)  
56 the percentage utilized in determining the portion of the taxpayer's

business activity carried on within the metropolitan commuter transportation district under such sections.

S 76. The opening paragraph of subparagraph (A) of paragraph 3 of subsection (d) of section 1085 of the tax law, as amended by chapter 170 of the laws of 1994, is amended to read as follows:

An amount equal to ninety-one percent of the tax for the taxable year computed on all items entering into the computation of the tax or taxes of the taxpayer for the taxable year under article nine, nine-A[, thirty-two] or thirty-three of this chapter. For purposes of computing the tax, all items of receipts, income and expenses shall be placed on an annualized basis--

S 77. Clause (i) of subparagraph (A) of paragraph 4 of subsection (d) of section 1085 of the tax law, as amended by chapter 57 of the laws of 1993, is amended to read as follows:

(i) take the items entering into the computation of the tax or taxes of the taxpayer for the taxable year under article nine, nine-A[, thirty-two] or thirty-three of this chapter, for all months during the taxable year preceding the filing month,

S 78. Paragraph 5 of subsection (d) of section 1085 of the tax law, as added by chapter 61 of the laws of 1989, is amended to read as follows:

(5) In the case of any declaration installment, any reduction in such installment resulting from the application of paragraph three or four of this subsection shall be recaptured by increasing the amount of the next installment determined under paragraph one or two of this subsection or paragraph one of subsection (c) of this section by the amount of such reduction (and by increasing subsequent installments to the extent that the reduction has not previously been recaptured under this paragraph). For purposes of the preceding sentence, a declaration installment means any installment of estimated tax other than the mandatory first installment required under paragraph (a) of subdivision one of section one hundred ninety-seven-b, subdivision (a) of section two hundred thirteen-b[, subsection (a) of section fourteen hundred sixty-one] or subdivision (a) of section fifteen hundred fourteen of this chapter.

S 79. Paragraph 1 of subsection (e) of section 1085 of the tax law, as amended by section 28-p of part H-3 of chapter 62 of the laws of 2003, is amended to read as follows:

(1) Paragraphs (1) and (2) of subsection (d) of this section shall not apply in the case of any corporation (or any predecessor corporation) which had [entire net] BUSINESS income, or the portion thereof allocated within the state, of one million dollars or more for any taxable year during the three taxable years immediately preceding the taxable year involved; provided, however, that in the case of a corporation subject to tax under section fifteen hundred two-a of this chapter, paragraphs (1) and (2) of subsection (d) of this section shall not apply if such corporation had entire net income, or the portion thereof allocated within the state, of one million dollars or more for any of the three taxable years immediately preceding the taxable year involved, or if the direct premiums subject to tax under section fifteen hundred two-a of this chapter of the corporation for any of such three preceding taxable years beginning on or after January first, two thousand three equals or exceeds three million seven hundred fifty thousand dollars.

S 80. Subsections (m) and (o) of section 1085 of the tax law are REPEALED.

S 81. Clause (ii) of subparagraph (B) of paragraph 2 of subsection (q), paragraph 3 of subsection (s) and the closing paragraph of paragraph 1 of subsection (t) of section 1085 of the tax law, as added by

1 section 10 of part N of chapter 61 of the laws of 2005, are amended to  
2 read as follows:

3 (ii) fifty percent of the gross income that the organizer or material  
4 advisor derived with respect to activities that were the basis for the  
5 requirement to file, disclose or provide information pursuant to section  
6 six thousand eleven of the internal revenue code, to the extent such  
7 gross income is attributable to the avoidance of any tax imposed under  
8 article nine, nine-A[, thirty-two,] or thirty-three of this chapter.

9 (3) For purposes of this subsection, the term "understatement of  
10 liability" means any understatement of the net amount payable with  
11 respect to any tax imposed under article nine, nine-A[, thirty-two,] or  
12 thirty-three of this chapter or any overstatement of the net amount  
13 creditable or refundable with respect to any such tax.

14 shall pay, with respect to each activity described in subparagraph (A)  
15 of this paragraph, a penalty equal to one thousand dollars or, if the  
16 person establishes that it is lesser, one hundred percent of the gross  
17 income derived (or to be derived) by such person from such activity to  
18 the extent such gross income is attributed to the avoidance of any tax  
19 imposed under articles nine, nine-A[, thirty-two] or thirty-three of  
20 this chapter; provided, however, that if an activity with respect to  
21 which a penalty imposed under this subsection involves a statement  
22 described in clause (i) of subparagraph (B) of paragraph one of this  
23 subsection, the penalty shall be equal to fifty percent of the gross  
24 income derived (or to be derived) from that activity within the state by  
25 the person on which the penalty is imposed. For purposes of the preced-  
26 ing sentence, activities described in clause (i) of subparagraph (A) of  
27 this paragraph with respect to each entity or arrangement shall be  
28 treated as a separate activity and participation in each sale described  
29 in clause (ii) of subparagraph (A) of this paragraph shall be so treat-  
30 ed.

31 S 82. The opening paragraph of subsection (c) of section 1087 of the  
32 tax law, as separately amended by chapters 760 and 770 of the laws of  
33 1992, is amended to read as follows:

34 If a taxpayer is required by subdivision three of section two hundred  
35 eleven[, subsection (e) of section fourteen hundred sixty-two] or para-  
36 graph one of subdivision (e) of section fifteen hundred fifteen OF THIS  
37 CHAPTER, to file a report or amended return in respect of (i) a decrease  
38 or increase in federal taxable income or federal alternative minimum  
39 taxable income or federal tax, or (ii) a federal change or correction or  
40 renegotiation, or computation or recomputation of tax, which is treated  
41 in the same manner as if it were an overpayment for federal income tax  
42 purposes, claim for credit or refund of any resulting overpayment of tax  
43 shall be filed by the taxpayer within two years from the time such  
44 report or amended return was required to be filed with the commissioner  
45 [of taxation and finance]. If the report or amended return required by  
46 any such provision of law is not filed within the period therein speci-  
47 fied, no interest shall be payable on any claim for credit or refund of  
48 the overpayment attributable to the federal change or correction. The  
49 amount of such credit or refund--

50 S 83. Subsection (g) of section 1088 of the tax law, as amended by  
51 chapter 61 of the laws of 1989 and relettered by chapter 55 of the laws  
52 of 1992, is amended to read as follows:

53 (g) Cross-reference.--For provision with respect to interest after  
54 failure to file a report or amended return under subdivision three of  
55 section two hundred eleven[, subsection (e) of section fourteen hundred  
56 sixty-two] or paragraph one of subdivision (e) of section fifteen

1 hundred fifteen, see subsection (c) of section one thousand eighty-sev-  
2 en.

3 S 84. Paragraph 2 of subsection (b) of section 1096 of the tax law, as  
4 amended by chapter 411 of the laws of 1986, is amended to read as  
5 follows:

6 (2) The [tax commission] COMMISSIONER may take any action under para-  
7 graph one of this subdivision to inquire into the commission of an  
8 offense connected with the administration or enforcement of this article  
9 or article nine, [nine-a] NINE-A, thirteen, [thirteen-a, thirty-two,]  
10 THIRTEEN-A or thirty-three of this chapter, provided, however, that  
11 notwithstanding the provisions of section one hundred seventy-four of  
12 this chapter no such action shall be taken when a referral by the  
13 department or the [tax commission] COMMISSIONER to the attorney general,  
14 a district attorney or any other prosecutorial agency is in effect.  
15 Provided, however, the [tax commission] COMMISSIONER shall have power,  
16 during the period when such referral is in effect, to examine or to  
17 cause to have examined, by any agent or representative designated by it  
18 for that purpose, any books, papers, records or memoranda bearing upon  
19 the matters required to be included in the return, where such books,  
20 papers, records or memoranda are in its possession, or where such books,  
21 papers, records or memoranda are in the possession of the attorney  
22 general, district attorney or other prosecutorial agency to which such  
23 referral is made.

24 S 85. Paragraph 1 of subsection (e) of section 1096 of the tax law, as  
25 amended by section 8 of subpart D of part VI of chapter 57 of the laws  
26 of 2009, is amended to read as follows:

27 (1) Authority to set interest rates.---The commissioner shall set the  
28 overpayment and underpayment rates of interest to be paid pursuant to  
29 sections two hundred thirteen, two hundred thirteen-b, two hundred  
30 fifty-eight, two hundred sixty-three, two hundred ninety-four, one thou-  
31 sand eighty-four, one thousand eighty-five[, ] AND one thousand eighty-  
32 eight[, fourteen hundred sixty-one and fourteen hundred sixty-three] of  
33 this chapter, but if no such rate or rates of interest are set, such  
34 overpayment rate shall be deemed to be set at six percent per annum and  
35 such underpayment rate shall be deemed to be set at seven and one-half  
36 percent per annum. Such overpayment and underpayment rates shall be the  
37 rates prescribed in paragraph two of this subsection, but the underpay-  
38 ment rate shall not be less than seven and one-half percent per annum.  
39 Any such rates set by the commissioner shall apply to taxes, or any  
40 portion thereof, which remain or become due or overpaid on or after the  
41 date on which such rates become effective and shall apply only with  
42 respect to interest computed or computable for periods or portions of  
43 periods occurring in the period during which such rates are in effect.

44 S 86. Subdivision (b) of section 1201-a of the tax law, as amended by  
45 section 5 of part Y of chapter 62 of the laws of 2006, is amended to  
46 read as follows:

47 (b) Empire state film production credit. Any city in this state having  
48 a population of one million or more, acting through its local legisla-  
49 tive body, is hereby authorized to adopt and amend local laws to allow a  
50 credit against the general corporation tax and the unincorporated busi-  
51 ness tax imposed pursuant to the authority of chapter seven hundred  
52 seventy-two of the laws of nineteen hundred sixty-six which shall be  
53 substantially identical to the credit allowed under section twenty-four  
54 of this chapter, except that (A) the percentage of qualified production  
55 costs used to calculate such credit shall be five percent, (B) whenever  
56 such section twenty-four references the state, such words shall be read



1 as referencing the city, (C) such credit shall be allowed only to a  
2 taxpayer which is a qualified film production company, and (D) the  
3 effective date of such credit shall be July first, two thousand six.  
4 Such credit shall be applied in a manner consistent with the credit  
5 allowed under subdivision [thirty-six] TWENTY of section two hundred  
6 [ten] TEN-B of this chapter except as may be necessary to take into  
7 account differences between the general corporation tax and the unincor-  
8 porated business tax.

9 S 87. Subdivision (c) of section 1201-a of the tax law, as amended by  
10 chapter 300 of the laws of 2007, is amended to read as follows:

11 (c) Empire state commercial production credit. Any city in this state  
12 having a population of one million or more, acting through its local  
13 legislative body, is hereby authorized to adopt and amend local laws to  
14 allow a credit against the general corporation tax and the unincorporat-  
15 ed business tax imposed pursuant to the authority of chapter seven  
16 hundred seventy-two of the laws of nineteen hundred sixty-six which  
17 shall be substantially identical to the credit allowed under the  
18 provisions of section twenty-eight of this chapter, except that (A) the  
19 percentage of qualified production costs used to calculate such credit  
20 shall be five percent, (B) whenever such section twenty-eight references  
21 the state, such words shall be read as referencing the city, (C) such  
22 credit shall be allowed only to a taxpayer that is a qualified commer-  
23 cial production company, and (D) the effective date of such credit shall  
24 be as provided in local laws. Such credit shall be applied in a manner  
25 consistent with the credit allowed under subdivision [thirty-eight]  
26 TWENTY-THREE of section two hundred [ten] TEN-B of this chapter except  
27 as may be necessary to take into account differences between the general  
28 corporation tax and unincorporated business tax.

29 S 88. The section heading and paragraphs 1 and 3 of subdivision (a) of  
30 section 1505-a of the tax law, the section heading as added by chapter  
31 11 of the laws of 1983 and paragraphs 1 and 3 of subdivision (a) as  
32 amended by section 6 of part A of chapter 59 of the laws of 2013, are  
33 amended to read as follows:

34 [Temporary metropolitan] METROPOLITAN transportation business tax  
35 surcharge on insurance corporations.

36 (1) Every domestic insurance corporation and every foreign or alien  
37 insurance corporation, and every life insurance corporation described in  
38 subdivision (b) of section fifteen hundred one of this article, for the  
39 privilege of exercising its corporate franchise, or of doing business,  
40 or of employing capital, or of owning or leasing property in the metro-  
41 politan commuter transportation district in a corporate or organized  
42 capacity, or of maintaining an office in the metropolitan commuter  
43 transportation district, [for all or any part of its taxable years  
44 commencing on or after January first, nineteen hundred eighty-two, but  
45 ending before December thirty-first, two thousand eighteen,] except  
46 corporations specified in subdivision (c) of section fifteen hundred  
47 twelve of this article, shall annually pay, in addition to the taxes  
48 otherwise imposed by this article, a tax surcharge on the taxes imposed  
49 under this article after the deduction of any credits otherwise allow-  
50 able under this article as allocated to such district. Such taxes shall  
51 be allocated to such district for purposes of computing such tax  
52 surcharge upon taxpayers subject to tax under subdivision (b) of section  
53 fifteen hundred ten of this article by applying the methodology, proce-  
54 dures and computations set forth in subdivisions (a) and (b) of section  
55 fifteen hundred four of this article, except that references to terms  
56 denoting New York premiums, and total wages, salaries, personal service

1 compensation and commissions within New York shall be read as denoting  
2 within the metropolitan commuter transportation district and terms  
3 denoting total premiums and total wages, salaries, personal service  
4 compensation and commissions shall be read as denoting within the state.  
5 If it shall appear to the commissioner that the application of the meth-  
6 odology, procedures and computations set forth in such subdivisions (a)  
7 and (b) does not properly reflect the activity, business or income of a  
8 taxpayer within the metropolitan commuter transportation district, then  
9 the commissioner shall be authorized, in the commissioner's discretion,  
10 to adjust such methodology, procedures and computations for the purpose  
11 of allocating such taxes by:

12 (A) excluding one or more factors therein;

13 (B) including one or more other factors therein, such as expenses,  
14 purchases, receipts other than premiums, real property or tangible  
15 personal property; or

16 (C) any other similar or different method which allocates such taxes  
17 by attributing a fair and proper portion of such taxes to the metropol-  
18 itan commuter transportation district. The commissioner from time to  
19 time shall publish all rulings of general public interest with respect  
20 to any application of the provisions of the preceding sentence. The  
21 commissioner may promulgate rules and regulations to further implement  
22 the provisions of this section.

23 (3) Such tax surcharge shall be computed at the rate of [eighteen  
24 percent of the taxes imposed under sections fifteen hundred one and  
25 fifteen hundred ten of this article as limited by section fifteen  
26 hundred five of this article, as allocated to such district, for such  
27 taxable years or any part of such taxable years ending before December  
28 thirty-first, nineteen hundred eighty-three after the deduction of any  
29 credits otherwise allowable under this article, at the rate of seventeen  
30 percent of the taxes imposed under such sections as limited by section  
31 fifteen hundred five of this article, as allocated to such district, for  
32 such taxable years or any part of such taxable years ending on or after  
33 December thirty-first, nineteen hundred eighty-three and before January  
34 first, two thousand three after the deduction of any credits otherwise  
35 allowable under this article, and at the rate of] seventeen percent of  
36 the taxes imposed under sections fifteen hundred one, fifteen hundred  
37 two-a, and fifteen hundred ten of this article, as limited or otherwise  
38 determined by subdivision (a) or (b) of section fifteen hundred five of  
39 this article, as allocated to such district, [for such taxable years or  
40 any part of such taxable years ending after December thirty-first, two  
41 thousand two] after the deduction of any credits otherwise allowable  
42 under this article[; provided, however, that the tax surcharge imposed  
43 by this section shall not be imposed upon any taxpayer for more than  
44 four hundred thirty-two months]. Provided however, that for taxable  
45 years commencing on or after July first, two thousand, and in the case  
46 of taxpayers subject to tax under section fifteen hundred two-a of this  
47 article, for taxable years of such taxpayers beginning on or after July  
48 first, two thousand and before January first, two thousand three, such  
49 surcharge shall be calculated as if (i) the rate of the tax computed  
50 under paragraph one of subdivision (a) of section fifteen hundred two of  
51 this article was nine percent and (ii) the rate of the limitation on tax  
52 set forth in section fifteen hundred five of this article for domestic,  
53 foreign and alien insurance corporations except life insurance corpo-  
54 rations was two and six-tenths percent.

55 S 89. Section 1825 of the tax law, as amended by section 2 of part E  
56 of chapter 25 of the laws of 2009, is amended to read as follows:

1 S 1825. Violation of secrecy provisions of the tax law.--Any person  
2 who violates the provisions of subdivision (b) of section twenty-one,  
3 subdivision one of section two hundred two, subdivision eight of section  
4 two hundred eleven, subdivision (a) of section three hundred fourteen,  
5 subdivision one or two of section four hundred thirty-seven, section  
6 four hundred eighty-seven, subdivision one or two of section five  
7 hundred fourteen, subsection (e) of section six hundred ninety-seven,  
8 subsection (a) of section nine hundred ninety-four, subdivision (a) of  
9 section eleven hundred forty-six, section twelve hundred eighty-seven,  
10 subdivision (a) of section fourteen hundred eighteen, [subsection (a) of  
11 section fourteen hundred sixty-seven,] subdivision (a) of section  
12 fifteen hundred eighteen, subdivision (a) of section fifteen hundred  
13 fifty-five of this chapter, and subdivision (e) of section 11-1797 of  
14 the administrative code of the city of New York shall be guilty of a  
15 misdemeanor.

16 S 90. Subdivisions (s) and (t) of section 957 of the general municipal  
17 law, as amended by section 1 of part S1 of chapter 57 of the laws of  
18 2009, are amended to read as follows:

19 (s) "Qualified investment project" shall mean a project (i) located  
20 within an empire zone, (ii) at which five hundred or more jobs will be  
21 created, provided such jobs are new to the state and are in addition to  
22 any other jobs previously created by the owner of such project in the  
23 state, and (iii) which will consist of tangible personal property and  
24 other tangible property, including buildings and structural components  
25 of buildings, described in subparagraphs (i), (ii), (iii), (iv) and  
26 clause (A) or (C) of subparagraph (v) of paragraph (b) of subdivision  
27 [twelve-B] THREE of section two hundred [ten] TEN-B of the tax law, the  
28 basis of which for federal income tax purposes will equal or exceed  
29 seven hundred fifty million dollars. Provided however, the owner of such  
30 project does not employ more than two hundred persons in the state at  
31 the time such project is commenced.

32 (t) "Significant capital investment project" shall mean a project (i)  
33 located within an empire zone, (ii) which will be either a newly  
34 constructed facility or a newly constructed addition to or expansion of  
35 a qualified investment project, consisting of tangible personal property  
36 and other tangible property, including buildings and structural compo-  
37 nents of buildings, described in subparagraphs (i), (ii), (iii), (iv)  
38 and clause (A) or (C) of subparagraph (v) of paragraph (b) of subdivi-  
39 sion [twelve-B] THREE of section two hundred [ten] TEN-B of the tax law,  
40 the basis of which for federal income tax purposes will equal or exceed  
41 seven hundred fifty million dollars, (iii) which is constructed after  
42 the basis for federal income tax purposes of the property comprising  
43 such qualified investment project equals or exceeds seven hundred fifty  
44 million dollars, and (iv) at which five hundred or more jobs will be  
45 created, provided such jobs are new to the state and are in addition to  
46 any other jobs previously created by the owner of such project in the  
47 state.

48 S 91. Intentionally omitted.

49 S 92. Intentionally omitted.

50 S 93. Intentionally omitted.

51 S 94. Intentionally omitted.

52 S 95. Intentionally omitted.

53 S 96. Intentionally omitted.

54 S 97. Intentionally omitted.

55 S 98. Intentionally omitted.

1 S 99. Notwithstanding any provisions of law to the contrary and  
2 notwithstanding the repeal of article 32 of the tax law by section one  
3 of this act, the repeal of section 180 of the tax law by section two of  
4 this act and the repeal of section 181 of the tax law by section three  
5 of this act, all provisions of such article and such sections, in  
6 respect to the imposition, exemption, assessment, payment, payment over,  
7 determination, collection, and credit or refund of tax, interest and  
8 penalty imposed thereunder, the filing of forms and returns, the preser-  
9 vation of records for the purposes of such tax, the secrecy of returns,  
10 the disposition of revenues, and the civil and criminal penalties appli-  
11 cable to the violation of the provisions of such article 32 and such  
12 sections 180 and 181, shall continue in full force and effect with  
13 respect to all such tax accrued for taxable years beginning before Janu-  
14 ary 1, 2015; and all actions and proceedings, civil or criminal,  
15 commenced or authorized to be commenced under or by virtue of any  
16 provision of such article 32 or by virtue of any provision of such  
17 section 180 or 181 so repealed, and pending or able to be commenced  
18 immediately prior to the taking effect of such repeal, may be commenced,  
19 prosecuted and defended to final effect in the same manner as they might  
20 if such provisions were not so repealed.

21 S 100. Subdivision 1 of section 187 of the tax law, as amended by  
22 chapter 2 of the laws of 1995, is amended to read as follows:

23 1. A taxpayer shall be allowed a credit, to be credited against the  
24 taxes imposed by this article, other than the taxes and fees imposed by  
25 sections [one hundred eighty, one hundred eighty-one,] one hundred  
26 eighty-six-a and one hundred eighty-six-e of this chapter. The amount of  
27 the credit shall be the amount of the special additional mortgage  
28 recording tax paid by the taxpayer pursuant to the provisions of subdi-  
29 vision one-a of section two hundred fifty-three of this chapter on mort-  
30 gages recorded on and after January first, nineteen hundred seventy-  
31 nine. Provided, however, that the amount of such credit allowable  
32 against the tax imposed by section one hundred eighty-four of this chap-  
33 ter shall be the excess of the amount of such special additional mort-  
34 gage recording tax paid over the amount of any credit allowed by this  
35 section against the tax imposed by section one hundred eighty-three of  
36 this chapter. Provided further, however, no credit shall be allowed with  
37 respect to a mortgage of real property principally improved or to be  
38 improved by one or more structures containing in the aggregate not more  
39 than six residential dwelling units, each dwelling unit having its own  
40 separate cooking facilities, where the real property is located in one  
41 or more of the counties comprising the metropolitan commuter transporta-  
42 tion district and where the mortgage is recorded on or after May first,  
43 nineteen hundred eighty-seven. Provided further, however, no credit  
44 shall be allowed with respect to a mortgage of real property principally  
45 improved or to be improved by one or more structures containing in the  
46 aggregate not more than six residential dwelling units, each dwelling  
47 unit having its own separate cooking facilities, where the real property  
48 is located in the county of Erie and where the mortgage is recorded on  
49 or after May first, nineteen hundred eighty-seven.

50 S 101. Subdivision 1 of section 187-a of the tax law, as added by  
51 chapter 142 of the laws of 1997, is amended to read as follows:

52 1. Allowance of credit. A taxpayer shall be allowed a credit, to be  
53 computed as hereinafter provided, against the taxes imposed by this  
54 article, other than the taxes imposed by sections [one hundred eighty,  
55 one hundred eighty-one,] one hundred eighty-six-a, one hundred eighty-  
56 six-e and one hundred eighty-nine of this article, for employing within

the state a qualified employee. Provided, however, the amount of credit allowed by this section against the tax imposed by section one hundred eighty-four of this article shall be the excess of the credit computed under this section over the amount of credit allowed by this section against the tax imposed by section one hundred eighty-three of this article.

S 102. Subdivision 1 of section 190 of the tax law, as amended by section 17 of part B of chapter 58 of the laws of 2004, is amended to read as follows:

1. General. A taxpayer shall be allowed a credit against the tax imposed by this article[, other than the taxes and fees imposed by sections one hundred eighty and one hundred eighty-one of this article,] equal to twenty percent of the premium paid during the taxable year for long-term care insurance. In order to qualify for such credit, the taxpayer's premium payment must be for the purchase of or for continuing coverage under a long-term care insurance policy that qualifies for such credit pursuant to section one thousand one hundred seventeen of the insurance law.

S 103. Subdivision 5 of section 192 of the tax law is REPEALED.

S 104. Clauses 1 and 2 of subparagraph (A) and subparagraph (B) of paragraph (iii) of subdivision 9 of section 16-v of section 1 of chapter 174 of the laws of 1968 constituting the urban development corporation act, as added by section 1 of part C of chapter 59 of the laws of 2013, is amended to read as follows:

(1) over fifty percent of the number of shares of stock entitling the holders thereof to vote for the election of directors or trustees is owned or controlled, either directly or indirectly, by a taxpayer subject to tax under the following provisions of the tax law: article nine-A; section one hundred eighty-three, OR one hundred eighty-four [or one hundred eighty-five] of article nine; [article thirty-two] or article thirty-three; or

(2) is substantially similar in operation and in ownership to a business entity (or entities) taxable or previously taxable under the following provisions of the tax law: article nine-A; section one hundred eighty-three, one hundred eighty-four, FORMER SECTION one hundred eighty-five or former section one hundred eighty-six of article nine; FORMER article thirty-two; article thirty-three; article twenty-three, or would have been subject to tax under such article twenty-three (as such article was in effect on January first, nineteen hundred eighty) or the income (or losses) of which is (or was) includable under article twenty-two; or

(B) a sole proprietorship, partnership, limited partnership, limited liability company, or New York subchapter S corporation that is not substantially similar in operation and in ownership to a business entity (or entities) taxable, or previously taxable, under article nine-A of the tax law, section one hundred eighty-three, one hundred eighty-four, FORMER SECTION one hundred eighty-five or former section one hundred eighty-six of article nine of the tax law, FORMER article thirty-two or ARTICLE thirty-three of the tax law, article twenty-three of the tax law or which would have been subject to tax under such article twenty-three (as such article was in effect on January first, nineteen hundred eighty) or the income (or losses) of which is (or was) includable under article twenty-two of the tax law; and

S 105. Section 206 of the tax law, as added by chapter 69 of the laws of 1978, is amended to read as follows:

1 S 206. Deposit and disposition of revenue. The [license fees,  
2 taxes, percentage, interest and other charges imposed by this article  
3 shall be collected and deposited and receipts therefor issued by the  
4 [tax commission, except that such license fees, taxes, percentage,  
5 interest and other charges imposed by section one hundred eighty of this  
6 chapter shall be collected and deposited and receipts therefor issued by  
7 the proper state officer in accordance with the provisions of subdivi-  
8 sion two of section one hundred eighty of this chapter,] COMMISSIONER  
9 and all revenues so collected or received shall be deposited and  
10 disposed of pursuant to the provisions of section one hundred seventy-  
11 one-a of this chapter.

12 S 106. Subsection (a) of section 1080 of the tax law, as added by  
13 chapter 188 of the laws of 1964, is amended to read as follows:

14 (a) General.--- The provisions of this article shall apply to the  
15 administration of and the procedures with respect to the taxes imposed  
16 by articles nine [(except section one hundred eighty)], AND nine-a[,  
17 nine-b and nine-c] of this chapter for taxable years or periods ending  
18 on or after December thirty-first, nineteen hundred sixty-four.

19 S 107. Subdivisions (a) and (c) of section 1809 of the tax law, as  
20 added by section 1 of subpart A of part S of chapter 57 of the laws of  
21 2010, are amended to read as follows:

22 (a) Any person who, with intent to evade payment of any tax imposed  
23 under article nine [(other than under section one hundred eighty or one  
24 hundred eighty-one)], nine-A, thirteen, [thirty-two,] thirty-three or  
25 thirty-three-A of this chapter, fails to file a return or report for  
26 three consecutive taxable years shall be guilty of a class E felony,  
27 provided that such person had an unpaid tax liability, in excess of the  
28 threshold amount with respect to each of the three consecutive taxable  
29 years. The threshold amount in the case of a taxable year under article  
30 nine-A of this chapter ending after June thirtieth, nineteen hundred  
31 eighty-nine is the applicable fixed dollar minimum prescribed under  
32 paragraph (d) of subdivision one of section two hundred ten of this  
33 chapter. In the event such fixed dollar minimum is less than two hundred  
34 fifty dollars, the threshold amount in the case of such taxable year is  
35 two hundred fifty dollars. In all other cases the threshold amount is  
36 two hundred fifty dollars.

37 (c) As used in this section, the terms "return" and "report" shall  
38 mean a return or report required under section one hundred ninety-two,  
39 two hundred eleven, two hundred ninety-four, [fourteen hundred sixty-  
40 two,] fifteen hundred fifteen or fifteen hundred fifty-four of this  
41 chapter. It shall not include any return or report referred to in  
42 section one hundred ninety-seven-a, two hundred thirteen-a, [fourteen  
43 hundred sixty] or fifteen hundred thirteen of this chapter.

44 S 108. Paragraphs (d), (e), (g), (h) and (q) of section 104-A of the  
45 business corporation law, subdivisions (d), (e) and (q) as amended by  
46 chapter 166 of the laws of 1991, subdivision (g) as added by chapter 591  
47 of the laws of 1982, and subdivision (h) as amended by chapter 117 of  
48 the laws of 1986, are amended to read as follows:

49 (d) For filing a certificate of incorporation pursuant to section four  
50 hundred two of this chapter, one hundred twenty-five dollars [plus the  
51 tax on shares prescribed by section one hundred eighty of the tax law].

52 (e) For filing a certificate of amendment pursuant to section eight  
53 hundred five of this chapter, sixty dollars [plus the tax on shares  
54 prescribed by section one hundred eighty of the tax law if such certif-  
55 icate shows a change of shares].

1 (g) For filing a restated certificate of incorporation pursuant to  
2 section eight hundred seven of this chapter, sixty dollars [plus the tax  
3 on shares prescribed by section one hundred eighty of the tax law if  
4 such certificate shows a change of shares].

5 (h) For filing a certificate of merger or consolidation pursuant to  
6 section nine hundred four of this chapter, or a certificate of exchange  
7 pursuant to section nine hundred thirteen (other than paragraph (g) of  
8 section nine hundred thirteen) of this chapter, sixty dollars [plus the  
9 tax on shares prescribed by section one hundred eighty of the tax law if  
10 such certificate shows a change of shares].

11 (q) For filing a certificate of incorporation by a professional  
12 service corporation pursuant to section fifteen hundred three of this  
13 chapter, one hundred twenty-five dollars [plus the tax on shares  
14 prescribed by section one hundred eighty of the tax law].

15 S 109. Subdivision 8 of section 7-a of the general associations law,  
16 as added by chapter 575 of the laws of 1964, is amended to read as  
17 follows:

18 8. The provisions of section ninety-six of the executive law prescrib-  
19 ing the fee to be collected by the department of state for filing a  
20 certificate of incorporation under the business corporation law shall  
21 apply to the certificate of incorporation to be filed pursuant to this  
22 section[, and the organization tax payable under section one hundred  
23 eighty of the tax law in respect of a corporation formed under the busi-  
24 ness corporation law shall be paid before the department of state shall  
25 file such certificate of incorporation].

26 S 110. Paragraphs 1 and 2 of subdivision (l) of section 11-640 of the  
27 administrative code of the city of New York, as amended by section 3 of  
28 part R of chapter 59 of the laws of 2012, is amended to read as follows:

29 (1) Notwithstanding anything to the contrary contained in this section  
30 other than subdivision (m) of this section, a corporation that was in  
31 existence before January first, two thousand [twelve] FOURTEEN and was  
32 subject to tax under subchapter two of this chapter for its last taxable  
33 year beginning before January first, two thousand [twelve] FOURTEEN,  
34 shall continue to be taxable under such subchapter for all taxable years  
35 beginning on or after January first, two thousand [twelve] FOURTEEN and  
36 before January first, two thousand [fifteen] SEVENTEEN. The preceding  
37 sentence shall not apply to any taxable year during which such corpo-  
38 ration is a banking corporation described in paragraphs one through  
39 eight of subdivision (a) of this section. Notwithstanding anything to  
40 the contrary contained in this section other than subdivision (m) of  
41 this section, a banking corporation or corporation that was in existence  
42 before January first, two thousand [twelve] FOURTEEN and was subject to  
43 tax under this subchapter for its last taxable year beginning before  
44 January first, two thousand [twelve] FOURTEEN, shall continue to be  
45 taxable under this subchapter for all taxable years beginning on or  
46 after January first, two thousand [twelve] FOURTEEN and before January  
47 first, two thousand [fifteen] SEVENTEEN only if the corporation is a  
48 banking corporation as defined in subdivision (a) of this section or the  
49 corporation satisfies the requirements for a corporation to elect to be  
50 taxable under this subchapter. Provided further, that nothing in this  
51 subdivision shall prohibit a corporation that elected pursuant to subdi-  
52 vision (d) of this section to be taxable under subchapter two of this  
53 chapter from revoking that election in accordance with subdivision (d)  
54 of this section. For purposes of this paragraph, a corporation shall be  
55 considered to be subject to tax under subchapter two of this chapter for  
56 a taxable year if such corporation was not a taxpayer but was properly

1 included in a combined report filed pursuant to subdivision four of  
2 section 11-605 of this chapter for such taxable year and a corporation  
3 shall be considered to be subject to tax under this subchapter for a  
4 taxable year if such corporation was not a taxpayer but was properly  
5 included in a combined report filed pursuant to subdivision (f) or (g)  
6 of section 11-646 of this part for such taxable year. A corporation that  
7 was in existence before January first, two thousand [twelve] FOURTEEN  
8 but first becomes a taxpayer in a taxable year beginning on or after  
9 January first, two thousand [twelve] FOURTEEN and before January first,  
10 two thousand [fifteen] SEVENTEEN, shall be considered for purposes of  
11 this paragraph to have been subject to tax under subchapter two of this  
12 chapter for its last taxable year beginning before January first, two  
13 thousand [twelve] FOURTEEN if such corporation would have been subject  
14 to tax under such subchapter for such taxable year if it had been a  
15 taxpayer during such taxable year. A corporation that was in existence  
16 before January first, two thousand [twelve] FOURTEEN but first becomes a  
17 taxpayer in a taxable year beginning on or after January first, two  
18 thousand [twelve] FOURTEEN and before January first, two thousand  
19 [fifteen] SEVENTEEN, shall be considered for purposes of this paragraph  
20 to have been subject to tax under this subchapter for its last taxable  
21 year beginning before January first, two thousand [twelve] FOURTEEN if  
22 such corporation would have been subject to tax under this subchapter  
23 for such taxable year if it had been a taxpayer during such taxable  
24 year.

25 (2) Notwithstanding anything to the contrary contained in this section  
26 other than subdivision (m) of this section, a corporation formed on or  
27 after January first, two thousand [twelve] FOURTEEN and before January  
28 first, two thousand [fifteen] SEVENTEEN may elect to be subject to tax  
29 under this subchapter or under subchapter two of this chapter for its  
30 first taxable year beginning on or after January first, two thousand  
31 [twelve] FOURTEEN and before January first, two thousand [fifteen]  
32 SEVENTEEN in which either (i) sixty-five percent or more of its voting  
33 stock is owned or controlled, directly or indirectly by a financial  
34 holding company, provided the corporation whose voting stock is so owned  
35 or controlled is principally engaged in activities that are described in  
36 section 4(k)(4) or 4(k)(5) of the federal bank holding company act of  
37 nineteen hundred fifty-six, as amended and the regulations promulgated  
38 pursuant to the authority of such section or (ii) it is a financial  
39 subsidiary. An election under this paragraph may not be made by a corpo-  
40 ration described in paragraphs one through eight of subdivision (a) of  
41 this section or in subdivision (e) of this section. In addition, an  
42 election under this paragraph may not be made by a corporation that is a  
43 party to a reorganization, as defined in subsection (a) of section 368  
44 of the internal revenue code of 1986, as amended, of a corporation  
45 described in paragraph one of this subdivision if both corporations were  
46 sixty-five percent or more owned or controlled, directly or indirectly  
47 by the same interests at the time of the reorganization.

48 An election under this paragraph must be made by the taxpayer on or  
49 before the due date for filing its return (determined with regard to  
50 extensions of time for filing) for the applicable taxable year. The  
51 election to be taxed under subchapter two of this chapter shall be made  
52 by the taxpayer by filing the return required pursuant to subdivision  
53 one of section 11-605 of this chapter and the election to be taxed under  
54 this subchapter shall be made by the taxpayer by filing the return  
55 required pursuant to subdivision (a) of section 11-646 of this part. Any  
56 election made pursuant to this paragraph shall be irrevocable and shall



1 apply to each subsequent taxable year beginning on or after January  
2 first, two thousand [twelve] FOURTEEN and before January first, two  
3 thousand [fifteen] SEVENTEEN, provided that the stock ownership and  
4 activities requirements described in subparagraph (i) of this paragraph  
5 are met or such corporation described in subparagraph (ii) of this para-  
6 graph continues as a financial subsidiary.

7 S 111. Subparagraph (iv) of paragraph 2 of subdivision (f) of section  
8 11-646 of the administrative code of the city of New York, as amended by  
9 section 4 of part R of chapter 59 of the laws of 2012, is amended to  
10 read as follows:

11 (iv) (A) Notwithstanding any provision of this paragraph, any bank  
12 holding company exercising its corporate franchise or doing business in  
13 the city may make a return on a combined basis without seeking the  
14 permission of the commissioner with any banking corporation exercising  
15 its corporate franchise or doing business in the city in a corporate or  
16 organized capacity sixty-five percent or more of whose voting stock is  
17 owned or controlled, directly or indirectly, by such bank holding compa-  
18 ny, for the first taxable year beginning on or after January first, two  
19 thousand and before January first, two thousand [fifteen] SEVENTEEN  
20 during which such bank holding company registers for the first time  
21 under the federal bank holding company act, as amended, and also elects  
22 to be a financial holding company. In addition, for each subsequent  
23 taxable year beginning after January first, two thousand and before  
24 January first, two thousand [fifteen] SEVENTEEN, any such bank holding  
25 company may file on a combined basis without seeking the permission of  
26 the commissioner with any banking corporation that is exercising its  
27 corporate franchise or doing business in the city and sixty-five percent  
28 or more of whose voting stock is owned or controlled, directly or indi-  
29 rectly, by such bank holding company if either such banking corporation  
30 is exercising its corporate franchise or doing business in the city in a  
31 corporate or organized capacity for the first time during such subse-  
32 quent taxable year, or sixty-five percent or more of the voting stock of  
33 such banking corporation is owned or controlled, directly or indirectly,  
34 by such bank holding company for the first time during such subsequent  
35 taxable year. Provided however, for each subsequent taxable year begin-  
36 ning after January first, two thousand and before January first, two  
37 thousand [fifteen] SEVENTEEN, a banking corporation described in either  
38 of the two preceding sentences which filed on a combined basis with any  
39 such bank holding company in a previous taxable year, must continue to  
40 file on a combined basis with such bank holding company if such banking  
41 corporation, during such subsequent taxable year, continues to exercise  
42 its corporate franchise or do business in the city in a corporate or  
43 organized capacity and sixty-five percent or more of such banking corpo-  
44 ration's voting stock continues to be owned or controlled, directly or  
45 indirectly, by such bank holding company, unless the permission of the  
46 commissioner has been obtained to file on a separate basis for such  
47 subsequent taxable year. Provided further, however, for each subsequent  
48 taxable year beginning after January first, two thousand and before  
49 January first, two thousand [fifteen] SEVENTEEN, a banking corporation  
50 described in either of the first two sentences of this clause which did  
51 not file on a combined basis with any such bank holding company in a  
52 previous taxable year, may not file on a combined basis with such bank  
53 holding company during any such subsequent taxable year unless the  
54 permission of the commissioner has been obtained to file on a combined  
55 basis for such subsequent taxable year.

(B) Notwithstanding any provision of this paragraph other than clause (A) of this subparagraph, the commissioner may not require a bank holding company which, during a taxable year beginning on or after January first, two thousand and before January first, two thousand [fifteen] SEVENTEEN, registers for the first time during such taxable year under the federal bank holding company act, as amended, and also elects to be a financial holding company, to make a return on a combined basis for any taxable year beginning on or after January first, two thousand and before January first, two thousand [fifteen] SEVENTEEN with a banking corporation sixty-five percent or more of whose voting stock is owned or controlled, directly or indirectly, by such bank holding company.

S 112. Severability. If any provision of this act shall for any reason be finally adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this act, but shall be confined in its operation to the provision directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be in the intent of the legislature that this act would have been enacted even if such invalid provision had not been included in this act. Provided further, if a court of final, competent jurisdiction adjudges the tax rates imposed on qualified New York manufacturers to be invalid, qualified New York manufacturers shall be subject to the same tax rates as all other taxpayers subject to tax under article 9-A of the tax law. Provided further, if a court of final, competent jurisdiction adjudges the tax rate of the metropolitan transportation business tax surcharge imposed under section 209-B of the tax law to be invalid, the rate of such surcharge shall be twenty-seven and one tenth percent. Provided further, if a court of final, competent jurisdiction adjudges that any of the tax credits provided by this act to be invalid, such credit or credits shall be deemed repealed and shall be of no force and effect as to any taxpayers.

S 113. This act shall take effect January 1, 2015 and shall apply to taxable years commencing on or after such date; provided that the amendments to section 25 of the tax law made by section forty-three of this act shall not affect the repeal of such section and shall be deemed repealed therewith; provided, further, that the amendments to the opening paragraph of subdivision (a), subparagraph (C) of paragraph 2 of subdivision (e) and subdivision (f) of section 35 of the tax law made by section fifty of this act shall not affect the repeal of such provisions and shall be deemed repealed therewith; provided, further, that the amendments to clause (xxxii) of subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law made by section sixty-eight of this act shall not affect the repeal of such clause and shall be deemed repealed therewith; provided, further, that the amendments to clause (xxxiii) of subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law made by section sixty-eight of this act shall not affect the repeal of such clause and shall be deemed repealed therewith; and provided, further, that the amendments to clause (ii) of subparagraph (B) of paragraph 2 of subsection (q), paragraph 3 of subsection (s) and the closing paragraph of paragraph 1 of subsection (t) of section 1085 of the tax law made by section eighty-one of this act shall not affect the repeal of such provisions and shall be deemed repealed therewith.

Section 1. Subparagraph (iii) of paragraph (a) of subdivision 14 of section 425 of the real property tax law, as added by section 1 of part J of chapter 57 of the laws of 2013, is amended to read as follows:

(iii) An owner who fails to register by the registration deadline so established shall be permitted to file a petition with the commissioner requesting that the commissioner excuse such failure and accept a late registration, provided that such petition shall explain why such failure occurred and shall be filed no later than one year after such deadline, AND PROVIDED FURTHER THAT IF THE COMMISSIONER ACCEPTS A LATE REGISTRATION AFTER HAVING DIRECTED THE REMOVAL OF THE BASIC STAR EXEMPTION FROM THE PROPERTY TO WHICH THE REGISTRATION PERTAINS, THEN IN LIEU OF DIRECTING THE EXEMPTION TO BE RESTORED, THE COMMISSIONER IS AUTHORIZED IN HIS OR HER DISCRETION TO REMIT DIRECTLY TO THE PROPERTY OWNER OR OWNERS THE TAX SAVINGS THAT THE EXEMPTION WOULD HAVE YIELDED HAD IT NOT BEEN REMOVED, AND TO FURTHER DIRECT THE ASSESSOR TO RESTORE THE EXEMPTION ON A PROSPECTIVE BASIS WITHOUT A NEW APPLICATION UNLESS THE ASSESSOR HAS REASON TO BELIEVE THAT THE PROPERTY OWNER IS NO LONGER ELIGIBLE FOR REASONS OTHER THAN A FAILURE TO REGISTER;

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2014.

#### PART C

Section 1. Section 2 of chapter 540 of the laws of 1992, amending the real property tax law relating to oil and gas charges, as amended by section 1 of part A of chapter 59 of the laws of 2012, is amended to read as follows:

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 1992; provided, however that any charges imposed by section 593 of the real property tax law as added by section one of this act shall first be due for values for assessment rolls with tentative completion dates after July 1, 1992, and provided further, that this act shall remain in full force and effect until March 31, [2015] 2018, at which time section 593 of the real property tax law as added by section one of this act shall be repealed.

S 2. This act shall take effect immediately.

#### PART D

Intentionally Omitted

#### PART E

Section 1. Subsection (a) of section 653 of the tax law, as amended by chapter 65 of the laws of 1985, is amended to read as follows:

(a) General. (1) Any return, statement or other document required to be made pursuant to this article shall be signed in accordance with regulations or instructions prescribed by the [tax commission] COMMISSIONER. The fact that an individual's name is signed to a return, statement, or other document, shall be prima facie evidence for all purposes that the return, statement or other document was actually signed by him OR HER.

(2) IN THE CASE OF AN ELECTRONICALLY FILED INDIVIDUAL'S PERSONAL INCOME TAX RETURN PREPARED BY A TAX PREPARER, AN AUTHORIZATION TO FILE

1 ANY RETURN, STATEMENT OR OTHER DOCUMENT REQUIRED TO BE MADE PURSUANT TO  
2 THIS ARTICLE SIGNED BY THE TAXPAYER IN ACCORDANCE WITH THE REGULATIONS  
3 OR INSTRUCTIONS PRESCRIBED BY THE COMMISSIONER AND RECEIVED ELECTRON-  
4 ICALLY BY THE TAX PREPARER SHALL SATISFY THE SIGNATURE REQUIREMENTS  
5 UNDER THIS ARTICLE.

6 S 2. This act shall take effect immediately and shall apply to returns  
7 filed for taxable years beginning on or after January 1, 2014.

8 PART F

9 Intentionally Omitted

10 PART G

11 Section 1. Section 2 of part I of chapter 58 of the laws of 2006,  
12 relating to providing an enhanced earned income tax credit, as amended  
13 by section 1 of part L of chapter 59 of the laws of 2012, is amended to  
14 read as follows:

15 S 2. This act shall take effect immediately and shall apply to taxable  
16 years beginning on or after January 1, 2006 and before January 1, [2015]  
17 2017.

18 S 2. This act shall take effect immediately.

19 PART H

20 Intentionally Omitted

21 PART I

22 Section 1. Subsection (b) of section 612 of the tax law is amended by  
23 adding a new paragraph 40 to read as follows:

24 (40) IN THE CASE OF A BENEFICIARY OF A TRUST THAT, IN ANY TAX YEAR  
25 AFTER ITS CREATION INCLUDING ITS FIRST TAX YEAR, WAS NOT SUBJECT TO TAX  
26 PURSUANT TO SUBPARAGRAPH (D) OF PARAGRAPH THREE OF SUBSECTION (B) OF  
27 SECTION SIX HUNDRED FIVE OF THIS ARTICLE (EXCEPT FOR AN INCOMPLETE GIFT  
28 NON-GRANTOR TRUST, AS DEFINED BY PARAGRAPH FORTY-ONE OF THIS  
29 SUBSECTION), THE AMOUNT DESCRIBED IN THE FIRST SENTENCE OF SECTION SIX  
30 HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE CODE FOR THE TAX YEAR TO THE  
31 EXTENT NOT ALREADY INCLUDED IN FEDERAL GROSS INCOME FOR THE TAX YEAR,  
32 EXCEPT THAT, IN COMPUTING THE AMOUNT TO BE ADDED UNDER THIS PARAGRAPH,  
33 SUCH BENEFICIARY SHALL DISREGARD (I) SUBSECTION (C) OF SECTION SIX  
34 HUNDRED SIXTY-FIVE OF THE INTERNAL REVENUE CODE; (II) THE INCOME EARNED  
35 BY SUCH TRUST IN ANY TAX YEAR IN WHICH THE TRUST WAS SUBJECT TO TAX  
36 UNDER THIS ARTICLE; AND (III) THE INCOME EARNED BY SUCH TRUST IN A TAXA-  
37 BLE YEAR PRIOR TO WHEN THE BENEFICIARY FIRST BECAME A RESIDENT OF THE  
38 STATE OR IN ANY TAXABLE YEAR STARTING BEFORE JANUARY FIRST, TWO THOUSAND  
39 FOURTEEN. EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, ALL OF THE  
40 PROVISIONS OF THE INTERNAL REVENUE CODE THAT ARE RELEVANT TO COMPUTING  
41 THE AMOUNT DESCRIBED IN THE FIRST SENTENCE OF SUBSECTION (A) OF SECTION  
42 SIX HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE CODE SHALL APPLY TO THE  
43 PROVISIONS OF THIS PARAGRAPH WITH THE SAME FORCE AND EFFECT AS IF THE  
44 LANGUAGE OF THOSE INTERNAL REVENUE CODE PROVISIONS HAD BEEN INCORPORATED  
45 IN FULL INTO THIS PARAGRAPH, EXCEPT TO THE EXTENT THAT ANY SUCH  
46 PROVISION IS EITHER INCONSISTENT WITH OR NOT RELEVANT TO THIS PARAGRAPH.

1 S 2. Subsection (b) of section 612 of the tax law is amended by adding  
2 a new paragraph 41 to read as follows:

3 (41) IN THE CASE OF A TAXPAYER WHO TRANSFERRED PROPERTY TO AN INCOM-  
4 PLETE GIFT NON-GRANTOR TRUST, THE INCOME OF THE TRUST, LESS ANY  
5 DEDUCTIONS OF THE TRUST, TO THE EXTENT SUCH INCOME AND DEDUCTIONS OF  
6 SUCH TRUST WOULD BE TAKEN INTO ACCOUNT IN COMPUTING THE TAXPAYER'S  
7 FEDERAL TAXABLE INCOME IF SUCH TRUST IN ITS ENTIRETY WERE TREATED AS A  
8 GRANTOR TRUST FOR FEDERAL TAX PURPOSES. FOR PURPOSES OF THIS PARAGRAPH,  
9 AN "INCOMPLETE GIFT NON-GRANTOR TRUST" MEANS A RESIDENT TRUST THAT MEETS  
10 THE FOLLOWING CONDITIONS: (I) THE TRUST DOES NOT QUALIFY AS A GRANTOR  
11 TRUST UNDER SECTION SIX HUNDRED SEVENTY-ONE THROUGH SIX HUNDRED SEVEN-  
12 TY-NINE OF THE INTERNAL REVENUE CODE, AND (2) THE GRANTOR'S TRANSFER OF  
13 ASSETS TO THE TRUST IS TREATED AS AN INCOMPLETE GIFT UNDER SECTION TWEN-  
14 TY-FIVE HUNDRED ELEVEN OF THE INTERNAL REVENUE CODE, AND THE REGULATIONS  
15 THEREUNDER.

16 S 3. Section 621 of the tax law, as added by chapter 272 of the laws  
17 of 1963 and subsection (a) as amended by chapter 267 of the laws of  
18 1987, is amended to read as follows:

19 S 621. [Credit] CREDITS to trust beneficiary receiving accumulation  
20 distribution. (a) General. A resident beneficiary of a trust whose New  
21 York adjusted gross income includes all or part of an accumulation  
22 distribution by such trust, as defined in section six hundred sixty-five  
23 of the internal revenue code, INCLUDING A BENEFICIARY WHO IS REQUIRED TO  
24 MAKE THE MODIFICATION REQUIRED BY PARAGRAPH FORTY OF SUBSECTION (B) OF  
25 SECTION SIX HUNDRED TWELVE OF THIS PART, shall be allowed (1) a credit  
26 against the tax otherwise due under this article for all or a propor-  
27 tionate part of any tax paid by the trust under this article or under  
28 FORMER article sixteen of this chapter (as such article was in effect on  
29 or before December thirtieth, nineteen hundred sixty), for any preceding  
30 taxable year which would not have been payable if the trust had in fact  
31 made distributions to its beneficiaries at the times and in the amounts  
32 specified in section six hundred sixty-six of the internal revenue code;  
33 AND (2) A CREDIT AGAINST THE TAXES IMPOSED BY THIS ARTICLE FOR THE TAXA-  
34 BLE YEAR FOR ANY INCOME TAX IMPOSED ON THE TRUST FOR THE TAXABLE YEAR OR  
35 ANY PRIOR TAXABLE YEAR BY ANOTHER STATE OF THE UNITED STATES, A POLI-  
36 TICAL SUBDIVISION THEREOF, OR THE DISTRICT OF COLUMBIA, UPON INCOME BOTH  
37 DERIVED THEREFROM AND SUBJECT TO TAX UNDER THIS ARTICLE, PROVIDED THAT  
38 THE AMOUNT OF THE CREDIT SHALL NOT EXCEED THE PERCENTAGE OF THE TAX  
39 OTHERWISE DUE UNDER THIS ARTICLE DETERMINED BY DIVIDING THE PORTION OF  
40 THE INCOME THAT IS BOTH TAXABLE TO THE TRUST IN SUCH OTHER JURISDICTION  
41 AND TAXABLE TO THE BENEFICIARY UNDER THIS ARTICLE BY THE TOTAL AMOUNT OF  
42 THE BENEFICIARY'S NEW YORK INCOME.

43 (b) Limitation. The [credit] CREDITS under this section shall not  
44 reduce the tax otherwise due from the beneficiary under this article to  
45 an amount less than would have been due if the accumulation distribution  
46 or his part thereof were excluded from his New York adjusted gross  
47 income.

48 S 4. Section 658 of the tax law is amended by adding a new subsection  
49 (f) to read as follows:

50 (F) (1) EVERY TRUST DESCRIBED BY SUBPARAGRAPH (D) OF PARAGRAPH THREE  
51 OF SUBSECTION (B) OF SECTION SIX HUNDRED FIVE OF THIS ARTICLE SHALL MAKE  
52 A RETURN FOR ANY TAXABLE YEAR IN WHICH IT MAKES AN ACCUMULATION DISTRIB-  
53 UTION WITHIN THE MEANING OF SUBDIVISION (B) OF SECTION SIX HUNDRED  
54 SIXTY-FIVE OF THE INTERNAL REVENUE CODE TO A BENEFICIARY WHO IS A RESI-  
55 DENT, WHICH RETURN SHALL INCLUDE (I) INFORMATION IDENTIFYING SUCH RESI-  
56 DENT, (II) THE AMOUNT OF SUCH ACCUMULATION DISTRIBUTION, AND (III) SUCH

OTHER INFORMATION AS THE COMMISSIONER MAY REQUIRE. IN DETERMINING WHETHER THERE HAS BEEN AN ACCUMULATION DISTRIBUTION FOR PURPOSES OF THIS PARAGRAPH, SUCH TRUST SHALL EXCLUDE DISTRIBUTIONS FROM INCOME EARNED BY THE TRUST PRIOR TO THE BENEFICIARY'S BIRTH OR ATTAINING THE AGE OF TWENTY-ONE.

(2) EVERY RESIDENT TRUST THAT DOES NOT FILE THE RETURN REQUIRED BY SECTION SIX HUNDRED FIFTY-ONE OF THIS PART ON THE GROUND THAT IT IS NOT SUBJECT TO TAX PURSUANT TO SUBPARAGRAPH (D) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION SIX HUNDRED FIVE OF THIS ARTICLE FOR THE TAXABLE YEAR SHALL MAKE A RETURN FOR SUCH TAXABLE YEAR SUBSTANTIATING ITS ENTITLEMENT TO THAT EXEMPTION AND PROVIDING SUCH OTHER INFORMATION AS THE COMMISSIONER MAY REQUIRE.

(3) THE RETURNS REQUIRED BY THIS SUBSECTION SHALL BE FILED ON OR BEFORE THE FIFTEENTH DAY OF THE FOURTH MONTH FOLLOWING THE CLOSE OF EACH TAXABLE YEAR. FOR PURPOSES OF THIS PARAGRAPH, "TAXABLE YEAR" MEANS A YEAR OR A PERIOD WHICH WOULD BE A TAXABLE YEAR OF THE TRUST IF IT WERE SUBJECT TO TAX UNDER THIS ARTICLE.

S 5. Paragraph 2 of subsection (h) of section 685 of the tax law, as amended by chapter 190 of the laws of 1990, is amended to read as follows:

(2) If any partnership [or], S corporation, OR TRUST required to file a return or report under subsection (c) OR SUBSECTION (F) of section six hundred fifty-eight or under section six hundred fifty-nine OF THIS ARTICLE for any taxable year fails to file such return or report at the time prescribed therefor (determined with regard to any extension of time for filing), or files a return or report which fails to show the information required under such subsection (c) or section six hundred fifty-nine OF THIS ARTICLE, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall, upon notice and demand by the commissioner and in the same manner as tax, be paid by the partnership or S corporation a penalty for each month (or fraction thereof) during which such failure continues (but not to exceed five months). The amount of such penalty for any month is the product of fifty dollars, multiplied by the number of partners in the partnership or shareholders in the S corporation during any part of the taxable year who were subject to tax under this article during any part of such taxable year, EXCEPT THAT, IN THE CASE OF A TRUST, THE PENALTY SHALL BE EQUAL TO ONE HUNDRED FIFTY DOLLARS A MONTH UP TO A MAXIMUM OF FIFTEEN HUNDRED DOLLARS PER TAXABLE YEAR.

S 6. Subdivision (b) of section 11-1712 of the administrative code of the city of New York is amended by adding a new paragraph 36 to read as follows:

(36) IN THE CASE OF A BENEFICIARY OF A TRUST THAT, IN ANY TAX YEAR AFTER ITS CREATION INCLUDING ITS FIRST TAX YEAR, WAS NOT SUBJECT TO TAX PURSUANT TO SUBPARAGRAPH (D) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION 11-1705 OF THIS CHAPTER (EXCEPT FOR AN INCOMPLETE GIFT NON-GRANTOR TRUST, AS DEFINED BY PARAGRAPH THIRTY-SEVEN OF THIS SUBDIVISION), THE AMOUNT DESCRIBED IN THE FIRST SENTENCE OF SECTION SIX HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE CODE FOR THE TAX YEAR TO THE EXTENT NOT ALREADY INCLUDED IN FEDERAL GROSS INCOME FOR THE TAX YEAR, EXCEPT THAT, IN COMPUTING THE AMOUNT TO BE ADDED UNDER THIS PARAGRAPH, SUCH BENEFICIARY SHALL DISREGARD (I) SUBSECTION (C) OF SECTION SIX HUNDRED SIXTY-FIVE OF THE INTERNAL REVENUE CODE; (II) THE INCOME EARNED BY SUCH TRUST IN ANY TAX YEAR IN WHICH THE TRUST WAS SUBJECT TO TAX UNDER THIS ARTICLE; AND (III) THE INCOME EARNED BY SUCH TRUST IN A TAXABLE YEAR PRIOR TO WHEN THE BENEFICIARY FIRST BECAME A RESIDENT OF THE CITY OR IN

1 ANY TAXABLE YEAR STARTING BEFORE JANUARY FIRST, TWO THOUSAND FOURTEEN.  
2 EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, ALL OF THE PROVISIONS OF  
3 THE INTERNAL REVENUE CODE THAT ARE RELEVANT TO COMPUTING THE AMOUNT  
4 DESCRIBED IN THE FIRST SENTENCE OF SUBSECTION (A) OF SECTION SIX HUNDRED  
5 SIXTY-SEVEN OF THE INTERNAL REVENUE CODE SHALL APPLY TO THE PROVISIONS  
6 OF THIS PARAGRAPH WITH THE SAME FORCE AND EFFECT AS IF THE LANGUAGE OF  
7 THOSE INTERNAL REVENUE CODE PROVISIONS HAD BEEN INCORPORATED IN FULL  
8 INTO THIS PARAGRAPH, EXCEPT TO THE EXTENT THAT ANY SUCH PROVISION IS  
9 EITHER INCONSISTENT WITH OR NOT RELEVANT TO THIS PARAGRAPH.

10 S 7. Subdivision (b) of section 11-1712 of the administrative code of  
11 the city of New York is amended by adding a new paragraph 37 to read as  
12 follows:

13 (37) IN THE CASE OF A TAXPAYER WHO TRANSFERRED PROPERTY TO AN INCOM-  
14 PLETE GIFT NON-GRANTOR TRUST, THE INCOME OF THE TRUST, LESS ANY  
15 DEDUCTIONS OF SUCH TRUST, TO THE EXTENT SUCH INCOME AND DEDUCTIONS OF  
16 SUCH TRUST WOULD BE TAKEN INTO ACCOUNT IN COMPUTING THE TAXPAYER'S  
17 FEDERAL TAXABLE INCOME IF SUCH TRUST IN ITS ENTIRETY WERE TREATED AS A  
18 GRANTOR TRUST FOR FEDERAL TAX PURPOSES. FOR PURPOSES OF THIS PARAGRAPH,  
19 AN "INCOMPLETE GIFT NON-GRANTOR TRUST" MEANS A RESIDENT TRUST THAT MEETS  
20 THE FOLLOWING CONDITIONS: (1) THE TRUST DOES NOT QUALIFY AS A GRANTOR  
21 TRUST UNDER SECTION SIX HUNDRED SEVENTY-ONE THROUGH SIX HUNDRED SEVEN-  
22 TY-NINE OF THE INTERNAL REVENUE CODE, AND (2) THE GRANTOR'S TRANSFER OF  
23 ASSETS TO THE TRUST IS TREATED AS AN INCOMPLETE GIFT UNDER SECTION TWEN-  
24 TY FIVE HUNDRED ELEVEN OF THE INTERNAL REVENUE CODE, AND THE REGULATIONS  
25 THEREUNDER.

26 S 8. Section 11-1721 of the administrative code of the city of New  
27 York, subdivisions (a) and (b) as amended by section 72 and such section  
28 as renumbered by section 43 of chapter 639 of the laws of 1986, is  
29 amended to read as follows:

30 S 11-1721 [Credit] CREDITS to trust beneficiary receiving accumulation  
31 distribution. (a) General. A city resident beneficiary of a trust whose  
32 city adjusted gross income includes all or part of an accumulation  
33 distribution by such trust, as defined in section six hundred sixty-five  
34 of the internal revenue code, INCLUDING A BENEFICIARY WHO IS REQUIRED TO  
35 MAKE THE MODIFICATION REQUIRED BY PARAGRAPH THIRTY-SIX OF SUBDIVISION  
36 (B) OF SECTION 11-1712 OF THIS SUBCHAPTER, shall be allowed (1) a credit  
37 against the tax otherwise due under this chapter for all or a propor-  
38 tionate part of any tax paid by the trust under this chapter or under  
39 FORMER title T of chapter forty-six of this code, as it was in effect  
40 prior to September first, nineteen hundred eighty-six, for any preceding  
41 taxable year which would not have been payable if the trust had in fact  
42 made distributions to its beneficiaries at the times and in the amounts  
43 specified in section six hundred sixty-six of the internal revenue code;  
44 AND (2) A CREDIT AGAINST THE TAXES IMPOSED BY THIS CHAPTER FOR THE TAXA-  
45 BLE YEAR FOR ANY INCOME TAX IMPOSED FOR THE TAXABLE YEAR OR ANY PRIOR  
46 TAXABLE YEAR BY ANOTHER STATE OF THE UNITED STATES, A POLITICAL SUBDIVI-  
47 SION THEREOF, OR THE DISTRICT OF COLUMBIA, UPON INCOME BOTH DERIVED  
48 THEREFROM AND SUBJECT TO TAX UNDER THIS CHAPTER, PROVIDED THAT THE  
49 AMOUNT OF THE CREDIT SHALL NOT EXCEED THE PERCENTAGE OF THE TAX OTHER-  
50 WISE DUE UNDER THIS CHAPTER DETERMINED BY DIVIDING THE PORTION OF THE  
51 INCOME THAT IS BOTH TAXABLE TO THE TRUST IN SUCH OTHER JURISDICTION AND  
52 TAXABLE TO THE BENEFICIARY UNDER THIS CHAPTER BY THE TOTAL AMOUNT OF THE  
53 BENEFICIARY'S NEW YORK CITY INCOME.

54 (b) Limitation. The [credit] CREDITS under this section shall not  
55 reduce the tax otherwise due from the beneficiary under this chapter to  
56 an amount less than would have been due if the accumulation distribution

1 or his or her part thereof were excluded from his or her city adjusted  
2 gross income.

3 S 9. This act shall take effect immediately and shall apply to taxable  
4 years beginning on or after January 1, 2014, provided that sections one  
5 and six of this act shall not apply to income of a nonresident trust or  
6 an exempt resident trust paid to a beneficiary before June 1, 2014, and  
7 sections two and seven of this act shall not apply to income from a  
8 trust that is liquidated before June 1, 2014.

9

#### PART J

10 Section 1. Section 602 of the tax law is REPEALED.

11 S 2. Paragraph 4 of subsection (c) and paragraph 4 of subsection (d)  
12 of section 606 of the tax law, paragraph 4 of subsection (c) as added by  
13 chapter 309 of the laws of 1996 and paragraph 4 of subsection (d) as  
14 amended by chapter 2 of the laws of 1995, are amended to read as  
15 follows:

16 (4) Part-year residents. In the case of a part-year resident taxpayer,  
17 the credit under this subsection shall be allowed against the tax deter-  
18 mined under subsections (a) through (d) of section six hundred one  
19 reduced by the credit permitted under subsection (b) of this section,  
20 and any excess credit after such application shall be allowed against  
21 the [taxes] TAX imposed by [sections six hundred two and] SECTION six  
22 hundred three. Any remaining excess, after such application, shall be  
23 refunded as provided in paragraph two hereof, provided, however, that  
24 any overpayment under such paragraph shall be limited to the amount of  
25 the remaining excess multiplied by a fraction, the numerator of which is  
26 federal adjusted gross income for the period of residence, computed as  
27 if the taxable year for federal income tax purposes were limited to the  
28 period of residence, and the denominator of which is federal adjusted  
29 gross income for the taxable year.

30 (4) Part-year residents. In the case of a part-year resident taxpayer,  
31 the credit under this subsection shall be allowed against the tax deter-  
32 mined under subsections (a) through (d) of section six hundred one  
33 reduced by the credits permitted under subsections (b), (c) and (m) of  
34 this section, and any excess credit after such application shall be  
35 allowed against the [taxes] TAX imposed by [sections six hundred two  
36 and] SECTION six hundred three. Any remaining excess, after such appli-  
37 cation, shall be refunded as provided in paragraph two hereof, provided,  
38 however, that any overpayment under such paragraph shall be limited to  
39 the amount of the remaining excess multiplied by a fraction, the numera-  
40 tor of which is federal adjusted gross income for the period of resi-  
41 dence, computed as if the taxable year for federal income tax purposes  
42 were limited to the period of residence, and the denominator of which is  
43 federal adjusted gross income for the taxable year.

44 S 3. Section 622 of the tax law is REPEALED.

45 S 4. Section 636 of the tax law is REPEALED.

46 S 5. Subsections (a), (b) and (c) of section 639 of the tax law, as  
47 added by chapter 170 of the laws of 1994, are amended to read as  
48 follows:

49 (a) If an individual changes status from resident to nonresident he  
50 shall, regardless of his method of accounting, accrue to the period of  
51 residence any items of income, gain, loss, deduction, [items of tax  
52 preference] or ordinary income portion of a lump sum distribution accru-  
53 ing prior to the change of status, with the applicable modifications and  
54 adjustments to federal adjusted gross income[,] AND itemized deductions



1 [and items of tax preference] under sections six hundred twelve[,] AND  
2 six hundred fifteen [and six hundred twenty-two], if not otherwise prop-  
3 erly includible or allowable for New York income tax purposes for such  
4 period or a prior taxable year under his method of accounting.

5 (b) If an individual changes status from nonresident to resident he  
6 shall, regardless of his method of accounting, accrue to the period of  
7 nonresidence any items of income, gain, loss or deduction, [items of tax  
8 preference] or ordinary income portion of a lump sum distribution accru-  
9 ing prior to the change of status, with the applicable modifications and  
10 adjustments to federal adjusted gross income[,] AND itemized deductions  
11 [and items of tax preference] under sections six hundred twelve[,] AND  
12 six hundred fifteen [and six hundred twenty-two], other than items  
13 derived from or connected with New York sources, if not otherwise prop-  
14 erly includible or allowable for New York income tax purposes for such  
15 period or for a prior taxable year under his method of accounting.

16 (c) No item of income, gain, loss, deduction, [item of tax prefer-  
17 ence,] ordinary income portion of a lump sum distribution or modifica-  
18 tion or adjustment which is accrued under this section shall be taken  
19 into account in determining the tax under this article for any subse-  
20 quent taxable year.

21 S 6. Paragraphs 1, 2, 3 and 4 of subsection (a) of section 651 of the  
22 tax law, paragraph 1 as amended by chapter 333 of the laws of 1987,  
23 paragraph 2 as amended by chapter 28 of the laws of 1987, and paragraphs  
24 3 and 4 as amended by chapter 170 of the laws of 1994, are amended to  
25 read as follows:

26 (1) every resident individual (A) required to file a federal income  
27 tax return for the taxable year, or (B) having federal adjusted gross  
28 income for the taxable year, increased by the modifications under  
29 subsection (b) of section six hundred twelve, in excess of four thousand  
30 dollars, or in excess of his New York standard deduction, if lower, or  
31 (C) [subject to tax under section six hundred two, or (D)] having  
32 received during the taxable year a lump sum distribution any portion of  
33 which is subject to tax under section six hundred three;

34 (2) every resident estate or trust required to file a federal income  
35 tax return for the taxable year, or having any New York taxable income  
36 for the taxable year, determined under section six hundred eighteen, [or  
37 subject to tax under section six hundred two,] or having received during  
38 the taxable year a lump sum distribution any portion of which is subject  
39 to tax under section six hundred three;

40 (3) every nonresident or part-year resident individual having New York  
41 source income for the taxable year, determined under part III of this  
42 article, and having New York adjusted gross income for the taxable year,  
43 determined under part II of this article, in excess of the taxpayer's  
44 New York standard deduction, [or subject to tax under section six  
45 hundred two,] or having received during the taxable year a lump sum  
46 distribution any portion of which is subject to tax under section six  
47 hundred three; and

48 (4) every nonresident estate or trust or part-year resident trust  
49 having New York source income for the taxable year, determined under  
50 part III of this article, and having New York adjusted gross income for  
51 the taxable year, determined under paragraph four of subsection (e) of  
52 section six hundred one, [or subject to tax under section six hundred  
53 two,] or having received during the taxable year a lump sum distribution  
54 any portion of which is subject to tax under section six hundred three.

1 S 7. Paragraph 6 of subsection (b) of section 654 of the tax law, as  
2 added by section 5 of part Q of chapter 407 of the laws of 1999, is  
3 amended to read as follows:

4 (6) In subparagraph (B) of paragraph two of subsection (d), the phrase  
5 "section 1 or 55" shall be read as "section six hundred one [or six  
6 hundred two] of this article".

7 S 8. Section 659 of the tax law, as amended by chapter 577 of the laws  
8 of 1997, is amended to read as follows:

9 S 659. Report of federal changes, corrections or disallowances. If  
10 the amount of a taxpayer's federal taxable income, [federal items of tax  
11 preference,] total taxable amount or ordinary income portion of a lump  
12 sum distribution or includible gain of a trust reported on his federal  
13 income tax return for any taxable year, or the amount of a taxpayer's  
14 earned income credit or credit for employment-related expenses set forth  
15 on such return, or the amount of any federal foreign tax credit affect-  
16 ing the calculation of the credit for Canadian provincial taxes under  
17 section six hundred twenty or six hundred twenty-A of this article, or  
18 the amount of any claim of right adjustment, is changed or corrected by  
19 the United States internal revenue service or other competent authority  
20 or as the result of a renegotiation of a contract or subcontract with  
21 the United States, or the amount an employer is required to deduct and  
22 withhold from wages for federal income tax withholding purposes is  
23 changed or corrected by such service or authority or if a taxpayer's  
24 claim for credit or refund of federal income tax is disallowed in whole  
25 or in part, the taxpayer or employer shall report such change or  
26 correction or disallowance within ninety days after the final determi-  
27 nation of such change, correction, renegotiation or disallowance, or as  
28 otherwise required by the commissioner, and shall concede the accuracy  
29 of such determination or state wherein it is erroneous. The allowance  
30 of a tentative carryback adjustment based upon a net operating loss  
31 carryback pursuant to section sixty-four hundred eleven of the internal  
32 revenue code shall be treated as a final determination for purposes of  
33 this section. Any taxpayer filing an amended federal income tax return  
34 and any employer filing an amended federal return of income tax withheld  
35 shall also file within ninety days thereafter an amended return under  
36 this article, and shall give such information as the commissioner may  
37 require. The commissioner may by regulation prescribe such exceptions  
38 to the requirements of this section as he or she deems appropriate. For  
39 purposes of this section, (i) the term "taxpayer" shall include a part-  
40 nership having a resident partner or having any income derived from New  
41 York sources, and a corporation with respect to which the taxable year  
42 of such change, correction, disallowance or amendment is a year with  
43 respect to which the election provided for in subsection (a) of section  
44 six hundred sixty of this article is in effect, and (ii) the term  
45 "federal income tax return" shall include the returns of income required  
46 under sections six thousand thirty-one and six thousand thirty-seven of  
47 the internal revenue code. In the case of such a corporation, such  
48 report shall also include any change or correction of the taxes  
49 described in paragraphs two and three of subsection (f) of section thir-  
50 teen hundred sixty-six of the internal revenue code. Reports made under  
51 this section by a partnership or corporation shall indicate the portion  
52 of the change in each item of income, gain, loss or deduction (and, in  
53 the case of a corporation, of each change in, or disallowance of a claim  
54 for credit or refund of, a tax referred to in the preceding sentence)  
55 allocable to each partner or shareholder and shall set forth such iden-

1 tifying information with respect to such partner or shareholder as may  
2 be prescribed by the commissioner.

3 S 9. Subsection (d) of section 683 of the tax law, as amended by chap-  
4 ter 170 of the laws of 1994, is amended to read as follows:

5 (d) Omission of income, [item of tax preference,] total taxable amount  
6 or ordinary income portion of a lump sum distribution on return.--The  
7 tax may be assessed at any time within six years after the return was  
8 filed if--

9 (1) an individual omits from his New York adjusted gross income, [the  
10 sum of his items of tax preference,] or the total taxable amount or  
11 ordinary income portion of a lump sum distribution an amount properly  
12 includible therein which is in excess of twenty-five percent of the  
13 amount of New York adjusted gross income, [the sum of the items of tax  
14 preference,] or the total taxable amount or ordinary income portion of a  
15 lump sum distribution stated in the return, or

16 (2) an estate or trust omits from its New York adjusted gross income,  
17 [the sum of its items of tax preference,] or the total taxable amount or  
18 ordinary income portion of a lump sum distribution an amount properly  
19 includible therein which is in excess of twenty-five percent of the  
20 amount stated in the return of New York adjusted gross income determined  
21 in accordance with paragraph four of subsection (e) of section six  
22 hundred one, [or the sum of the items of tax preference,] or the total  
23 taxable amount or ordinary income portion of a lump sum distribution,  
24 respectively. For purposes of this subsection there shall not be taken  
25 into account any amount which is omitted in the return if such amount is  
26 disclosed in the return, or in a statement attached to the return, in a  
27 manner adequate to apprise the commissioner of the nature and amount of  
28 the item of income, [tax preference,] total taxable amount or ordinary  
29 income portion of a lump sum distribution.

30 S 10. Subparagraph (B) of paragraph 4 of subsection (c) of section 685  
31 of the tax law, as amended by chapter 28 of the laws of 1987, is amended  
32 to read as follows:

33 (B) Determination of annualized income installment.--In the case of  
34 any required installment, the annualized income installment is the  
35 excess, if any, of an amount equal to the applicable percentage of the  
36 tax for the taxable year computed by placing on an annualized basis the  
37 taxable income [and minimum taxable income] for months in the taxable  
38 year ending before the due date for the installment, over the aggregate  
39 amount of any prior required installments for the taxable year. The  
40 applicable percentage of the tax shall be twenty-two and one-half  
41 percent in the case of the first installment, forty-five percent in the  
42 case of the second installment, sixty-seven and one-half percent in the  
43 case of the third installment and ninety percent in the case of the  
44 fourth installment, and shall be computed without regard to any increase  
45 in the rates applicable to the taxable year unless such increase was  
46 enacted at least thirty days prior to the due date of the installment.

47 S 11. Paragraphs 2 and 3 of subsection (a) of section 1301 of the tax  
48 law, as amended by chapter 209 of the laws of 2011, are amended to read  
49 as follows:

50 (2) [for taxable years beginning before two thousand fifteen, a city  
51 minimum income tax on such residents, and

52 (3)] for taxable years beginning after nineteen hundred seventy-six, a  
53 separate tax on the ordinary income portion of lump sum distributions of  
54 such residents, at the rates provided for herein, such taxes to be  
55 administered, collected and distributed by the commissioner as provided  
56 for in this article.

1 S 12. Section 1301-A of the tax law is REPEALED.

2 S 13. Subsection (a) of section 1302 of the tax law, as amended by  
3 chapter 333 of the laws of 1987, is amended to read as follows:

4 (a) Imposition of tax. The city personal income tax (other than the  
5 [city minimum income tax and the] city separate tax on the ordinary  
6 income portion of lump sum distributions) imposed pursuant to the  
7 authority of this article shall be imposed for each taxable year on the  
8 city taxable income of every city resident individual, estate and trust.  
9 A taxpayer's taxable year for purposes of a tax imposed pursuant to the  
10 authority of this article shall be the same as his taxable year under  
11 article twenty-two of this chapter.

12 S 14. The opening paragraph of subsection (a) of section 1304 of the  
13 tax law, as amended by section 134 of part A of chapter 389 of the laws  
14 of 1997, is amended to read as follows:

15 A tax (other than the [city minimum income tax, the] city separate tax  
16 relating to qualified higher education funds and the city separate tax  
17 on the ordinary income portion of lump sum distributions) imposed pursu-  
18 ant to the authority of section thirteen hundred one of this article  
19 shall be determined as follows:

20 S 15. Subsection (c) of section 1307 of the tax law, as amended by  
21 chapter 712 of the laws of 2004, is amended to read as follows:

22 (c) When an individual changes his status from city resident to city  
23 nonresident, or from city nonresident to city resident, he shall,  
24 regardless of his method of accounting, accrue any items of income,  
25 gain, loss, deduction[, items of tax preference] or ordinary income  
26 portion of a lump sum distribution accruing prior to the change of  
27 status, with the applicable modifications and adjustments to federal  
28 adjusted gross income[, AND itemized deductions [and items of tax pref-  
29 erence] under sections six hundred twelve[, AND six hundred fifteen  
30 [and six hundred twenty-two], if not otherwise properly includible or  
31 allowable for New York income tax purposes for such period or a prior  
32 taxable year under his method of accounting. Such accruals shall be made  
33 as provided in section six hundred thirty-nine of this chapter.

34 S 16. Subsection (a) of section 1306 of the tax law, as amended by  
35 chapter 333 of the laws of 1987, is amended to read as follows:

36 (a) General. On or before the fifteenth day of the fourth month  
37 following the close of a taxable year, an income tax return under a city  
38 tax imposed pursuant to the authority of this article shall be made and  
39 filed by or for every city resident individual, estate or trust required  
40 to file a New York state personal income tax (including [a minimum  
41 income tax and] a city separate tax on the ordinary income portion of  
42 lump sum distributions) return for the taxable year.

43 S 17. Section 11-1702 of the administrative code of the city of New  
44 York is REPEALED.

45 S 18. Subdivision (a) of section 11-1704 of the administrative code of  
46 the city of New York, as amended by chapter 17 of the laws of 1997, is  
47 amended to read as follows:

48 (a) In addition to the taxes imposed by sections 11-1701[, 11-1702]  
49 and 11-1703, there is hereby imposed for each taxable year beginning  
50 after nineteen hundred eighty-nine but before nineteen hundred ninety-  
51 nine, a tax surcharge on the city taxable income of every city resident  
52 individual, estate and trust.

53 S 19. Subdivision (c) of section 11-1704 of the administrative code of  
54 the city of New York, as amended by chapter 271 of the laws of 1991, is  
55 amended to read as follows:

(c) The tax surcharge imposed pursuant to this section shall be administered, collected and distributed by the commissioner of taxation and finance in the same manner as the taxes imposed pursuant to sections 11-1701[, 11-1702] and 11-1703, and all of the provisions of this chapter, including sections 11-1706, 11-1721 and 11-1773, shall apply to the tax surcharge imposed by this section.

S 20. Section 11-1722 of the administrative code of the city of New York is REPEALED.

S 21. Subdivision (a) of section 11-1751 of the administrative code of the city of New York, as amended by chapter 333 of the laws of 1987, is amended to read as follows:

(a) General. On or before the fifteenth day of the fourth month following the close of a taxable year, an income tax return under this chapter shall be made and filed by or for every city resident individual, estate or trust required to file a New York state personal income tax (including a [minimum income tax and] separate tax on the ordinary income portion of lump sum distributions) return for the taxable year.

S 22. Subdivision (b) of section 11-1754 of the administrative code of the city of New York, as amended by chapter 712 of the laws of 2004, is amended to read as follows:

(b) City taxable income [and city minimum taxable income] as city resident. The city taxable income [and city minimum taxable income] for the portion of the year during which he or she is a city resident shall be determined, except as provided in subdivision (c), as if his or her taxable year for federal income tax purposes were limited to the period of his or her city resident status.

S 23. Paragraph 6 of subdivision (b) of section 11-1755 of the administrative code of the city of New York, as added by section 17 of part Q of chapter 407 of the laws of 1999, is amended to read as follows:

(6) In subparagraph (B) of paragraph two of subsection (d), the phrase "section 1 or 55" shall be read as "section 11-1701 [or 11-1702] of this chapter".

S 24. Section 11-1759 of the administrative code of the city of New York, as amended by chapter 577 of the laws of 1997, is amended to read as follows:

S 11-1759 Report of federal changes, corrections or disallowances. If the amount of a taxpayer's federal taxable income, [federal items of tax preference,] total taxable amount or ordinary income portion of a lump sum distribution or includible gain of a trust reported on his federal income tax return for any taxable year, or the amount of any claim of right adjustment, is changed or corrected by the United States internal revenue service or other competent authority, or as the result of a renegotiation of a contract or subcontract with the United States or the amount an employer is required to deduct and withhold from wages for federal income tax withholding purposes is changed or corrected by such service or authority or if a taxpayer's claim for credit or refund of federal income tax is disallowed in whole or in part, the taxpayer or employer shall report such change or correction or disallowance within ninety days after the final determination of such change, correction, renegotiation, or disallowance, or as otherwise required by the commissioner, and shall concede the accuracy of such determination or state wherein it is erroneous. The allowance of a tentative carryback adjustment based upon a net operating loss carryback pursuant to section sixty-four hundred eleven of the internal revenue code shall be treated as a final determination for purposes of this section. Any taxpayer filing an amended federal income tax return and any employer filing an

1 amended federal return of income tax withheld shall also file within  
2 ninety days thereafter an amended return under this chapter, and shall  
3 give such information as the commissioner may require. The commissioner  
4 may by regulation prescribe such exceptions to the requirements of this  
5 section as he or she deems appropriate. For purposes of this section,  
6 (i) the term "taxpayer" shall include a partnership having a resident  
7 partner or having any income derived from New York sources, and a corpo-  
8 ration with respect to which the taxable year of such change,  
9 correction, disallowance or amendment is a year with respect to which  
10 the election provided for in subsection (a) of section six hundred sixty  
11 of the tax law is in effect, and (ii) the term "federal income tax  
12 return" shall include the returns of income required under sections six  
13 thousand thirty-one and six thousand thirty-seven of the internal reven-  
14 ue code. In the case of such a corporation, such report shall also  
15 include any change or correction of the taxes described in paragraphs  
16 two and three of subsection (f) of section thirteen hundred sixty-six of  
17 the internal revenue code. Reports made under this section by a partner-  
18 ship or corporation shall indicate the portion of the change in each  
19 item of income, gain, loss or deduction (and, in the case of a corpo-  
20 ration, of each change in, or disallowance of a claim for credit or  
21 refund of, a tax referred to in the preceding sentence) allocable to  
22 each partner or shareholder and shall set forth such identifying infor-  
23 mation with respect to such partner or shareholder as may be prescribed  
24 by the commissioner.

25 S 25. Subdivision (d) of section 11-1783 of the administrative code of  
26 the city of New York, as amended by chapter 170 of the laws of 1994, is  
27 amended to read as follows:

28 (d) Omission of income, [item of tax preference,] total taxable amount  
29 or ordinary income portion of a lump sum distribution on return. The tax  
30 may be assessed at any time within six years after the return was filed  
31 if:

32 (1) an individual omits from his city adjusted gross income[, the sum  
33 of his items of tax preference, or] the total taxable amount or ordinary  
34 income portion of a lump sum distribution an amount properly includible  
35 therein which is in excess of twenty-five percent of the amount of city  
36 adjusted gross income[, the sum of the items of tax preference] or the  
37 total taxable amount or ordinary income portion of a lump sum distrib-  
38 ution stated in the return, or

39 (2) an estate or trust omits from its city adjusted gross income, [the  
40 sum of its items of tax preference,] or the total taxable amount or  
41 ordinary income portion of a lump sum distribution an amount properly  
42 includible therein which is in excess of twenty-five percent of the  
43 amount stated in the return of city adjusted gross income, [or the sum  
44 of the items of tax preference,] or the total taxable amount or ordinary  
45 income portion of a lump sum distribution, respectively. For purposes of  
46 this paragraph, city adjusted gross income means New York adjusted gross  
47 income as determined under paragraph four of subsection (e) of section  
48 six hundred one of the tax law.

49 For purposes of this subdivision there shall not be taken into account  
50 any amount which is omitted in the return if such amount is disclosed in  
51 the return, or in a statement attached to the return, in a manner  
52 adequate to apprise the commissioner of the nature and amount of the  
53 item of income, [tax preference,] the total taxable amount or ordinary  
54 income portion of a lump sum distribution.

1 S 26. Subparagraph (B) of paragraph 4 of subdivision (c) of section  
2 11-1785 of the administrative code of the city of New York, as amended  
3 by chapter 333 of the laws of 1987, is amended to read as follows:

4 (B) Determination of annualized income installment. In the case of any  
5 required installment, the annualized income installment is the excess,  
6 if any, of an amount equal to the applicable percentage of the tax for  
7 the taxable year computed by placing on an annualized basis the taxable  
8 income [and minimum taxable income] for months in the taxable year  
9 ending before the due date for the installment, over the aggregate  
10 amount of any prior required installments for the taxable year. The  
11 applicable percentage of the tax shall be twenty-two and one-half  
12 percent in the case of the first installment, forty-five percent in the  
13 case of the second installment, sixty-seven and one-half percent in the  
14 case of the third installment and ninety percent in the case of the  
15 fourth installment, and shall be computed without regard to any increase  
16 in the rates applicable to the taxable year unless such increase was  
17 enacted at least thirty days prior to the due date of the installment.

18 S 27. This act shall take effect immediately and apply to taxable  
19 years beginning on or after January 1, 2014.

20 PART K

21 Section 1. Subsection (e-1) of section 606 of the tax law is relet-  
22 tered subsection (e-2).

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

25 (E-1) ENHANCED REAL PROPERTY TAX CIRCUIT BREAKER CREDIT. (1) FOR  
26 PURPOSES OF THIS SUBSECTION:

27 (A) "QUALIFIED TAXPAYER" MEANS A RESIDENT INDIVIDUAL OF THE STATE, WHO  
28 (I) IS A RESIDENT OF A CITY WITH A POPULATION OVER ONE MILLION, (II) HAS  
29 OCCUPIED THE SAME RESIDENCE FOR SIX MONTHS OR MORE OF THE TAXABLE YEAR,  
30 AND (III) IS REQUIRED OR CHOOSES TO FILE A RETURN UNDER THIS ARTICLE.

31 (B) "HOUSEHOLD" OR "MEMBERS OF THE HOUSEHOLD" MEANS A QUALIFIED  
32 TAXPAYER AND ALL OTHER PERSONS, NOT NECESSARILY RELATED, WHO HAVE THE  
33 SAME RESIDENCE AND SHARE ITS FURNISHINGS, FACILITIES AND ACCOMMODATIONS.  
34 SUCH TERMS SHALL NOT INCLUDE A TENANT, SUBTENANT, ROOMER OR BOARDER WHO  
35 IS NOT RELATED TO THE QUALIFIED TAXPAYER IN ANY DEGREE SPECIFIED IN  
36 PARAGRAPHS ONE THROUGH EIGHT OF SUBSECTION (A) OF SECTION ONE HUNDRED  
37 FIFTY-TWO OF THE INTERNAL REVENUE CODE. PROVIDED, HOWEVER, NO PERSON  
38 MAY BE A MEMBER OF MORE THAN ONE HOUSEHOLD AT ONE TIME.

39 (C) "HOUSEHOLD GROSS INCOME" MEANS THE AGGREGATE ADJUSTED GROSS INCOME  
40 OF ALL MEMBERS OF THE HOUSEHOLD FOR THE TAXABLE YEAR AS REPORTED FOR  
41 FEDERAL INCOME TAX PURPOSES, OR WHICH WOULD BE REPORTED AS ADJUSTED  
42 GROSS INCOME IF A FEDERAL INCOME TAX RETURN WERE REQUIRED TO BE FILED,  
43 WITH THE MODIFICATIONS IN SUBSECTION (B) OF SECTION SIX HUNDRED TWELVE  
44 OF THIS ARTICLE BUT WITHOUT THE MODIFICATIONS IN SUBSECTION (C) OF SUCH  
45 SECTION, PLUS ANY PORTION OF THE GAIN FROM THE SALE OR EXCHANGE OF PROP-  
46 erty OTHERWISE EXCLUDED FROM SUCH AMOUNT; EARNED INCOME FROM SOURCES  
47 WITHOUT THE UNITED STATES EXCLUDABLE FROM FEDERAL GROSS INCOME BY  
48 SECTION NINE HUNDRED ELEVEN OF THE INTERNAL REVENUE CODE; SUPPORT MONEY  
49 NOT INCLUDED IN ADJUSTED GROSS INCOME; NONTAXABLE STRIKE BENEFITS;  
50 SUPPLEMENTAL SECURITY INCOME PAYMENTS; THE GROSS AMOUNT OF ANY PENSION  
51 OR ANNUITY BENEFITS TO THE EXTENT NOT INCLUDED IN SUCH ADJUSTED GROSS  
52 INCOME (INCLUDING, BUT NOT LIMITED TO, RAILROAD RETIREMENT BENEFITS AND  
53 ALL PAYMENTS RECEIVED UNDER THE FEDERAL SOCIAL SECURITY ACT AND VETER-  
54 ANS' DISABILITY PENSIONS); NONTAXABLE INTEREST RECEIVED FROM THE STATE

1 OF NEW YORK, ITS AGENCIES, INSTRUMENTALITIES, PUBLIC CORPORATIONS, OR  
2 POLITICAL SUBDIVISIONS (INCLUDING A PUBLIC CORPORATION CREATED PURSUANT  
3 TO AGREEMENT OR COMPACT WITH ANOTHER STATE OR CANADA); WORKERS' COMPEN-  
4 SATION; THE GROSS AMOUNT OF "LOSS-OF-TIME" INSURANCE; AND THE AMOUNT OF  
5 CASH PUBLIC ASSISTANCE AND RELIEF, OTHER THAN MEDICAL ASSISTANCE FOR THE  
6 NEEDY, PAID TO OR FOR THE BENEFIT OF THE QUALIFIED TAXPAYER OR MEMBERS  
7 OF HIS OR HER HOUSEHOLD. HOUSEHOLD GROSS INCOME SHALL NOT INCLUDE  
8 SURPLUS FOODS OR OTHER RELIEF IN KIND OR PAYMENTS MADE TO INDIVIDUALS  
9 BECAUSE OF THEIR STATUS AS VICTIMS OF NAZI PERSECUTION AS DEFINED IN  
10 P.L. 103-286. PROVIDED, FURTHER, HOUSEHOLD GROSS INCOME SHALL ONLY  
11 INCLUDE ALL SUCH INCOME RECEIVED BY ALL MEMBERS OF THE HOUSEHOLD WHILE  
12 MEMBERS OF SUCH HOUSEHOLD. IN COMPUTING HOUSEHOLD GROSS INCOME, THE NET  
13 AMOUNT OF LOSS REPORTED ON FEDERAL SCHEDULE C, D, E, OR F SHALL NOT  
14 EXCEED THREE THOUSAND DOLLARS PER SCHEDULE. IN ADDITION, THE NET AMOUNT  
15 OF ANY OTHER SEPARATE CATEGORY OF LOSS SHALL NOT EXCEED THREE THOUSAND  
16 DOLLARS. THE AGGREGATE AMOUNT OF ALL LOSSES INCLUDED IN COMPUTING HOUSE-  
17 HOLD GROSS INCOME SHALL NOT EXCEED FIFTEEN THOUSAND DOLLARS.

18 (D) "RESIDENCE" MEANS A DWELLING IN THIS STATE OWNED OR RENTED BY THE  
19 TAXPAYER, AND SO MUCH OF THE LAND ABUTTING IT, NOT EXCEEDING ONE ACRE,  
20 AS IS REASONABLY NECESSARY FOR USE OF THE DWELLING AS A HOME, AND MAY  
21 CONSIST OF A PART OF A MULTI-DWELLING OR MULTI-PURPOSE BUILDING INCLUD-  
22 ING A COOPERATIVE OR CONDOMINIUM, AND RENTAL UNITS WITHIN A SINGLE  
23 DWELLING. RESIDENCE INCLUDES A TRAILER OR MOBILE HOME, USED EXCLUSIVELY  
24 FOR RESIDENTIAL PURPOSES AND DEFINED AS REAL PROPERTY PURSUANT TO PARA-  
25 GRAPH (G) OF SUBDIVISION TWELVE OF SECTION ONE HUNDRED TWO OF THE REAL  
26 PROPERTY TAX LAW.

27 (E) "QUALIFYING REAL PROPERTY TAXES" MEANS ALL REAL PROPERTY TAXES,  
28 SPECIAL AD VALOREM LEVIES AND SPECIAL ASSESSMENTS, EXCLUSIVE OF PENAL-  
29 TIES AND INTEREST, LEVIED ON THE RESIDENCE OF A QUALIFIED TAXPAYER AND  
30 PAID DURING THE TAXABLE YEAR. A QUALIFIED TAXPAYER MAY ELECT TO INCLUDE  
31 ANY ADDITIONAL AMOUNT THAT WOULD HAVE BEEN LEVIED IN THE ABSENCE OF AN  
32 EXEMPTION FROM REAL PROPERTY TAXATION PURSUANT TO SECTION FOUR HUNDRED  
33 SIXTY-SEVEN OF THE REAL PROPERTY TAX LAW. IF TENANT-STOCKHOLDERS IN A  
34 COOPERATIVE HOUSING CORPORATION HAVE MET THE REQUIREMENTS OF SECTION TWO  
35 HUNDRED SIXTEEN OF THE INTERNAL REVENUE CODE BY WHICH THEY ARE ALLOWED A  
36 DEDUCTION FOR REAL ESTATE TAXES, THE AMOUNT OF TAXES SO ALLOWABLE, OR  
37 WHICH WOULD BE ALLOWABLE IF THE TAXPAYER HAD FILED RETURNS ON A CASH  
38 BASIS, SHALL BE QUALIFYING REAL PROPERTY TAXES. IF A RESIDENCE IS OWNED  
39 BY TWO OR MORE INDIVIDUALS AS JOINT TENANTS OR TENANTS IN COMMON, AND  
40 ONE OR MORE THAN ONE INDIVIDUAL IS NOT A MEMBER OF THE HOUSEHOLD, QUALI-  
41 FYING REAL PROPERTY TAXES IS THAT PART OF SUCH TAXES ON THE RESIDENCE  
42 WHICH REFLECTS THE OWNERSHIP PERCENTAGE OF THE QUALIFIED TAXPAYER AND  
43 MEMBERS OF HIS OR HER HOUSEHOLD. IF A RESIDENCE IS AN INTEGRAL PART OF A  
44 LARGER UNIT, QUALIFYING REAL PROPERTY TAXES SHALL BE LIMITED TO THAT  
45 AMOUNT OF SUCH TAXES PAID AS MAY BE REASONABLY APPORTIONED TO SUCH RESI-  
46 DENCE. IF A HOUSEHOLD OWNS AND OCCUPIES TWO OR MORE RESIDENCES DURING  
47 DIFFERENT PERIODS IN THE SAME TAXABLE YEAR, QUALIFYING REAL PROPERTY  
48 TAXES SHALL BE THE SUM OF THE PRORATED QUALIFYING REAL PROPERTY TAXES  
49 ATTRIBUTABLE TO THE HOUSEHOLD DURING THE PERIODS SUCH HOUSEHOLD OCCUPIES  
50 EACH OF SUCH RESIDENCES. IF THE HOUSEHOLD OWNS AND OCCUPIES A RESIDENCE  
51 FOR PART OF THE TAXABLE YEAR AND RENTS A RESIDENCE FOR PART OF THE SAME  
52 TAXABLE YEAR, IT MAY INCLUDE THE PRORATION OF QUALIFYING REAL PROPERTY  
53 TAXES ON THE RESIDENCE OWNED. PROVIDED, HOWEVER, FOR PURPOSES OF THE  
54 CREDIT ALLOWED UNDER THIS SUBSECTION, QUALIFYING REAL PROPERTY TAXES MAY  
55 BE INCLUDED BY A QUALIFIED TAXPAYER ONLY TO THE EXTENT THAT SUCH TAXPAY-  
56 ER OR THE SPOUSE OF SUCH TAXPAYER, OCCUPYING SUCH RESIDENCE FOR ONE



HUNDRED EIGHTY-THREE DAYS OR MORE OF THE TAXABLE YEAR, OWNS OR HAS OWNED THE RESIDENCE AND PAID SUCH TAXES.

(F) "REAL PROPERTY TAX EQUIVALENT" MEANS FIFTEEN AND THREE-QUARTERS PERCENT OF THE ADJUSTED RENT ACTUALLY PAID IN THE TAXABLE YEAR BY A HOUSEHOLD SOLELY FOR THE RIGHT OF OCCUPANCY OF ITS NEW YORK RESIDENCE FOR THE TAXABLE YEAR. IF (I) A RESIDENCE IS RENTED TO TWO OR MORE INDIVIDUALS AS COTENANTS, OR SUCH INDIVIDUALS SHARE IN THE PAYMENT OF A SINGLE RENT FOR THE RIGHT OF OCCUPANCY OF SUCH RESIDENCE, AND (II) EACH OF SUCH INDIVIDUALS IS A MEMBER OF A DIFFERENT HOUSEHOLD, ONE OR MORE OF WHICH INDIVIDUALS SHARES SUCH RESIDENCE, REAL PROPERTY TAX EQUIVALENT IS THAT PORTION OF FIFTEEN AND THREE-QUARTERS PERCENT OF THE ADJUSTED RENT PAID IN THE TAXABLE YEAR WHICH REFLECTS THAT PORTION OF THE RENT ATTRIBUTABLE TO THE QUALIFIED TAXPAYER AND THE MEMBERS OF HIS OR HER HOUSEHOLD.

(G) "ADJUSTED RENT" MEANS RENTAL PAID FOR THE RIGHT OF OCCUPANCY OF A RESIDENCE, EXCLUDING CHARGES FOR HEAT, GAS, ELECTRICITY, FURNISHINGS AND BOARD. WHERE CHARGES FOR HEAT, GAS, ELECTRICITY, FURNISHINGS OR BOARD ARE INCLUDED IN RENTAL BUT WHERE SUCH CHARGES AND THE AMOUNT THEREOF ARE NOT SEPARATELY SET FORTH IN A WRITTEN RENTAL AGREEMENT, FOR PURPOSES OF DETERMINING ADJUSTED RENT THE QUALIFIED TAXPAYER SHALL REDUCE RENTAL PAID AS FOLLOWS:

(I) FOR HEAT, OR HEAT AND GAS, DEDUCT SIX PERCENT OF RENTAL PAID.

(II) FOR HEAT, GAS AND ELECTRICITY, DEDUCT EIGHT PERCENT OF RENTAL PAID.

(III) FOR HEAT, GAS, ELECTRICITY AND FURNISHINGS, DEDUCT TEN PERCENT OF RENTAL PAID.

(IV) FOR HEAT, GAS, ELECTRICITY, FURNISHINGS AND BOARD, DEDUCT TWENTY PERCENT OF RENTAL PAID.

IF THE COMMISSIONER DETERMINES THAT THE ADJUSTED RENT SHOWN ON THE RETURN IS EXCESSIVE, THE COMMISSIONER MAY REDUCE SUCH RENT, FOR PURPOSES OF THE COMPUTATION OF THE CREDIT, TO AN AMOUNT SUBSTANTIALLY EQUIVALENT TO RENT FOR A COMPARABLE ACCOMMODATION.

(2) A QUALIFIED TAXPAYER SHALL BE ALLOWED A CREDIT AS PROVIDED IN PARAGRAPH THREE OF THIS SUBSECTION AGAINST THE TAXES IMPOSED BY THIS ARTICLE REDUCED BY THE CREDITS PERMITTED BY THIS ARTICLE. IF THE CREDIT EXCEEDS THE TAX AS SO REDUCED FOR SUCH YEAR UNDER THIS ARTICLE, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT, TO BE CREDITED OR REFUNDED, WITHOUT INTEREST. IF A QUALIFIED TAXPAYER IS NOT REQUIRED TO FILE A RETURN PURSUANT TO SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE, A QUALIFIED TAXPAYER MAY NEVERTHELESS RECEIVE THE FULL AMOUNT OF THE CREDIT TO BE CREDITED OR REPAYED AS AN OVERPAYMENT, WITHOUT INTEREST.

(3) DETERMINATION OF CREDIT. FOR TAXABLE YEARS AFTER TWO THOUSAND THIRTEEN AND PRIOR TO TWO THOUSAND SIXTEEN, THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBSECTION SHALL BE DETERMINED AS FOLLOWS:

IF HOUSEHOLD GROSS INCOME	EXCESS REAL PROPERTY TAXES ARE THE EXCESS OF REAL PROPERTY TAX EQUIVALENT OR THE EXCESS OF QUALIFYING REAL PROPERTY TAXES OVER THE FOLLOWING PERCENTAGE OF HOUSEHOLD GROSS INCOME:	THE CREDIT AMOUNT IS THE FOLLOWING PERCENTAGE OF EXCESS PROPERTY TAXES:
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LESS THAN \$100,000	4	4.5
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\$100,000 TO LESS THAN	5	3.0
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1 \$150,000

2 \$150,000 TO LESS THAN

6

1.5

3 \$200,000

4 NOTWITHSTANDING THE FOREGOING PROVISIONS, THE MAXIMUM CREDIT DETER-  
5 MINED UNDER THIS SUBPARAGRAPH MAY NOT EXCEED FIVE HUNDRED DOLLARS.

6 (4) IF A QUALIFIED TAXPAYER OCCUPIES A RESIDENCE FOR A PERIOD OF LESS  
7 THAN TWELVE MONTHS DURING THE TAXABLE YEAR OR OCCUPIES TWO OR MORE RESI-  
8 DENCES DURING DIFFERENT PERIODS IN SUCH TAXABLE YEAR, THE CREDIT ALLOWED  
9 PURSUANT TO THIS SUBSECTION SHALL BE COMPUTED IN SUCH MANNER AS THE  
10 COMMISSIONER MAY, BY REGULATION, PRESCRIBE IN ORDER TO PROPERLY REFLECT  
11 THE CREDIT OR PORTION THEREOF ATTRIBUTABLE TO SUCH RESIDENCE OR RESI-  
12 DENCES AND SUCH PERIOD OR PERIODS.

13 (5) THE COMMISSIONER MAY PRESCRIBE THAT THE CREDIT UNDER THIS  
14 SUBSECTION SHALL BE DETERMINED IN WHOLE OR IN PART BY THE USE OF TABLES  
15 PRESCRIBED BY SUCH COMMISSIONER. SUCH TABLES SHALL SET FORTH THE CREDIT  
16 TO THE NEAREST DOLLAR.

17 (6) ONLY ONE CREDIT PER HOUSEHOLD AND PER QUALIFIED TAXPAYER SHALL BE  
18 ALLOWED PER TAXABLE YEAR UNDER THIS SUBSECTION. WHEN TWO OR MORE MEMBERS  
19 OF A HOUSEHOLD ARE ABLE TO MEET THE QUALIFICATIONS FOR A QUALIFIED  
20 TAXPAYER, THE CREDIT SHALL BE EQUALLY DIVIDED BETWEEN OR AMONG SUCH  
21 INDIVIDUALS UNLESS SUCH INDIVIDUALS FILE WITH THE COMMISSIONER A WRITTEN  
22 AGREEMENT AMONG SUCH INDIVIDUALS SETTING FORTH A DIFFERENT DIVISION.

23 (A) PROVIDED, HOWEVER, WHERE A JOINT INCOME TAX RETURN HAS BEEN FILED  
24 PURSUANT TO THE PROVISIONS OF SECTION SIX HUNDRED FIFTY-ONE OF THIS  
25 ARTICLE BY A QUALIFIED TAXPAYER AND HIS OR HER SPOUSE (OR WHERE BOTH  
26 SPOUSES ARE QUALIFIED TAXPAYERS AND HAVE FILED SUCH JOINT RETURN), THE  
27 CREDIT, OR THE PORTION OF THE CREDIT IF DIVIDED, TO WHICH THE SPOUSES  
28 ARE ENTITLED SHALL BE APPLIED AGAINST THE TAX OF BOTH SPOUSES AND ANY  
29 OVERPAYMENT SHALL BE MADE TO BOTH SPOUSES.

30 (B) WHERE ANY RETURN REQUIRED TO BE FILED PURSUANT TO THE PROVISIONS  
31 OF SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE IS COMBINED WITH ANY  
32 RETURN OF TAX IMPOSED PURSUANT TO THE AUTHORITY OF THIS CHAPTER OR ANY  
33 OTHER LAW IF SUCH TAX IS ADMINISTERED BY THE COMMISSIONER, THE CREDIT OR  
34 THE PORTION OF THE CREDIT IF DIVIDED, ALLOWED TO THE QUALIFIED TAXPAYER  
35 MAY BE APPLIED BY THE COMMISSIONER TOWARD ANY LIABILITY FOR THE AFORE-  
36 MENTIONED TAXES.

37 (7) NO CREDIT SHALL BE GRANTED UNDER THIS SUBSECTION:

38 (A) IF HOUSEHOLD GROSS INCOME FOR THE TAXABLE YEAR EQUALS OR EXCEEDS  
39 TWO HUNDRED THOUSAND DOLLARS.

40 (B) TO A PROPERTY OWNER UNLESS: (I) THE PROPERTY IS USED FOR RESIDEN-  
41 TIAL PURPOSES, (II) NOT MORE THAN TWENTY PERCENT OF THE RENTAL INCOME,  
42 IF ANY, FROM THE PROPERTY IS FROM RENTAL FOR NONRESIDENTIAL PURPOSES AND  
43 (III) THE PROPERTY IS OCCUPIED AS A RESIDENCE IN WHOLE OR IN PART BY ONE  
44 OR MORE OF THE OWNERS OF THE PROPERTY.

45 (C) TO AN INDIVIDUAL WITH RESPECT TO WHOM A DEDUCTION UNDER SUBSECTION  
46 (C) OF SECTION ONE HUNDRED FIFTY-ONE OF THE INTERNAL REVENUE CODE IS  
47 ALLOWABLE TO ANOTHER TAXPAYER FOR THE TAXABLE YEAR.

48 (D) WITH RESPECT TO A RESIDENCE THAT IS WHOLLY EXEMPTED FROM REAL  
49 PROPERTY TAXATION.

50 (E) TO AN INDIVIDUAL WHO IS NOT A RESIDENT INDIVIDUAL OF A CITY, WITH-  
51 IN THE STATE, WITH A POPULATION OVER ONE MILLION, FOR THE ENTIRE TAXABLE  
52 YEAR.

53 (8) THE RIGHT TO CLAIM A CREDIT OR THE PORTION OF A CREDIT, WHERE SUCH  
54 CREDIT HAS BEEN DIVIDED UNDER THIS SUBSECTION, SHALL BE PERSONAL TO THE  
55 QUALIFIED TAXPAYER AND SHALL NOT SURVIVE HIS OR HER DEATH, BUT SUCH

1 RIGHT MAY BE EXERCISED ON BEHALF OF A CLAIMANT BY HIS OR HER LEGAL GUAR-  
2 DIAN OR ATTORNEY IN FACT DURING HIS OR HER LIFETIME.

3 (9) RETURNS. IF A QUALIFIED TAXPAYER IS NOT REQUIRED TO FILE A RETURN  
4 PURSUANT TO SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE, A CLAIM FOR A  
5 CREDIT MAY BE TAKEN ON A RETURN FILED WITH THE COMMISSIONER WITHIN THREE  
6 YEARS FROM THE TIME IT WOULD HAVE BEEN REQUIRED THAT A RETURN BE FILED  
7 PURSUANT TO SUCH SECTION HAD THE QUALIFIED TAXPAYER HAD A TAXABLE YEAR  
8 ENDING ON DECEMBER THIRTY-FIRST. RETURNS UNDER THIS PARAGRAPH SHALL BE  
9 IN SUCH FORM AS SHALL BE PRESCRIBED BY THE COMMISSIONER, WHICH SHALL  
10 MAKE AVAILABLE SUCH FORMS AND INSTRUCTIONS FOR FILING SUCH RETURNS.

11 (10) PROOF OF CLAIM. THE COMMISSIONER MAY REQUIRE A QUALIFIED TAXPAYER  
12 TO FURNISH THE FOLLOWING INFORMATION IN SUPPORT OF HIS CLAIM FOR CREDIT  
13 UNDER THIS SUBSECTION: HOUSEHOLD GROSS INCOME, REAL PROPERTY TAXES  
14 LEVIED OR THAT WOULD HAVE BEEN LEVIED IN THE ABSENCE OF AN EXEMPTION  
15 FROM REAL PROPERTY TAX PURSUANT TO SECTION FOUR HUNDRED SIXTY-SEVEN OF  
16 THE REAL PROPERTY TAX LAW, THE NAMES OF MEMBERS OF THE HOUSEHOLD AND  
17 OTHER QUALIFYING TAXPAYERS OCCUPYING THE SAME RESIDENCE AND THEIR IDEN-  
18 TIFYING NUMBERS INCLUDING SOCIAL SECURITY NUMBERS, HOUSEHOLD GROSS  
19 INCOME, SIZE AND NATURE OF PROPERTY CLAIMED AS RESIDENCE AND ALL OTHER  
20 INFORMATION WHICH MAY BE REQUIRED BY THE COMMISSIONER TO DETERMINE THE  
21 CREDIT.

22 (11) ADMINISTRATION. THE PROVISIONS OF THIS ARTICLE, INCLUDING THE  
23 PROVISIONS OF SECTIONS SIX HUNDRED FIFTY-THREE, SIX HUNDRED FIFTY-EIGHT,  
24 AND SIX HUNDRED FIFTY-NINE OF THIS ARTICLE AND THE PROVISIONS OF PART  
25 SIX OF THIS ARTICLE RELATING TO PROCEDURE AND ADMINISTRATION, INCLUDING  
26 THE JUDICIAL REVIEW OF THE DECISIONS OF THE COMMISSIONER, EXCEPT SO MUCH  
27 OF SECTION SIX HUNDRED EIGHTY-SEVEN OF THIS ARTICLE WHICH PERMITS A  
28 CLAIM FOR CREDIT OR REFUND TO BE FILED AFTER THE PERIOD PROVIDED FOR IN  
29 PARAGRAPH NINE OF THIS SUBSECTION AND EXCEPT SECTIONS SIX HUNDRED  
30 FIFTY-SEVEN, SIX HUNDRED EIGHTY-EIGHT AND SIX HUNDRED NINETY-SIX OF THIS  
31 ARTICLE, SHALL APPLY TO THE PROVISIONS OF THIS SUBSECTION IN THE SAME  
32 MANNER AND WITH THE SAME FORCE AND EFFECT AS IF THE LANGUAGE OF THOSE  
33 PROVISIONS HAD BEEN INCORPORATED IN FULL INTO THIS SUBSECTION AND HAD  
34 EXPRESSLY REFERRED TO THE CREDIT ALLOWED OR RETURNS FILED UNDER THIS  
35 SUBSECTION, EXCEPT TO THE EXTENT THAT ANY SUCH PROVISION IS EITHER  
36 INCONSISTENT WITH A PROVISION OF THIS SUBSECTION OR IS NOT RELEVANT TO  
37 THIS SUBSECTION. AS USED IN SUCH SECTIONS AND SUCH PART, THE TERM  
38 "TAXPAYER" SHALL INCLUDE A QUALIFIED TAXPAYER UNDER THIS SUBSECTION AND,  
39 NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (E) OF SECTION SIX HUNDRED  
40 NINETY-SEVEN OF THIS ARTICLE, WHERE A QUALIFIED TAXPAYER HAS PROTESTED  
41 THE DENIAL OF A CLAIM FOR CREDIT UNDER THIS SUBSECTION AND THE TIME TO  
42 FILE A PETITION FOR REDETERMINATION OF A DEFICIENCY OR FOR REFUND HAS  
43 NOT EXPIRED, HE SHALL, SUBJECT TO SUCH CONDITIONS AS MAY BE SET BY THE  
44 COMMISSIONER, RECEIVE SUCH INFORMATION (A) WHICH IS CONTAINED IN ANY  
45 RETURN FILED UNDER THIS ARTICLE BY A MEMBER OF HIS OR HER HOUSEHOLD FOR  
46 THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED, AND (B) WHICH THE  
47 COMMISSIONER FINDS IS RELEVANT AND MATERIAL TO THE ISSUE OF WHETHER SUCH  
48 CLAIM WAS PROPERLY DENIED.

49 (12) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE CREDIT  
50 ALLOWED UNDER THIS SUBSECTION SHALL BE DETERMINED AFTER THE DETERMI-  
51 NATION AND APPLICATION OF ANY OTHER CREDITS PERMITTED UNDER THE  
52 PROVISIONS OF THIS ARTICLE.

53 (13) THE COMMISSIONER SHALL PREPARE A WRITTEN REPORT AFTER DECEMBER  
54 THIRTY-FIRST OF EACH CALENDAR YEAR, WHICH SHALL CONTAIN STATISTICAL  
55 INFORMATION REGARDING THE CREDITS GRANTED ON OR BEFORE SUCH DATES UNDER  
56 THIS SUBSECTION DURING SUCH CALENDAR YEAR. COPIES OF THE REPORT SHALL BE

SUBMITTED BY THE COMMISSIONER TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE CHAIRMAN OF THE SENATE FINANCE COMMITTEE AND THE CHAIRMAN OF THE ASSEMBLY WAYS AND MEANS COMMITTEE WITHIN FORTY-FIVE DAYS OF DECEMBER THIRTY-FIRST. SUCH REPORT SHALL CONTAIN, BUT NEED NOT BE LIMITED TO, THE NUMBER OF CREDITS AND THE AVERAGE AMOUNT OF SUCH CREDITS ALLOWED; AND OF THOSE, THE NUMBER OF CREDITS AND THE AVERAGE AMOUNT OF SUCH CREDITS ALLOWED TO QUALIFIED TAXPAYERS IN EACH COUNTY; AND OF THOSE, THE NUMBER OF CREDITS AND THE AVERAGE AMOUNT OF SUCH CREDITS ALLOWED TO QUALIFIED TAXPAYERS WHOSE HOUSEHOLD GROSS INCOME FALLS WITHIN EACH OF THE HOUSEHOLD GROSS INCOME RANGES SET FORTH IN PARAGRAPH THREE OF THIS SUBSECTION.

S 3. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2014 and shall expire and be deemed repealed January 1, 2016.

PART L

Intentionally Omitted

PART M

Section 1. Paragraphs 2, 4 and 5 of subsection (vv) of section 606 of the tax law, as added by section 1 of part CC of chapter 59 of the laws of 2013, are amended to read as follows:

2. To be eligible for the credit, the taxpayer (or taxpayers filing joint returns) on the personal income tax return filed for the taxable year [two years prior], must [have] (a) [been] BE a resident, (b) [claimed] CLAIM one or more dependent children who were under the age of seventeen on the last day of the taxable year, (c) [had] HAVE New York adjusted gross income of at least forty thousand dollars but no greater than three hundred thousand dollars, and (d) [had] HAVE a tax liability as determined under paragraph three of this subsection of greater than or equal to zero.

4. [For each year this credit is allowed, on or before October fifteenth of such year, the commissioner shall determine the taxpayer's eligibility for this credit utilizing the information available to the commissioner on the taxpayer's personal income tax return filed for the taxable year two years prior to the taxable year in which the credit is allowed. For those taxpayers whom the commissioner has determined eligible for this credit, the commissioner shall advance a payment of three hundred fifty dollars. When a taxpayer files his or her return for the taxable year, such taxpayer shall properly reconcile that payment on his or her return.

5.] If the amount of the credit allowed under this subsection shall exceed the taxpayer's tax for the taxable year, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of SECTION six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

S 2. This act shall take effect immediately and apply to taxable years beginning on or after January 1, 2015.

PART N

Intentionally Omitted

1

## PART O

2 Section 1. Paragraph 1 of subdivision (a) of section 28 of the tax  
3 law, as amended by section 1 of part I of chapter 59 of the laws of  
4 2012, is amended to read as follows:

5 (1) A taxpayer which is a qualified commercial production company, or  
6 which is a sole proprietor of a qualified commercial production company,  
7 and which is subject to tax under article nine-A or twenty-two of this  
8 chapter, shall be allowed a credit against such tax, pursuant to the  
9 provisions referenced in subdivision (c) of this section, to be computed  
10 as provided in this section. Provided, however, to be eligible for such  
11 credit, at least seventy-five percent of the production costs (excluding  
12 post production costs) paid or incurred directly and predominantly in  
13 the actual filming or recording of the qualified commercial must be  
14 costs incurred in New York state. The tax credit allowed pursuant to  
15 this section shall apply to taxable years beginning before January  
16 first, two thousand [fifteen] SEVENTEEN.

17 S 2. Subparagraph (iii) of paragraph 2 of subdivision (a) of section  
18 28 of the tax law, as amended by section 2 of part I of chapter 59 of  
19 the laws of 2012, is amended to read as follows:

20 (iii) The state annually will disburse three million of the total  
21 seven million in tax credits to all eligible production companies who  
22 film or record a qualified commercial outside of the metropolitan commu-  
23 ter transportation district as defined in section twelve hundred sixty-  
24 two of the public authorities law; provided, however, that if, after  
25 JULY THIRTY-FIRST the state reviews all applications from eligible  
26 production companies who film or record a qualified commercial outside  
27 of the metropolitan commuter district for a given year, tax credits  
28 remain unallocated under this subparagraph, those credits shall be  
29 allotted to the credits set forth in subparagraph (i) of this paragraph  
30 for use consistent with the purposes of such subparagraph. The amount of  
31 the credit shall be the product (or pro rata share of the product, in  
32 the case of a member of a partnership) of five percent of the qualified  
33 production costs paid or incurred in the production of a qualified  
34 commercial, provided that the qualified production costs paid or  
35 incurred are attributable to the use of tangible property or the  
36 performance of services within the state in the production of such qual-  
37 ified commercial. To be eligible for said credit the total qualified  
38 production costs of a qualified production company must be greater than  
39 [two] ONE hundred thousand dollars in the aggregate during the calendar  
40 year. Such credit will be applied to qualified production costs exceed-  
41 ing [two] ONE hundred thousand dollars in a calendar year.

42 S 3. Paragraph (a) of subdivision 38 of section 210 of the tax law,  
43 as amended by section 3 of part I of chapter 59 of the laws of 2012, is  
44 amended to read as follows:

45 (a) Allowance of credit. A taxpayer that is eligible pursuant to  
46 provisions of section twenty-eight of this chapter shall be allowed a  
47 credit to be computed as provided in such section against the tax  
48 imposed by this article. The tax credit allowed pursuant to this section  
49 shall apply to taxable years beginning before January first, two thou-  
50 sand [fifteen] SEVENTEEN.

51 S 4. Paragraph 1 of subsection (jj) of section 606 of the tax law, as  
52 amended by section 4 of part I of chapter 59 of the laws of 2012, is  
53 amended to read as follows:

54 (1) Allowance of credit. A taxpayer that is eligible pursuant to the  
55 provisions of section twenty-eight of this chapter shall be allowed a

1 credit to be computed as provided in such section against the tax  
2 imposed by this article. The tax credit allowed pursuant to this section  
3 shall apply to taxable years beginning before January first, two thou-  
4 sand [fifteen] SEVENTEEN.

5 S 5. This act shall take effect immediately.

6 PART P

7 Section 1. Subdivision 4 of section 22 of the public housing law, as  
8 amended by section 2 of part J of chapter 59 of the laws of 2012, is  
9 amended to read as follows:

10 4. Statewide limitation. The aggregate dollar amount of credit which  
11 the commissioner may allocate to eligible low-income buildings under  
12 this article shall be [forty-eight] FIFTY-SIX million dollars. The limi-  
13 tation provided by this subdivision applies only to allocation of the  
14 aggregate dollar amount of credit by the commissioner, and does not  
15 apply to allowance to a taxpayer of the credit with respect to an eligi-  
16 ble low-income building for each year of the credit period.

17 S 2. Subdivision 4 of section 22 of the public housing law, as amended  
18 by section one of this act, is amended to read as follows:

19 4. Statewide limitation. The aggregate dollar amount of credit which  
20 the commissioner may allocate to eligible low-income buildings under  
21 this article shall be [fifty-six] SIXTY-FOUR million dollars. The limi-  
22 tation provided by this subdivision applies only to allocation of the  
23 aggregate dollar amount of credit by the commissioner, and does not  
24 apply to allowance to a taxpayer of the credit with respect to an eligi-  
25 ble low-income building for each year of the credit period.

26 S 3. This act shall take effect immediately; provided, however, that  
27 section two of this act shall take effect April 1, 2015.

28 PART Q

29 Intentionally Omitted

30 PART R

31 Section 1. Section 210 of the tax law is amended by adding a new  
32 subdivision 48 to read as follows:

33 48. REAL PROPERTY TAX CREDIT FOR MANUFACTURERS. (A) A QUALIFIED NEW  
34 YORK MANUFACTURER, AS DEFINED IN SUBPARAGRAPH (VI) OF PARAGRAPH (A) OF  
35 SUBDIVISION ONE OF THIS SECTION, WILL BE ALLOWED A CREDIT EQUAL TO TWEN-  
36 TY PERCENT OF THE REAL PROPERTY TAX IT PAID DURING THE TAXABLE YEAR FOR  
37 REAL PROPERTY OWNED BY SUCH MANUFACTURER IN NEW YORK WHICH WAS PRINCI-  
38 PALLY USED DURING THE TAXABLE YEAR FOR MANUFACTURING TO THE EXTENT NOT  
39 DEDUCTED IN DETERMINING ENTIRE NET INCOME. THIS CREDIT WILL NOT BE  
40 ALLOWED IF THE REAL PROPERTY TAXES THAT ARE THE BASIS FOR THIS CREDIT  
41 ARE INCLUDED IN THE CALCULATION OF ANOTHER CREDIT CLAIMED BY THE TAXPAY-  
42 ER.

43 (B) (1) FOR PURPOSES OF THIS SUBDIVISION, THE TERM REAL PROPERTY TAX  
44 MEANS A CHARGE IMPOSED UPON REAL PROPERTY BY OR ON BEHALF OF A COUNTY,  
45 CITY, TOWN, VILLAGE OR SCHOOL DISTRICT FOR MUNICIPAL OR SCHOOL DISTRICT  
46 PURPOSES, PROVIDED THAT THE CHARGE IS LEVIED FOR THE GENERAL PUBLIC  
47 WELFARE BY THE PROPER TAXING AUTHORITIES AT A LIKE RATE AGAINST ALL  
48 PROPERTY OVER WHICH SUCH AUTHORITIES HAVE JURISDICTION, AND PROVIDED  
49 THAT WHERE TAXES ARE LEVIED PURSUANT TO ARTICLE EIGHTEEN OR NINETEEN OF

1 THE REAL PROPERTY TAX LAW, THE PROPERTY MUST HAVE BEEN TAXED AT THE RATE  
2 DETERMINED FOR THE CLASS IN WHICH IT IS CONTAINED, AS PROVIDED BY SUCH  
3 ARTICLE EIGHTEEN OR NINETEEN, WHICHEVER IS APPLICABLE. THE TERM REAL  
4 PROPERTY TAX DOES NOT INCLUDE A CHARGE FOR LOCAL BENEFITS, INCLUDING ANY  
5 PORTION OF THAT CHARGE THAT IS PROPERLY ALLOCATED TO THE COSTS ATTRIBUT-  
6 ABLE TO MAINTENANCE OR INTEREST, WHEN (I) THE PROPERTY SUBJECT TO THE  
7 CHARGE IS LIMITED TO THE PROPERTY THAT BENEFITS FROM THE CHARGE, OR (II)  
8 THE AMOUNT OF THE CHARGE IS DETERMINED BY THE BENEFIT TO THE PROPERTY  
9 ASSESSED, OR (III) THE IMPROVEMENT FOR WHICH THE CHARGE IS ASSESSED  
10 TENDS TO INCREASE THE PROPERTY VALUE.

11 (2) IN ADDITION, THE TERM REAL PROPERTY TAX INCLUDES TAXES PAID BY THE  
12 TAXPAYER UPON REAL PROPERTY PRINCIPALLY USED DURING THE TAXABLE YEAR BY  
13 THE TAXPAYER IN MANUFACTURING WHERE THE TAXPAYER LEASES SUCH REAL PROP-  
14 ERTY FROM AN UNRELATED THIRD PARTY IF THE FOLLOWING CONDITIONS ARE  
15 SATISFIED: (I) THE TAX MUST BE PAID BY THE TAXPAYER AS LESSEE PURSUANT  
16 TO EXPLICIT REQUIREMENTS IN A WRITTEN LEASE, AND (II) THE TAXPAYER AS  
17 LESSEE HAS PAID SUCH TAXES DIRECTLY TO THE TAXING AUTHORITY AND HAS  
18 RECEIVED A WRITTEN RECEIPT FOR PAYMENT OF TAXES FROM THE TAXING AUTHORI-  
19 TY. IN THE CASE OF A COMBINED GROUP THAT CONSTITUTES A QUALIFIED NEW  
20 YORK MANUFACTURER, THE CONDITIONS IN THE PRECEDING SENTENCE ARE SATIS-  
21 FIED IF ONE CORPORATION IN THE COMBINED GROUP IS THE LESSEE AND ANOTHER  
22 CORPORATION IN THE COMBINED GROUP MAKES THE PAYMENTS TO THE TAXING  
23 AUTHORITY.

24 (3) THE TERM REAL PROPERTY TAX DOES NOT INCLUDE A PAYMENT MADE BY THE  
25 TAXPAYER IN CONNECTION WITH AN AGREEMENT FOR THE PAYMENT IN LIEU OF  
26 TAXES ON REAL PROPERTY, WHETHER SUCH PROPERTY IS OWNED OR LEASED BY THE  
27 TAXPAYER.

28 (4) THE REAL PROPERTY TAXES MUST BE PAID BY THE TAXPAYER IN THE YEAR  
29 SUCH TAXES BECOME A LIEN ON THE REAL PROPERTY.

30 (C) CREDIT RECAPTURE. WHERE A QUALIFIED NEW YORK MANUFACTURER'S REAL  
31 PROPERTY TAXES WHICH WERE THE BASIS FOR THE ALLOWANCE OF THE CREDIT  
32 PROVIDED FOR UNDER THIS SUBDIVISION ARE SUBSEQUENTLY REDUCED AS A RESULT  
33 OF A FINAL ORDER IN ANY PROCEEDING UNDER ARTICLE SEVEN OF THE REAL PROP-  
34 ERTY TAX LAW OR OTHER PROVISION OF LAW, THE TAXPAYER SHALL ADD BACK, IN  
35 THE TAXABLE YEAR IN WHICH SUCH FINAL ORDER IS ISSUED, THE EXCESS OF (1)  
36 THE AMOUNT OF CREDIT ORIGINALLY ALLOWED FOR A TAXABLE YEAR OVER (2) THE  
37 AMOUNT OF CREDIT DETERMINED BASED UPON THE REDUCED REAL PROPERTY TAXES.  
38 IF SUCH FINAL ORDER REDUCES REAL PROPERTY TAXES FOR MORE THAN ONE YEAR,  
39 THE TAXPAYER MUST DETERMINE HOW MUCH OF SUCH REDUCTION IS ATTRIBUTABLE  
40 TO EACH YEAR COVERED BY SUCH FINAL ORDER AND CALCULATE THE AMOUNT OF  
41 CREDIT WHICH IS REQUIRED BY THIS SUBDIVISION TO BE RECAPTURED FOR EACH  
42 YEAR BASED ON SUCH REDUCTION.

43 (D) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR  
44 SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN TWENTY-FIVE  
45 DOLLARS.

46 S 2. Paragraph (b) of subdivision 9 of section 208 of the tax law is  
47 amended by adding a new subparagraph 21 to read as follows:

48 (21) THE AMOUNT OF ANY FEDERAL DEDUCTION FOR REAL PROPERTY TAXES TO  
49 THE EXTENT SUCH TAXES ARE USED AS THE BASIS OF THE CALCULATION OF THE  
50 REAL PROPERTY TAX CREDIT FOR MANUFACTURERS ALLOWED UNDER SUBDIVISION  
51 FORTY-EIGHT OF SECTION TWO HUNDRED TEN OF THIS ARTICLE.

52 S 3. Subparagraph (B) of paragraph 1 of subsection (i) of section 606  
53 of the tax law is amended by adding a new clause (xxviii) to read as  
54 follows:

55 (XXXVIII) REAL PROPERTY TAX

AMOUNT OF CREDIT UNDER

1 CREDIT FOR MANUFACTURERS UNDER SUBDIVISION FORTY-EIGHT OF  
2 SUBSECTION (XX) SECTION TWO HUNDRED TEN

3 S 4. Subsections (yy) and (zz) of section 606 of the tax law, as  
4 relettered by section 5 of part H of chapter 1 of the laws of 2003, are  
5 relettered subsections (yyy) and (zzz) and a new subsection (xx) is  
6 added to read as follows:

7 (XX) REAL PROPERTY TAX CREDIT FOR MANUFACTURERS. (1) A QUALIFIED NEW  
8 YORK MANUFACTURER WILL BE ALLOWED A CREDIT EQUAL TO TWENTY PERCENT OF  
9 THE REAL PROPERTY TAX IT PAID DURING THE TAXABLE YEAR FOR REAL PROPERTY  
10 OWNED BY SUCH MANUFACTURER IN NEW YORK WHICH WAS PRINCIPALLY USED DURING  
11 THE TAXABLE YEAR FOR MANUFACTURING TO THE EXTENT NOT DEDUCTED IN COMPUT-  
12 ING FEDERAL ADJUSTED GROSS INCOME. THIS CREDIT WILL NOT BE ALLOWED IF  
13 THE REAL PROPERTY TAXES THAT ARE THE BASIS FOR THIS CREDIT ARE INCLUDED  
14 IN THE CALCULATION OF ANOTHER CREDIT CLAIMED BY THE TAXPAYER.

15 (2)(A) THE TERM QUALIFIED NEW YORK MANUFACTURER HAS THE SAME MEANING  
16 AS UNDER SUBPARAGRAPH (VI) OF PARAGRAPH (A) OF SUBDIVISION ONE OF  
17 SECTION TWO HUNDRED TEN OF THIS CHAPTER.

18 (B) (I) THE TERM REAL PROPERTY TAX MEANS A CHARGE IMPOSED UPON REAL  
19 PROPERTY BY OR ON BEHALF OF A COUNTY, CITY, TOWN, VILLAGE OR SCHOOL  
20 DISTRICT FOR MUNICIPAL OR SCHOOL DISTRICT PURPOSES, PROVIDED THAT THE  
21 CHARGE IS LEVIED FOR THE GENERAL PUBLIC WELFARE BY THE PROPER TAXING  
22 AUTHORITIES AT A LIKE RATE AGAINST ALL PROPERTY OVER WHICH SUCH AUTHORI-  
23 TIES HAVE JURISDICTION, AND PROVIDED THAT WHERE TAXES ARE LEVIED PURSU-  
24 ANT TO ARTICLE EIGHTEEN OR NINETEEN OF THE REAL PROPERTY TAX LAW, THE  
25 PROPERTY MUST HAVE BEEN TAXED AT THE RATE DETERMINED FOR THE CLASS IN  
26 WHICH IT IS CONTAINED, AS PROVIDED BY SUCH ARTICLE EIGHTEEN OR NINETEEN,  
27 WHICHEVER IS APPLICABLE. THE TERM REAL PROPERTY TAX DOES NOT INCLUDE A  
28 CHARGE FOR LOCAL BENEFITS, INCLUDING ANY PORTION OF THAT CHARGE THAT IS  
29 PROPERLY ALLOCATED TO THE COSTS ATTRIBUTABLE TO MAINTENANCE OR INTEREST,  
30 WHEN (I) THE PROPERTY SUBJECT TO THE CHARGE IS LIMITED TO THE PROPERTY  
31 THAT BENEFITS FROM THE CHARGE, OR (II) THE AMOUNT OF THE CHARGE IS  
32 DETERMINED BY THE BENEFIT TO THE PROPERTY ASSESSED, OR (III) THE  
33 IMPROVEMENT FOR WHICH THE CHARGE IS ASSESSED TENDS TO INCREASE THE PROP-  
34 erty value.

35 (II) IN ADDITION, THE TERM REAL PROPERTY TAX INCLUDES TAXES PAID BY  
36 THE TAXPAYER UPON REAL PROPERTY PRINCIPALLY USED DURING THE TAXABLE YEAR  
37 BY THE TAXPAYER IN MANUFACTURING WHERE THE TAXPAYER LEASES SUCH REAL  
38 PROPERTY FROM AN UNRELATED THIRD PARTY IF THE FOLLOWING CONDITIONS ARE  
39 SATISFIED: (I) THE TAX MUST BE PAID BY THE TAXPAYER AS LESSEE PURSUANT  
40 TO EXPLICIT REQUIREMENTS IN A WRITTEN LEASE, AND (II) THE TAXPAYER AS  
41 LESSEE HAS PAID SUCH TAXES DIRECTLY TO THE TAXING AUTHORITY AND HAS  
42 RECEIVED A WRITTEN RECEIPT FOR PAYMENT OF TAXES FROM THE TAXING AUTHORI-  
43 TY. IN THE CASE OF A COMBINED GROUP THAT CONSTITUTES A QUALIFIED NEW  
44 YORK MANUFACTURER, THE CONDITIONS IN THE PRECEDING SENTENCE ARE SATIS-  
45 FIED IF ONE CORPORATION IN THE COMBINED GROUP IS THE LESSEE AND ANOTHER  
46 CORPORATION IN THE COMBINED GROUP MAKES THE PAYMENTS TO THE TAXING  
47 AUTHORITY.

48 (III) THE TERM REAL PROPERTY TAX DOES NOT INCLUDE A PAYMENT MADE BY  
49 THE TAXPAYER IN CONNECTION WITH AN AGREEMENT FOR THE PAYMENT IN LIEU OF  
50 TAXES ON REAL PROPERTY, WHETHER SUCH PROPERTY IS OWNED OR LEASED BY THE  
51 TAXPAYER.

52 (IV) THE REAL PROPERTY TAXES MUST BE PAID BY THE TAXPAYER IN THE YEAR  
53 SUCH TAXES BECOME A LIEN ON THE REAL PROPERTY.

54 (3) CREDIT RECAPTURE. WHERE A QUALIFIED NEW YORK MANUFACTURER'S REAL  
55 PROPERTY TAXES WHICH WERE THE BASIS FOR THE ALLOWANCE OF THE CREDIT



1 PROVIDED FOR UNDER THIS SUBDIVISION ARE SUBSEQUENTLY REDUCED AS A RESULT  
2 OF A FINAL ORDER IN ANY PROCEEDING UNDER ARTICLE SEVEN OF THE REAL PROP-  
3 ERTY TAX LAW OR OTHER PROVISION OF LAW, THE TAXPAYER SHALL ADD BACK, IN  
4 THE TAXABLE YEAR IN WHICH SUCH FINAL ORDER IS ISSUED, THE EXCESS OF (I)  
5 THE AMOUNT OF CREDIT ORIGINALLY ALLOWED FOR A TAXABLE YEAR OVER (II) THE  
6 AMOUNT OF CREDIT DETERMINED BASED UPON THE REDUCED REAL PROPERTY TAXES.  
7 IF SUCH FINAL ORDER REDUCES REAL PROPERTY TAXES FOR MORE THAN ONE YEAR,  
8 THE TAXPAYER MUST DETERMINE HOW MUCH OF SUCH REDUCTION IS ATTRIBUTABLE  
9 TO EACH YEAR COVERED BY SUCH FINAL ORDER AND CALCULATE THE AMOUNT OF  
10 CREDIT WHICH IS REQUIRED BY THIS SUBDIVISION TO BE RECAPTURED FOR EACH  
11 YEAR BASED ON SUCH REDUCTION.

12 (4) IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY  
13 TAXABLE YEAR EXCEEDS THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS WILL  
14 BE TREATED AS AN OVERPAYMENT TO BE CREDITED OR REFUNDED IN ACCORDANCE  
15 WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE,  
16 PROVIDED HOWEVER, NO INTEREST WILL BE PAID THEREON.

17 S 4-a. Subsection (b) of section 612 of the tax law is amended by  
18 adding a new paragraph 40 to read as follows:

19 (40) THE AMOUNT OF ANY FEDERAL DEDUCTION FOR REAL PROPERTY TAXES TO  
20 THE EXTENT SUCH TAXES ARE USED AS THE BASIS OF THE CALCULATION OF THE  
21 REAL PROPERTY TAX CREDIT FOR MANUFACTURERS ALLOWED UNDER SUBSECTION (XX)  
22 OF SECTION SIX HUNDRED SIX OF THIS ARTICLE.

23 S 5. Subparagraphs (vi) and (vii) of paragraph (a) of subdivision 1 of  
24 section 210 of the tax law, subparagraph (vi) as amended by section 1 of  
25 part C of chapter 56 of the laws of 2011 and subparagraph (vii) as added  
26 by section 1 of part Z of chapter 59 of the laws of 2013, are amended to  
27 read as follows:

28 (vi) for taxable years beginning on or after January [thirty-first]  
29 FIRST, two thousand [seven] FOURTEEN, the amount prescribed by this  
30 paragraph for a taxpayer which is a qualified New York manufacturer,  
31 shall be computed at the rate of [six and one-half (6.5)] ZERO percent  
32 of the taxpayer's entire net income base. For taxable years beginning on  
33 or after January first, two thousand twelve and before January first,  
34 two thousand fifteen, the amount prescribed by this paragraph for a  
35 taxpayer which is an eligible qualified New York manufacturer shall be  
36 computed at the rate of three and one-quarter (3.25) percent of the  
37 taxpayer's entire net income base. The term "manufacturer" shall mean a  
38 taxpayer which during the taxable year is principally engaged in the  
39 production of goods by manufacturing, processing, assembling, refining,  
40 mining, extracting, farming, agriculture, horticulture, floriculture,  
41 viticulture or commercial fishing. However, the generation and distrib-  
42 ution of electricity, the distribution of natural gas, and the  
43 production of steam associated with the generation of electricity shall  
44 not be qualifying activities for a manufacturer under this subparagraph.  
45 Moreover, the combined group shall be considered a "manufacturer" for  
46 purposes of this subparagraph only if the combined group during the  
47 taxable year is principally engaged in the activities set forth in this  
48 paragraph, or any combination thereof. A taxpayer or a combined group  
49 shall be "principally engaged" in activities described above if, during  
50 the taxable year, more than fifty percent of the gross receipts of the  
51 taxpayer or combined group, respectively, are derived from receipts from  
52 the sale of goods produced by such activities. In computing a combined  
53 group's gross receipts, intercorporate receipts shall be eliminated. A  
54 "qualified New York manufacturer" is a manufacturer which has property  
55 in New York which is described in clause (A) of subparagraph (i) of  
56 paragraph (b) of subdivision twelve of this section and either (I) the

1 adjusted basis of such property for federal income tax purposes at the  
2 close of the taxable year is at least one million dollars or (II) all of  
3 its real and personal property is located in New York. [In addition, a  
4 "qualified New York manufacturer" means a taxpayer which is defined as]  
5 A TAXPAYER OR, IN THE CASE OF A COMBINED REPORT, A COMBINED GROUP, THAT  
6 DOES NOT SATISFY THE PRINCIPALLY ENGAGED TEST MAY BE A QUALIFIED NEW  
7 YORK MANUFACTURER IF THE TAXPAYER OR THE COMBINED GROUP EMPLOYS DURING  
8 THE TAXABLE YEAR AT LEAST TWO THOUSAND FIVE HUNDRED EMPLOYEES IN MANU-  
9 FACTURING IN NEW YORK AND THE TAXPAYER OR THE COMBINED GROUP HAS PROPER-  
10 TY IN THE STATE USED IN MANUFACTURING, THE ADJUSTED BASIS OF WHICH FOR  
11 FEDERAL INCOME TAX PURPOSES AT THE CLOSE OF THE TAXABLE YEAR IS AT LEAST  
12 ONE HUNDRED MILLION DOLLARS. THE AMOUNT PRESCRIBED BY THIS PARAGRAPH FOR  
13 A TAXPAYER THAT IS a qualified emerging technology company under para-  
14 graph (c) of subdivision one of section thirty-one hundred two-e of the  
15 public authorities law regardless of the ten million dollar limitation  
16 expressed in subparagraph one of such paragraph (c) SHALL BE COMPUTED AT  
17 THE RATE OF FIVE AND NINE-TENTHS PERCENT OF THE TAXPAYER'S ENTIRE NET  
18 INCOME BASE. The commissioner shall establish guidelines and criteria  
19 that specify requirements by which a manufacturer may be classified as  
20 an eligible qualified New York manufacturer. Criteria may include but  
21 not be limited to factors such as regional unemployment, the economic  
22 impact that manufacturing has on the surrounding community, population  
23 decline within the region and median income within the region in which  
24 the manufacturer is located. In establishing these guidelines and crite-  
25 ria, the commissioner shall endeavor that the total annual cost of the  
26 lower rates shall not exceed twenty-five million dollars.

27 [(vii) For a qualified New York manufacturer, as defined in subpara-  
28 graph (vi) of this paragraph, the rate at which the tax is computed in  
29 effect for taxable years beginning on or after January first, two thou-  
30 sand thirteen and before January first, two thousand fourteen for quali-  
31 fied New York manufacturers shall be reduced by nine and two-tenths  
32 percent for taxable years commencing on or after January first, two  
33 thousand fourteen and before January first, two thousand fifteen, twelve  
34 and three-tenths percent for taxable years commencing on or after Janu-  
35 ary first, two thousand fifteen and before January first, two thousand  
36 sixteen, fifteen and four-tenths percent for taxable years commencing on  
37 or after January first, two thousand sixteen and before January first,  
38 two thousand eighteen, and twenty-five percent for taxable years begin-  
39 ning on or after January first, two thousand eighteen.]

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

43 (2) For purposes of subparagraph one of this paragraph, the term  
44 "manufacturer" shall mean a taxpayer which during the taxable year is  
45 principally engaged in the production of goods by manufacturing, proc-  
46 essing, assembling, refining, mining, extracting, farming, agriculture,  
47 horticulture, floriculture, viticulture or commercial fishing. Moreover,  
48 for purposes of computing the capital base in a combined report, the  
49 combined group shall be considered a "manufacturer" for purposes of this  
50 subparagraph only if the combined group during the taxable year is prin-  
51 cipally engaged in the activities set forth in this subparagraph, or any  
52 combination thereof. A taxpayer or a combined group shall be "principal-  
53 ly engaged" in activities described above if, during the taxable year,  
54 more than fifty percent of the gross receipts of the taxpayer or  
55 combined group, respectively, are derived from receipts from the sale of  
56 goods produced by such activities. In computing a combined group's gross

1 receipts, intercorporate receipts shall be eliminated. A "qualified New  
2 York manufacturer" is a manufacturer that has property in New York that  
3 is described in clause (A) of subparagraph (i) of paragraph (b) of  
4 subdivision twelve of this section and either (i) the adjusted basis of  
5 that property for federal income tax purposes at the close of the taxa-  
6 ble year is at least one million dollars or (ii) all of its real and  
7 personal property is located in New York. In addition, a "qualified New  
8 York manufacturer" means a taxpayer that is defined as a qualified  
9 emerging technology company under paragraph (c) of subdivision one of  
10 section thirty-one hundred two-e of the public authorities law regard-  
11 less of the ten million dollar limitation expressed in subparagraph one  
12 of such paragraph. A TAXPAYER OR, IN THE CASE OF A COMBINED REPORT, A  
13 COMBINED GROUP, THAT DOES NOT SATISFY THE PRINCIPALLY ENGAGED TEST MAY  
14 BE A QUALIFIED NEW YORK MANUFACTURER IF THE TAXPAYER OR THE COMBINED  
15 GROUP EMPLOYS DURING THE TAXABLE YEAR AT LEAST TWO THOUSAND FIVE HUNDRED  
16 EMPLOYEES IN MANUFACTURING IN NEW YORK AND THE TAXPAYER OR THE COMBINED  
17 GROUP HAS PROPERTY IN THE STATE USED IN MANUFACTURING, THE ADJUSTED  
18 BASIS OF WHICH FOR FEDERAL INCOME TAX PURPOSES AT THE CLOSE OF THE TAXA-  
19 BLE YEAR IS AT LEAST ONE HUNDRED MILLION DOLLARS.

20 S 7. Subparagraph (iii) of paragraph (c) of subdivision 1 of section  
21 210 of the tax law, as added by section 3 of part Z of chapter 59 of the  
22 laws of 2013, is amended to read as follows:

23 (iii) For a qualified New York manufacturer, as defined in subpara-  
24 graph (vi) of paragraph (a) of this subdivision AND A QUALIFIED EMERGING  
25 TECHNOLOGY COMPANY UNDER PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION  
26 THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW REGARDLESS OF THE  
27 TEN MILLION DOLLAR LIMITATION EXPRESSED IN SUBPARAGRAPH ONE OF SUCH  
28 PARAGRAPH (C), the rate at which the tax is computed in effect for taxa-  
29 ble years beginning on or after January first, two thousand thirteen and  
30 before January first, two thousand fourteen for qualified New York  
31 manufacturers shall be reduced by nine and two-tenths percent for taxa-  
32 ble years commencing on or after January first, two thousand fourteen  
33 and before January first, two thousand fifteen, twelve and three-tenths  
34 percent for taxable years commencing on or after January first, two  
35 thousand fifteen and before January first, two thousand sixteen, fifteen  
36 and four-tenths percent for taxable years commencing on or after January  
37 first, two thousand sixteen and before January first, two thousand eigh-  
38 teen, and twenty-five percent for taxable years beginning on or after  
39 January first, two thousand eighteen.

40 S 8. Subparagraph 6 of paragraph (d) of subdivision 1 of section 210  
41 of the tax law, as added by section 4 of part Z of chapter 59 of the  
42 laws of 2013, is amended to read as follows:

43 (6) For a qualified New York manufacturer, as defined in subparagraph  
44 (vi) of paragraph (a) of this subdivision, AND A QUALIFIED EMERGING  
45 TECHNOLOGY COMPANY UNDER PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION  
46 THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW REGARDLESS OF THE  
47 TEN MILLION DOLLAR LIMITATION EXPRESSED IN SUBPARAGRAPH ONE OF SUCH  
48 PARAGRAPH (C), the amounts prescribed in subparagraphs one and four of  
49 this paragraph in effect for taxable years beginning on or after January  
50 first, two thousand thirteen and before January first, two thousand  
51 fourteen for qualified New York manufacturers shall be reduced by nine  
52 and two-tenths percent for taxable years commencing on or after January  
53 first, two thousand fourteen and before January first, two thousand  
54 fifteen, twelve and three-tenths percent for taxable years commencing on  
55 or after January first, two thousand fifteen and before January first,  
56 two thousand sixteen, fifteen and four-tenths percent for taxable years

commencing on or after January first, two thousand sixteen and before January first, two thousand eighteen, and twenty-five percent for taxable years beginning on or after January first, two thousand eighteen.

S 9. Severability. The legislature intends by this act to provide needed tax relief to New York manufacturers. However, if a court of final, competent jurisdiction adjudges the tax rates imposed on qualified New York manufacturers to be invalid, qualified New York manufacturers shall be subject to the same tax rates as all other taxpayers subject to tax under article 9-A of the tax law. Provided further, if a court of final, competent jurisdiction adjudges that the tax credits provided by this act to qualified New York manufacturers to be invalid, such credits shall be deemed repealed and shall be of no force and effect as to any taxpayers.

S 10. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2014 provided that sections one, two, three, five, six, seven, eight and nine of this act shall expire December 31, 2014 when upon such date such provisions shall be deemed repealed.

## PART S

Section 1. Sections 185, 187-j, 187-k, 187-l, 187-m, 187-q, 187-r and 187-s of the tax law are REPEALED.

S 2. Paragraph (c) of subdivision 9 of section 400 of the economic development law, as added by section 2 of part V of chapter 61 of the laws of 2011, is amended to read as follows:

(c) the business entity must not be substantially similar in ownership and operation to another taxpayer taxable or previously taxable under section one hundred eighty-three[,] OR one hundred eighty-four or FORMER SECTION one hundred eighty-five of article nine, former section one hundred eighty-six or article nine-A, twenty-two, thirty-two or thirty-three of the tax law or the income or losses of which is or was includable under article twenty-two of the tax law;

S 3. Paragraph (c) of subdivision 6 of section 431 of the economic development law, as added by section 1 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

(c) the business is not substantially similar in operation and in ownership to a business entity (or entities) taxable, or previously taxable within the last five taxable years, under section one hundred eighty-three[,] OR one hundred eighty-four, FORMER SECTION one hundred eighty-five or FORMER SECTION one hundred eighty-six of the tax law, article nine-A, thirty-two or thirty-three of the tax law, article twenty-three of the tax law or which would have been subject to tax under such article twenty-three (as such article was in effect on January first, nineteen hundred eighty), or the income (or losses) of which is (or was) includable under article twenty-two of the tax law; and

S 4. Paragraph 1 of subdivision (a), subdivision (f), paragraph 1 of subdivision (i) and subdivisions (j) and (k) of section 14 of the tax law, paragraph 1 of subdivision (a) as amended by section 3 of part VI of chapter 109 of the laws of 2006, subdivisions (f) and (j) as amended by section 10 of part CC of chapter 85 of the laws of 2002, paragraph 1 of subdivision (i) and subdivision (k) as amended and paragraph 4 of subdivision (j) as added by section 5 of part A of chapter 63 of the laws of 2005, subparagraph (B) of paragraph 4 of subdivision (j) as amended by chapter 161 of the laws of 2005 and paragraph 5 of subdivi-

sion (j) as amended by section 4 of part VI of chapter 109 of the laws of 2006, are amended to read as follows:

(1) except as provided in paragraphs one-a and one-b of this subdivision, for purposes of [section one hundred eighty-seven-j and] articles nine-A, twenty-two, thirty-two and thirty-three of this chapter, for each of the taxable years within the "business tax benefit period," which period shall consist of (A) in the case of a business enterprise with a test date occurring on or before December thirty-first, two thousand one, the first fifteen taxable years beginning on or after January first, two thousand one, (B) in the case of a business enterprise with a test date occurring on or after January first, two thousand two, but prior to April first, two thousand five, the fifteen taxable years next following the business enterprise's test year, and (C) in the case of a business enterprise which is first certified under article eighteen-B of the general municipal law on or after April first, two thousand five, the ten taxable years starting with the taxable year in which the business enterprise's first date of certification under article eighteen-B of the general municipal law occurs, but only with respect to each of such business tax benefit period years for which the employment test is met,

(f) Taxable year. The term "taxable year" means the taxable year of the business enterprise under section one hundred eighty-three[,] OR one hundred eighty-four[, one hundred eighty-five] or former section one hundred eighty-six of article nine, or under article nine-A, twenty-two, thirty-two or thirty-three of this chapter. If a business enterprise does not have a taxable year because it is exempt from taxation or otherwise not required to file a return under any of such sections of article nine or under article nine-A, twenty-two, thirty-two or thirty-three, then the term "taxable year" means (i) the business enterprise's federal taxable year, or, (ii) if the enterprise does not have a federal taxable year, the calendar year.

(1) for purposes of [section one hundred eighty-seven-j of article nine, and] articles nine-A, twenty-two, thirty-two and thirty-three of this chapter, on the first day of the taxable year during which revocation of its certification under article eighteen-B of the general municipal law occurs, and

(j) New business. (1) A new business shall include any corporation, except a corporation which is substantially similar in operation and in ownership to a business entity (or entities) taxable, or previously taxable, under section one hundred eighty-three, one hundred eighty-four, FORMER SECTION one hundred eighty-five or FORMER SECTION one hundred eighty-six of article nine; article nine-A, article thirty-two or thirty-three of this chapter; article twenty-three of this chapter or which would have been subject to tax under such article twenty-three (as such article was in effect on January first, nineteen hundred eighty) or the income (or losses) of which is (or was) includable under article twenty-two of this chapter.

(2) For purposes of article twenty-two of this chapter, an individual who is either a sole proprietor or a member of a partnership shall qualify as an owner of a new business unless the business of which the individual is an owner is substantially similar in operation and in ownership to a business entity taxable, or previously taxable, under section one hundred eighty-three, one hundred eighty-four, FORMER SECTION one hundred eighty-five or FORMER SECTION one hundred eighty-six of article nine; article nine-A, thirty-two or thirty-three of this chapter; article twenty-three of this chapter or which would have been subject to tax

1 under such article twenty-three (as such article was in effect on Janu-  
2 ary first, nineteen hundred eighty) or the income (or losses) of which  
3 is (or was) includable under article twenty-two.

4 (3) For purposes of article twenty-two of this chapter, a shareholder  
5 of a New York S corporation shall be treated as the owner of a new busi-  
6 ness with respect to such share if the corporation qualifies as a new  
7 business pursuant to paragraph one of this subdivision.

8 (4) (A)(i) Notwithstanding paragraphs one and two of this subdivision,  
9 a new business shall include any corporation which is identical in oper-  
10 ation and ownership to a business entity (or entities) taxable under  
11 section one hundred eighty-three[,] OR one hundred eighty-four or FORMER  
12 SECTION one hundred eighty-five of article nine; article nine-A, article  
13 thirty-two or thirty-three of this chapter or the income (or losses) of  
14 which is includable under article twenty-two of this chapter, provided  
15 such corporation and such business entity or entities are operating in  
16 different counties in the state.

17 (ii) Notwithstanding paragraphs one and two of this subdivision, an  
18 individual who is either a sole proprietor or a member of a partnership  
19 shall qualify as an owner of a new business if the business of which the  
20 individual is an owner is identical in operation and in ownership to a  
21 business entity (or entities) taxable under section one hundred eighty-  
22 three[,] OR one hundred eighty-four or FORMER SECTION one hundred eight-  
23 y-five of article nine; article nine-A, article thirty-two or thirty-  
24 three of this chapter or the income (or losses) of which is includable  
25 under article twenty-two of this chapter, provided such business and  
26 such business entity or entities are operating in different counties in  
27 the state.

28 (iii) Any corporation qualifying as a new business or any individual  
29 qualifying as an owner of a new business as a result of the provisions  
30 of this subparagraph shall have the same business tax benefit period and  
31 sales and use tax benefit period as the business entity to which it is  
32 identical in operation and in ownership.

33 (B) Notwithstanding any provisions of this subdivision to the contrary  
34 and notwithstanding subdivision c of section eighteen of part CC of  
35 chapter eighty-five of the laws of two thousand two, a corporation or  
36 partnership, which was first certified under article eighteen-B of the  
37 general municipal law before August first, two thousand two, has a base  
38 period of zero years or zero employment for its base period, and is  
39 similar in operation and in ownership to a business entity or entities  
40 taxable, or previously taxable, under sections specified in paragraph  
41 one or two of this subdivision or which would have been subject to tax  
42 under article twenty-three of this chapter (as such article was in  
43 effect on January first, nineteen hundred eighty) or the income or loss-  
44 es of which is or was includable under article twenty-two of this chap-  
45 ter shall not be deemed a new business if it was not formed for a valid  
46 business purpose, as such term is defined in clause (D) of subparagraph  
47 one of paragraph (o) of subdivision nine of section two hundred eight of  
48 this chapter and was formed solely to gain empire zone benefits.

49 (5) Notwithstanding any other provision of this section, a business  
50 enterprise which is approved by the commissioner of economic development  
51 as the owner of a qualified investment project or a significant capital  
52 investment project pursuant to subdivision (w) of section nine hundred  
53 fifty-nine of the general municipal law, has a base period of zero years  
54 and places in service property (or a project that includes such proper-  
55 ty) which comprises such qualified investment project or such signif-  
56 icant capital investment project[,], shall be deemed to be a new busi-

ness under this section. Provided, however, to be deemed a new business under this paragraph, such business enterprise shall have received certification under article eighteen-B of the general business law by December thirty-first, two thousand seven.

(k) If the designation of an area as an empire zone is no longer in effect because section nine hundred sixty-nine of the general municipal law was not amended to extend the effective date of such designation so that the designations of all empire zones pursuant to article eighteen-B of the general municipal law have expired, a business enterprise that was certified pursuant to article eighteen-B of the general municipal law on the day immediately preceding the day on which such designation expired shall be deemed to continue to be certified under such article eighteen-B for purposes of this section, and sections fifteen, sixteen, [section one hundred eighty-seven-j,] subdivisions twenty-seven and twenty-eight of section two hundred ten, subsections (bb) and (cc) of section six hundred six, subdivision [(z)] (D) of section eleven hundred [fifteen] NINETEEN, subsections (o) and (p) of section fourteen hundred fifty-six, and subdivisions (r) and (s) of section fifteen hundred eleven of this chapter. In addition, if the designation of an area as an empire zone is no longer in effect because section nine hundred sixty-nine of the general municipal law was not amended to extend the effective date of such designation so that the designations of all empire zones pursuant to article eighteen-B of the general municipal law have expired, all references to empire zones in the provisions of this chapter listed in the previous sentence shall be read as meaning areas designated as empire zones on the day immediately preceding the day on which such designation expired.

S 5. Paragraph 1 of subdivision (h) of section 15 of the tax law is REPEALED.

S 6. The closing paragraph of subdivision (a) of section 28 of the tax law, as added by section 2 of part V of chapter 62 of the laws of 2006, is amended to read as follows:

(4) Notwithstanding any provisions of this section to the contrary, a corporation or partnership, which otherwise qualifies as a qualified commercial production company, and is similar in operation and in ownership to a business entity or entities taxable, or previously taxable, under section one hundred eighty-three[,] OR one hundred eighty-four or FORMER SECTION one hundred eighty-five of article nine; article nine-A, article thirty-two or thirty-three of this chapter or which would have been subject to tax under article twenty-three of this chapter (as such article was in effect on January first, nineteen hundred eighty) or the income or losses of which is or was includable under article twenty-two of this chapter shall not be deemed a new or separate business, and therefore shall not be eligible for empire state commercial production benefits, if it was not formed for a valid business purpose, as such term is defined in clause (D) of subparagraph one of paragraph (o) of subdivision nine of section two hundred eight of this chapter and was formed solely to gain empire state commercial production credit benefits.

S 7. Subdivision (a) of section 31 of the tax law, as amended by section 7 of part G of chapter 61 of the laws of 2011, is amended to read as follows:

(a) General. A taxpayer subject to tax under [section one hundred eighty-five,] article nine-A, twenty-two, thirty-two or thirty-three of this chapter shall be allowed a credit against such tax, pursuant to the provisions referenced in subdivision (g) of this section. The amount of

the credit, allowable for up to ten consecutive taxable years, is the sum of the following four credit components:

- (1) the excelsior jobs tax credit component;
- (2) the excelsior investment tax credit component;
- (3) the excelsior research and development tax credit component; and
- (4) the excelsior real property tax credit component.

S 8. Paragraph 1 of subdivision (g) of section 31 of the tax law is REPEALED.

S 9. The opening paragraph of paragraph 1 of subdivision (a) and subparagraph (C) of paragraph 2 of subdivision (e) of section 35 of the tax law, as added by section 3 of part V of chapter 61 of the laws of 2011, are amended to read as follows:

A taxpayer which is a participant or the owner of a participant in the economic transformation and facility redevelopment program under article eighteen of the economic development law that is subject to tax under [section one hundred eighty-five of article nine, or] article nine-A, twenty-two, thirty-two or thirty-three of this chapter shall be allowed the sum of following components against such tax, pursuant to the provisions referenced in subdivision (f) of this section.

(C) the business entity must not be substantially similar in ownership and operation to another taxpayer taxable or previously taxable under section one hundred eighty-three[,] OR one hundred eighty-four or FORMER SECTION one hundred eighty-five of article nine, former section one hundred eighty-six of this chapter or article nine-A, twenty-two, thirty-two or thirty-three of this chapter or the income or losses of which is or was includable under article twenty-two of this chapter;

S 10. Paragraph 1 of subdivision (f) of section 35 of the tax law, as added by section 3 of part V of chapter 61 of the laws of 2011, is REPEALED.

S 11. Paragraph 1 of subdivision (e) of section 38 of the tax law, as added by section 1 of part EE of chapter 59 of the laws of 2013, is REPEALED.

S 12. Subdivision 2 of section 187 of the tax law, as added by chapter 788 of the laws of 1978, is amended to read as follows:

2. In no event shall the credit herein provided for be allowed in an amount which will reduce the tax payable to less than the applicable minimum tax fixed by section one hundred eighty-three[, one hundred eighty-five] or FORMER SECTION one hundred eighty-six. If, however, the amount of credit allowable under this section for any taxable year reduces the tax to such amount, any amount of credit not deductible in such taxable year may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

S 13. Subdivision 5 of section 187-a of the tax law, as added by chapter 142 of the laws of 1997, is amended to read as follows:

5. Carryover. In no event shall the credit under this section be allowed in an amount which will reduce the tax payable to less than the applicable minimum tax fixed by section one hundred eighty-three[, one hundred eighty-five] or FORMER SECTION one hundred eighty-six of this article. If, however, the amount of credit allowable under this section for any taxable year reduces the tax to such amount, any amount of credit not deductible in such taxable year may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

S 14. Subdivisions 1 and 4 of section 187-b of the tax law, as amended by section 1 of part G of chapter 59 of the laws of 2013, are amended to read as follows:



1 1. General. A taxpayer shall be allowed a credit, to be credited  
2 against the taxes imposed under sections one hundred eighty-three[,] AND  
3 one hundred eighty-four[, and one hundred eighty-five] of this article.  
4 Such credit, to be computed as hereinafter provided, shall be allowed  
5 for alternative fuel vehicle refueling and electric vehicle recharging  
6 property placed in service during the taxable year. Provided, however,  
7 that the amount of such credit allowable against the tax imposed by  
8 section one hundred eighty-four of this article shall be the excess of  
9 the credit allowed by this section over the amount of such credit allow-  
10 able against the tax imposed by section one hundred eighty-three of this  
11 article.

12 4. Carryovers. In no event shall the credit under this section be  
13 allowed in an amount which will reduce the tax payable to less than the  
14 applicable minimum tax fixed by section one hundred eighty-three [or one  
15 hundred eighty-five] of this article. If, however, the amount of credit  
16 allowable under this section for any taxable year reduces the tax to  
17 such amount, any amount of credit not deductible in such taxable year  
18 may be carried over to the following year or years and may be deducted  
19 from the taxpayer's tax for such year or years.

20 S 15. Section 187-c of the tax law, as amended by section 2 of part K  
21 of chapter 59 of the laws of 2012, is amended to read as follows:

22 S 187-c. Biofuel production credit. A taxpayer shall be allowed a  
23 credit to be computed as provided in section twenty-eight of this chap-  
24 ter, as added by part X of chapter sixty-two of the laws of two thousand  
25 six, against the tax imposed by this article. Provided, however, that  
26 the amount of such credit allowed against the tax imposed by section one  
27 hundred eighty-four of this article shall be the excess of the amount of  
28 such credit over the amount of any credit allowed by this section  
29 against the tax imposed by section one hundred eighty-three of this  
30 article. In no event shall the credit under this section be allowed in  
31 an amount which will reduce the tax payable to less than the applicable  
32 minimum tax fixed by section one hundred eighty-three [or one hundred  
33 eighty-five] of this article. If, however, the amount of the credit  
34 allowed under this section for any taxable year reduces the tax to such  
35 amount, the excess shall be treated as an overpayment of tax to be cred-  
36 ited or refunded in accordance with the provisions of section six  
37 hundred eighty-six of this chapter. Provided, however, the provisions of  
38 subsection (c) of section one thousand eighty-eight of this chapter  
39 notwithstanding, no interest shall be paid thereon. The tax credit  
40 allowed pursuant to this section shall apply to taxable years beginning  
41 before January first, two thousand twenty.

42 S 16. Section 187-d of the tax law, as added by section 3 of part II  
43 of chapter 63 of the laws of 2000, is amended to read as follows:

44 S 187-d. Green building credit. 1. Allowance of credit. A taxpayer  
45 shall be allowed a credit, to be computed as provided in section nine-  
46 teen of this chapter, against the taxes imposed by sections one hundred  
47 eighty-three, one hundred eighty-four[, one hundred eighty-five] and  
48 FORMER SECTION one hundred eighty-six of this article. Provided, howev-  
49 er, that the amount of such credit allowable against the tax imposed by  
50 section one hundred eighty-four of this article shall be the excess of  
51 the amount of such credit over the amount of any credit allowed by this  
52 section against the tax imposed by section one hundred eighty-three of  
53 this article.

54 2. Carryovers. In no event shall the credit under this section be  
55 allowed in an amount which will reduce the tax payable to less than the  
56 applicable minimum tax fixed by section one hundred eighty-three[, one

1 hundred eighty-five] or FORMER SECTION one hundred eighty-six of this  
2 article. If, however, the amount of credit allowable under this section  
3 for any taxable year reduces the tax to such amount, any amount of cred-  
4 it not deductible in such taxable year may be carried over to the  
5 following year or years and may be deducted from the taxpayer's tax for  
6 such year or years.

7 S 17. Subdivisions 1 and 2 of section 187-e of the tax law, as added  
8 by section 2 of part I of chapter 63 of the laws of 2000, are amended to  
9 read as follows:

10 1. Allowance of credit. A taxpayer shall be allowed a credit, to be  
11 computed as provided in section twenty of this chapter, against the  
12 taxes imposed by sections one hundred eighty-three, one hundred eighty-  
13 four[, one hundred eighty-five] and FORMER SECTION one hundred eighty-  
14 six of this article. Provided, however, that the amount of such credit  
15 allowable against the tax imposed by section one hundred eighty-four of  
16 this article shall be the excess of the amount of such credit over the  
17 amount of any credit allowed by this section against the tax imposed by  
18 section one hundred eighty-three of this article.

19 2. Application of credit. In no event shall the credit under this  
20 section be allowed in an amount which will reduce the tax payable to  
21 less than the applicable minimum tax fixed by section one hundred eight-  
22 y-three[, one hundred eighty-five] or FORMER SECTION one hundred eight-  
23 y-six of this article. If, however, the amount of credit allowable under  
24 this section for any taxable year reduces the tax to such amount, any  
25 amount of credit not thus deductible in such taxable year shall be  
26 treated as an overpayment of tax to be credited or refunded in accord-  
27 ance with the provisions of section ten hundred eighty-six of this chap-  
28 ter. Provided, however, the provisions of subsection (c) of section ten  
29 hundred eighty-eight of this chapter notwithstanding, no interest shall  
30 be paid thereon.

31 S 18. Section 187-g of the tax law, as added by section 2 of part H of  
32 chapter 1 of the laws of 2003, is amended to read as follows:

33 S 187-g. Brownfield redevelopment tax credit. 1. Allowance of credit.  
34 A taxpayer shall be allowed a credit, to be computed as provided in  
35 section twenty-one of this chapter, against the taxes imposed by  
36 sections one hundred eighty-three[, ] AND one hundred eighty-four [and  
37 one hundred eighty-five] of this article. Provided, however, that the  
38 amount of such credit allowable against the tax imposed by section one  
39 hundred eighty-four of this article shall be the excess of the amount of  
40 such credit over the amount of any credit allowed by this section  
41 against the tax imposed by section one hundred eighty-three of this  
42 article.

43 2. Application of credit. In no event shall the credit under this  
44 section be allowed in an amount which will reduce the tax payable to  
45 less than the applicable minimum tax fixed by section one hundred eight-  
46 y-three [or one hundred eighty-five] of this article. If, however, the  
47 amount of credit allowable under this section for any taxable year  
48 reduces the tax to such amount, any amount of credit not deductible in  
49 such taxable year shall be treated as an overpayment of tax to be  
50 refunded in accordance with the provisions of section ten hundred eight-  
51 y-six of this chapter. Provided, however, the provisions of subsection  
52 (c) of section ten hundred eighty-eight of this chapter notwithstanding,  
53 no interest shall be paid thereon.

54 S 19. Section 187-h of the tax law, as added by section 13 of part H  
55 of chapter 1 of the laws of 2003, subdivision 1 as amended by section 5

1 of part H of chapter 577 of the laws of 2004, is amended to read as  
2 follows:

3 S 187-h. Remediated brownfield credit for real property taxes for  
4 qualified sites. 1. Allowance of credit. A taxpayer shall be allowed a  
5 credit, to be computed as provided in subdivision (b) of section twen-  
6 ty-two of this chapter, against the taxes imposed by sections one  
7 hundred eighty-three[,] AND one hundred eighty-four [and one hundred  
8 eighty-five] of this article. Provided, however, that the amount of such  
9 credit allowed against the tax imposed by section one hundred eighty-  
10 four of this article shall be the excess of the amount of such credit  
11 over the amount of any credit allowed by this section against the tax  
12 imposed by section one hundred eighty-three of this article.

13 2. Application of credit. In no event shall the credit under this  
14 section be allowed in an amount which will reduce the tax payable to  
15 less than the applicable minimum tax fixed by section one hundred eight-  
16 y-three [or one hundred eighty-five] of this article. If, however, the  
17 amount of credit allowed under this section for any taxable year reduces  
18 the tax to such amount, any amount of credit not thus deductible in such  
19 taxable year shall be treated as an overpayment of tax to be credited or  
20 refunded in accordance with the provisions of section ten hundred eight-  
21 y-six of this chapter. Provided, however, the provisions of subsection  
22 (c) of section ten hundred eighty-eight of this chapter notwithstanding,  
23 no interest shall be paid thereon.

24 S 20. Section 187-i of the tax law, as added by section 20 of part H  
25 of chapter 1 of the laws of 2003, is amended to read as follows:

26 S 187-i. Environmental remediation insurance credit. 1. Allowance of  
27 credit. A taxpayer shall be allowed a credit, to be computed as provided  
28 in section twenty-three of this chapter, against the taxes imposed by  
29 sections one hundred eighty-three[,] AND one hundred eighty-four [and  
30 one hundred eighty-five] of this article. Provided, however, that the  
31 amount of such credit allowable against the tax imposed by section one  
32 hundred eighty-four of this article shall be the excess of the amount of  
33 such credit over the amount of any credit allowed by this section  
34 against the tax imposed by section one hundred eighty-three of this  
35 article.

36 2. Application of credit. In no event shall the credit under this  
37 section be allowed in an amount which will reduce the tax payable to  
38 less than the applicable minimum tax fixed by section one hundred  
39 eighty-three [or one hundred eighty-five] of this article. If, however,  
40 the amount of credit allowable under this section for any taxable year  
41 reduces the tax to such amount, any amount of credit not deductible in  
42 such taxable year shall be treated as an overpayment of tax to be  
43 refunded in accordance with the provisions of section one thousand  
44 eighty-six of this chapter. Provided, however, the provisions of  
45 subsection (c) of section one thousand eighty-eight of this chapter  
46 notwithstanding, no interest shall be paid thereon.

47 S 21. Subdivision 2 of section 187-n of the tax law, as added by  
48 chapter 537 of the laws of 2005, is amended to read as follows:

49 2. Application of credit. In no event shall the credit under this  
50 section be allowed in an amount which will reduce the tax payable to  
51 less than the applicable minimum tax fixed by section one hundred  
52 eighty-three [or one hundred eighty-five] of this article. If, however,  
53 the amount of credit allowable under this section for any taxable year  
54 reduces the tax to such amount, any amount of credit not deductible in  
55 such taxable year shall be treated as an overpayment of tax to be  
56 refunded in accordance with the provisions of section one thousand

1 eighty-six of this chapter. Provided, however, the provisions of  
2 subsection (c) of section one thousand eighty-eight of this chapter  
3 notwithstanding, no interest shall be paid thereon.

4 S 22. Subdivisions 1 and 3 of section 187-n of the tax law, subdivi-  
5 sion 1 as amended by section 1 of part C1 of chapter 57 of the laws of  
6 2009 and subdivision 3 as added by chapter 446 of the laws of 2005, are  
7 amended to read as follows:

8 (1) Allowance of credit. For taxable years beginning before January  
9 first, two thousand nine, a taxpayer whose business is not substantially  
10 engaged in the commercial generation, distribution, transmission, or  
11 servicing of energy or energy products shall be allowed a credit against  
12 the taxes imposed by sections one hundred eighty-three[,] AND one  
13 hundred eighty-four [and one hundred eighty-five] of this article, equal  
14 to its qualified fuel cell electric generating equipment expenditures.  
15 Provided, however, that the amount of such credit allowable against the  
16 tax imposed by section one hundred eighty-four of this article shall be  
17 the excess of the amount of such credit over the amount of any credit  
18 allowed by this section against the tax imposed by section one hundred  
19 eighty-three of this article. This credit shall not exceed one thousand  
20 five hundred dollars per generating unit with respect to any taxable  
21 year. The credit provided for herein shall be allowed with respect to  
22 the taxable year in which the fuel cell electric generating equipment is  
23 placed in service.

24 (3) Application of credit. In no event shall the credit under this  
25 section be allowed in an amount which will reduce the tax payable to  
26 less than the applicable minimum tax fixed by section one hundred eight-  
27 y-three [or one hundred eighty-five] of this article. If, however, the  
28 amount of credit allowable under this section for any taxable year  
29 reduces the tax to such amount, any amount of credit not deductible in  
30 such taxable year may be carried over to the following year or years and  
31 may be deducted from the taxpayer's tax for such year or years.

32 S 23. Section 187-o of the tax law, as added by section 3 of part Y of  
33 chapter 57 of the laws of 2010, is amended to read as follows:

34 S 187-o. Temporary deferral nonrefundable payout credit. 1. Allowance  
35 of credit. A taxpayer shall be allowed a credit, to be computed as  
36 provided in subdivision one of section thirty-four of this chapter,  
37 against either the taxes imposed by sections one hundred eighty-three[,]  
38 AND one hundred eighty-four, [and one hundred eighty-five,] or the tax  
39 imposed by section one hundred eighty-six-a of this article. However,  
40 the amount of such credit against the tax imposed by section one hundred  
41 eighty-four of this article shall be the excess of the amount of that  
42 credit over the amount of any credit allowed by this section against the  
43 tax imposed by section one hundred eighty-three of this article.

44 2. Application of credit. In no event shall the credit under this  
45 section be allowed in an amount which will reduce the tax to less than  
46 the applicable minimum tax fixed by section one hundred eighty-three [or  
47 one hundred eighty-five] of this article. If, however, the amount of  
48 credit allowed under this section for any taxable year reduces the tax  
49 to such amount, any amount of credit not deductible in such taxable year  
50 may be carried over to the following year or years and may be deducted  
51 from the taxpayer's tax for such year or years.

52 S 24. Section 187-p of the tax law, as added by section 3 of part Y of  
53 chapter 57 of the laws of 2010, is amended to read as follows:

54 S 187-p. Temporary deferral refundable payout credit. 1. Allowance of  
55 credit. A taxpayer shall be allowed a credit, to be computed as provided  
56 in subdivision two of section thirty-four of this chapter, against the

1 taxes imposed by sections one hundred eighty-three[,] AND one hundred  
2 eighty-four [and one hundred eighty-five] of this article, or the tax  
3 imposed by section one hundred eighty-six-a of this article. However,  
4 the amount of such credit against the tax imposed by section one hundred  
5 eighty-four of this article shall be the excess of the amount of that  
6 credit over the amount of any credit allowed by this section against the  
7 tax imposed by section one hundred eighty-three of this article.

8 2. Application of credit. In no event shall the credit under this  
9 section be allowed in an amount which will reduce the tax to less than  
10 the applicable minimum tax fixed by section one hundred eighty-three [or  
11 one hundred eighty-five] of this article. If, however, the amount of  
12 credit allowed under this section for any taxable year reduces the tax  
13 to such amount, any amount of credit not deductible in such taxable year  
14 shall be treated as an overpayment of tax to be refunded in accordance  
15 with the provisions of section one thousand eighty-six of this chapter,  
16 provided however, that no interest shall be paid thereon.

17 S 25. Subdivisions 2 and 3 of section 190 of the tax law, as added by  
18 section 1 of part E of chapter 63 of the laws of 2000, are amended to  
19 read as follows:

20 2. Computation. The credit allowed by this section shall first be  
21 deducted from the taxes imposed by section one hundred eighty-three[,  
22 one hundred eighty-five] or FORMER SECTION one hundred eighty-six of  
23 this article. The amount of any such credit remaining shall next be  
24 deducted from the taxes imposed by section one hundred eighty-four of  
25 this article.

26 3. Carryover. In no event shall the amount of credit allowed under  
27 this section reduce the tax payable to less than the minimum tax fixed  
28 by section one hundred eighty-three[, one hundred eighty-five] or FORMER  
29 SECTION one hundred eighty-six of this article. If, however, the amount  
30 of credit allowable under this section for any taxable year reduces the  
31 tax to such amount, any amount of credit not deductible in such taxable  
32 year may be carried over to the following year or years and may be  
33 deducted from the taxpayer's tax for such year or years.

34 S 26. Subdivision 1 of section 192 of the tax law, as amended by chap-  
35 ter 96 of the laws of 1976, is amended to read as follows:

36 1. Corporations paying franchise tax. Every corporation, association  
37 or joint-stock company liable to pay a tax under section one hundred  
38 eighty-three [or one hundred eighty-five] of this chapter shall, on or  
39 before March fifteenth in each year, make a written report to the tax  
40 commission of its condition at the close of its business on the preced-  
41 ing December thirty-first, stating the amount of its authorized capital  
42 stock, the amount of stock paid in, the date and rate per centum of each  
43 dividend paid by it during the year ending with such day, the entire  
44 amount of the capital of such corporation, and the capital employed by  
45 it in this state during such year.

46 S 27. Subdivision 4 of section 209 of the tax law, as amended by  
47 section 2 of part FF1 of chapter 57 of the laws of 2008, is amended to  
48 read as follows:

49 4. Corporations liable to tax under sections one hundred eighty-three  
50 to one hundred [eighty-five] EIGHTY-FOUR-A, inclusive, corporations  
51 taxable under articles thirty-two and thirty-three of this chapter, any  
52 trust company organized under a law of this state all of the stock of  
53 which is owned by not less than twenty savings banks organized under a  
54 law of this state, bank holding companies filing a combined return in  
55 accordance with [subdivision] SUBSECTION (f) of section fourteen hundred  
56 sixty-two of this chapter, a captive REIT or a captive RIC filing a

combined return under either [subdivision] SUBSECTION (f) of section fourteen hundred sixty-two or subdivision (f) of section fifteen hundred fifteen of this chapter, and housing companies organized and operating pursuant to the provisions of article two or article five of the private housing finance law and housing development fund companies organized pursuant to the provisions of article eleven of the private housing finance law shall not be subject to tax under this article.

S 28. Section 209 of the tax law is amended by adding a new subdivision 12 to read as follows:

12. ALL FARMERS', FRUIT GROWERS' AND OTHER LIKE AGRICULTURAL CORPORATIONS ORGANIZED AND OPERATED ON A CO-OPERATIVE BASIS FOR THE PURPOSES EXPRESSED IN AND AS PROVIDED UNDER THE CO-OPERATIVE CORPORATIONS LAW OF THE STATE OF NEW YORK, WHETHER OR NOT SUCH CORPORATIONS HAVE CAPITAL STOCK, SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF THIS ARTICLE.

S 29. Paragraphs (b) and (c) of subdivision 1-c, clause (i) of subparagraph 1 of paragraph (b) of subdivision 3, and subparagraphs 1 and 2 of paragraph (j) of subdivision 12 of section 210 of the tax law, paragraph (b) of subdivision 1-c as amended by section 12 of part Y of chapter 63 of the laws of 2000, paragraph (c) of subdivision 1-c and subparagraph 2 of paragraph (j) of subdivision 12 as amended by chapter 1043 of the laws of 1981, clause (i) of subparagraph 1 of paragraph (b) of subdivision 3 as amended by chapter 61 of the laws of 1989 and subparagraph 1 of paragraph (j) of subdivision 12 as amended by section 14 of part Y of chapter 63 of the laws of 2000, are amended to read as follows:

(b) is not a corporation over fifty percent of the number of shares of stock of which entitling the holders thereof to vote for the election of directors or trustees is owned by a taxpayer which (1) is subject to tax under this article; section one hundred eighty-three[,] OR SECTION one hundred eighty-four or FORMER SECTION one hundred eighty-five of article nine; article thirty-two or thirty-three of this chapter, and (2) does not qualify as a small business corporation as defined in paragraph three of subsection (c) of section twelve hundred forty-four of the internal revenue code (without regard to the second sentence of subparagraph (A) thereof) as of the last day of its taxable year ending within or with the taxable year of the taxpayer,

(c) is not a corporation which is substantially similar in operation and in ownership to a business entity (or entities) taxable, or previously taxable, under this article; section one hundred eighty-three, one hundred eighty-four, OR FORMER SECTION one hundred eighty-five or FORMER SECTION one hundred eighty-six of article nine; article thirty-two or thirty-three of this chapter; article twenty-three of this chapter or which would have been subject to tax under such article twenty-three (as such article was in effect on January first, nineteen hundred eighty) or the income (or losses) of which is (or was) includable under article twenty-two of this chapter, and

(i) In the case of an issuer or obligor subject to tax under section one hundred eighty-three[, one hundred eighty-five] or FORMER SECTION one hundred eighty-six of this chapter or under this article or article thirty-three of this chapter (except for savings and insurance banks described in subdivision (b) of section fifteen hundred of this chapter), the issuer's allocation percentage shall be the percentage of the appropriate measure (as defined hereinafter) which is required to be allocated within the state on the report, if any, required of the issuer or obligor under this chapter for the preceding year. The appropriate measure referred to in the preceding sentence shall be: in the case of

1 an issuer or obligor subject to section one hundred eighty-three of this  
2 chapter, issued capital stock; in the case of an issuer or obligor  
3 [subject to section one hundred eighty-five] EXEMPT FROM TAX UNDER  
4 SUBDIVISION TWELVE OF SECTION TWO HUNDRED NINE of this [chapter]  
5 ARTICLE, issued capital stock; in the case of an issuer or obligor  
6 subject to FORMER section one hundred eighty-six of this chapter, gross  
7 earnings; in the case of an issuer or obligor subject to this article,  
8 entire capital; and in the case of an issuer or obligor subject to arti-  
9 cle thirty-three of this chapter, gross direct premiums.

10 (1) over fifty percent of the number of shares of stock entitling the  
11 holders thereof to vote for the election of directors or trustees is  
12 owned or controlled, either directly or indirectly, by a taxpayer  
13 subject to tax under this article; section one hundred eighty-three, one  
14 hundred eighty-four or FORMER SECTION one hundred eighty-five of article  
15 nine; article thirty-two or thirty-three of this chapter; or

16 (2) is substantially similar in operation and in ownership to a busi-  
17 ness entity (or entities) taxable, or previously taxable, under this  
18 article; section one hundred eighty-three, one hundred eighty-four,  
19 FORMER SECTION one hundred eighty-five or FORMER SECTION one hundred  
20 eighty-six of article nine; article thirty-two or thirty-three of this  
21 chapter; article twenty-three of this chapter or which would have been  
22 subject to tax under such article twenty-three (as such article was in  
23 effect on January first, nineteen hundred eighty) or the income (or  
24 losses) of which is (or was) includable under article twenty-two of this  
25 chapter whereby the intent and purpose of this paragraph and paragraph  
26 (e) of this subdivision with respect to refunding of credit to new busi-  
27 ness would be evaded; or

28 S 30. Subparagraph (A) of paragraph 10 of subsection (a) of section  
29 606 of the tax law, as amended by section 3 of part CC of chapter 85 of  
30 the laws of 2002, is amended to read as follows:

31 (A) the business of which the individual is an owner is substantially  
32 similar in operation and in ownership to a business entity taxable, or  
33 previously taxable, under section one hundred eighty-three, one hundred  
34 eighty-four, FORMER SECTION one hundred eighty-five or FORMER SECTION  
35 one hundred eighty-six of article nine; article nine-A, thirty-two or  
36 thirty-three of this chapter; article twenty-three of this chapter or  
37 which would have been subject to tax under such article twenty-three (as  
38 such article was in effect on January first, nineteen hundred eighty) or  
39 the income (or losses) of which is (or was) includable under article  
40 twenty-two of this chapter whereby the intent and purpose of this para-  
41 graph and paragraph five of this subsection with respect to refunding of  
42 credit to new business would be evaded; or

43 S 31. Subparagraphs (A) and (B) of paragraph 8 of subsection (i) of  
44 section 1456 of the tax law, as added by section 27 of part A of chapter  
45 56 of the laws of 1998, are amended to read as follows:

46 (A) over fifty percent of the number of shares of stock entitling the  
47 holders thereof to vote for the election of directors or trustees is  
48 owned or controlled, either directly or indirectly, by a taxpayer  
49 subject to tax under this article; section one hundred eighty-three, one  
50 hundred eighty-four, FORMER SECTION one hundred eighty-five or FORMER  
51 SECTION one hundred eighty-six of article nine; article nine-A or arti-  
52 cle thirty-three of this chapter; or

53 (B) is substantially similar in operation and in ownership to a busi-  
54 ness entity (or entities) taxable, or previously taxable, under this  
55 article; section one hundred eighty-three, one hundred eighty-four,  
56 FORMER SECTION one hundred eighty-five or FORMER SECTION one hundred

eighty-six of article nine; article nine-A or article thirty-three of this chapter; article twenty-three of this chapter or which would have been subject to tax under such article twenty-three (as such article was in effect on January first, nineteen hundred eighty) or the income (or losses) of which is (or was) includable under article twenty-two of this chapter whereby the intent and purpose of this paragraph and paragraph five of this subsection with respect to refunding of credit to new business would be evaded; or

S 32. Subparagraph (A) of paragraph 7 of subdivision (q) of section 1511 of the tax law, as added by section 1 of part L of chapter 63 of the laws of 2000, is amended to read as follows:

(A) over fifty percent of the number of shares of stock entitling the holders thereof to vote for the election of directors or trustees is owned or controlled, either directly or indirectly, by a taxpayer subject to tax under this article; section one hundred eighty-three, one hundred eighty-four, FORMER SECTION one hundred eighty-five or FORMER SECTION one hundred eighty-six of article nine; article nine-A or article thirty-two of this chapter; or

S 33. Subdivision 13 of section 171 of the transportation law, as added by chapter 478 of the laws of 1991, is amended to read as follows:

13. The transportation for compensation performed by an agricultural cooperative corporation[, which corporation is subject to tax under section one hundred eighty-five of the tax law,] for non-members who are not farmers or cooperative corporations when such transportation is limited to that which is incidental to the agricultural cooperative corporation's primary transportation operation and is necessary for its effective performance. Such transportation shall be provided only after the agricultural cooperative corporation notifies the commissioner in writing of its intent to provide the transportation and it shall not exceed twenty-five percent of the agricultural cooperative corporation's total transportation services in each calendar year measured in terms of tonnage. The commissioner may prescribe the records to be kept and the information to be furnished by all agricultural cooperative corporations performing transportation pursuant to this subdivision.

S 34. Subclause 2 of clause (v) of subparagraph (B) of paragraph 1 of subdivision (o) of section 11-1712 of the administrative code of the city of New York, such subdivision as relettered by chapter 639 of the laws of 1986, is amended to read as follows:

(2) A new business does not include: (i) any new business of which twenty-five percent or more of the number of shares of stock that entitle the holders thereof to vote for the election of directors or trustees is owned, directly or indirectly, by a taxpayer subject to tax under section one hundred eighty-three, one hundred eighty-four, FORMER SECTION one hundred eighty-five or FORMER SECTION one hundred eighty-six of article nine of the tax law, or under article [nine-a] NINE-A, thirty-two or thirty-three of the tax law or (ii) any new business substantially similar in operation and in ownership, directly or indirectly, to a business entity (or entities) taxable, or previously taxable, under such section, such article, article twenty-three of the tax law or which would have been subject to tax under such article twenty-three (as such article was in effect on January first, nineteen hundred eighty) or the income (or losses) of which is (or was) includible under article twenty-two of such tax law whereby the intent and purpose of this section would be evaded.

S 35. Paragraph (iii) of subdivision 9 of section 16-v of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban



development corporation act, as added by section 1 of part C of chapter 59 of the laws of 2013, is amended to read as follows:

(iii) either: (A) any corporation, except a corporation which:

(1) over fifty percent of the number of shares of stock entitling the holders thereof to vote for the election of directors or trustees is owned or controlled, either directly or indirectly, by a taxpayer subject to tax under the following provisions of the tax law: article nine-A; section one hundred eighty-three[,] OR one hundred eighty-four or FORMER SECTION one hundred eighty-five of article nine; article thirty-two or article thirty-three; or

(2) is substantially similar in operation and in ownership to a business entity (or entities) taxable or previously taxable under the following provisions of the tax law: article nine-A; section one hundred eighty-three, one hundred eighty-four, FORMER SECTION one hundred eighty-five or former section one hundred eighty-six of article nine; article thirty-two; article thirty-three; article twenty-three, or would have been subject to tax under such article twenty-three (as such article was in effect on January first, nineteen hundred eighty) or the income (or losses) of which is (or was) includable under article twenty-two; or

(B) a sole proprietorship, partnership, limited partnership, limited liability company, or New York subchapter S corporation that is not substantially similar in operation and in ownership to a business entity (or entities) taxable, or previously taxable, under article nine-A of the tax law, section one hundred eighty-three, one hundred eighty-four, FORMER SECTION one hundred eighty-five or former section one hundred eighty-six of article nine of the tax law, article thirty-two or thirty-three of the tax law, article twenty-three of the tax law or which would have been subject to tax under such article twenty-three (as such article was in effect on January first, nineteen hundred eighty) or the income (or losses) of which is (or was) includable under article twenty-two of the tax law; and

S 36. Notwithstanding the repeal of section 185 of the tax law by section one of this act, all provisions of such section 185, in respect to the imposition, exemption, assessment, payment, payment over, determination, collection, and credit or refund of tax imposed thereunder, the filing of forms and returns, the preservation of records for the purposes of such tax, the secrecy of returns, the disposition of revenues, and the civil and criminal penalties applicable to the violation of the provisions of such section 185, shall continue in full force and effect with respect to all such tax accrued up to December 31, 2017; all actions and proceedings, civil or criminal, commenced or authorized to be commenced under or by virtue of any provision of such section 185 so repealed, and pending or able to commence prior to the taking effect of such repeal, may be commenced, prosecuted and defended to final effect in the same manner as they might if such provisions were not so repealed.

S 37. This act shall take effect January 1, 2018 and shall apply to taxable years beginning on or after January 1, 2018; provided, however that:

a. the amendments to subdivision 9 of section 400 of the economic development law made by section two of this act shall not affect the repeal of such section and shall be deemed repealed therewith; and

b. the amendments to subdivisions (a) and (e) of section 35 of the tax law made by section nine of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

1

## PART T

2 Section 1. Section 39 of the tax law is amended by adding a new subdi-  
3 vision (c-1) to read as follows:

4 (C-1) EXCISE TAX ON TELECOMMUNICATION SERVICES. SUCH BUSINESS OR OWNER  
5 OF A BUSINESS SHALL BE ELIGIBLE FOR A CREDIT OF THE EXCISE TAX ON TELE-  
6 COMMUNICATION SERVICES IMPOSED BY SECTION ONE HUNDRED EIGHTY-SIX-E OF  
7 THIS CHAPTER THAT IS PASSED THROUGH TO SUCH BUSINESS, PURSUANT TO THE  
8 PROVISIONS REFERENCED IN SUBDIVISION (K) OF THIS SECTION.

9 S 2. Paragraph 4 of subdivision (k) of section 39 of the tax law, as  
10 added by section 2 of part A of chapter 68 of the laws of 2013, is  
11 amended to read as follows:

12 (4) Article 9-A: section 210, subdivision 47 AND SUBDIVISION 49.

13 S 2-a. Paragraph 6 of subdivision (k) of section 39 of the tax law, as  
14 added by section 2 of part A of chapter 68 of the laws of 2013, is  
15 amended to read as follows:

16 (6) Article 22: section 606, subsection (ww) AND SUBSECTION (YY).

17 S 2-b. Paragraph (b) of subdivision 9 of section 208 of the tax law is  
18 amended by adding a new subparagraph 20-a to read as follows:

19 (20-A) THE AMOUNT OF ANY FEDERAL DEDUCTION FOR THE EXCISE TAX ON TELE-  
20 COMMUNICATION SERVICES TO THE EXTENT SUCH TAXES ARE USED AS THE BASIS OF  
21 THE CALCULATION OF THE TAX-FREE NY AREA EXCISE TAX ON TELECOMMUNICATION  
22 SERVICES CREDIT ALLOWED UNDER SUBDIVISION FORTY-NINE OF SECTION TWO  
23 HUNDRED TEN OF THIS ARTICLE.

24 S 3. Section 210 of the tax law is amended by adding a new subdivision  
25 49 to read as follows:

26 49. THE TAX-FREE NY AREA EXCISE TAX ON TELECOMMUNICATION SERVICES  
27 CREDIT. A TAXPAYER THAT IS A BUSINESS OR OWNER OF A BUSINESS THAT IS  
28 LOCATED IN A TAX-FREE NY AREA APPROVED PURSUANT TO ARTICLE TWENTY-ONE OF  
29 THE ECONOMIC DEVELOPMENT LAW SHALL BE ALLOWED A CREDIT EQUAL TO THE  
30 EXCISE TAX ON TELECOMMUNICATION SERVICES IMPOSED BY SECTION ONE HUNDRED  
31 EIGHTY-SIX-E OF THIS CHAPTER AND PASSED THROUGH TO SUCH BUSINESS DURING  
32 THE TAXABLE YEAR TO THE EXTENT NOT OTHERWISE DEDUCTED IN COMPUTING  
33 ENTIRE NET INCOME. HOWEVER, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH  
34 TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR  
35 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND  
36 EIGHTY-SIX OF THIS CHAPTER. THIS CREDIT MAY BE CLAIMED ONLY WHERE ANY  
37 TAX IMPOSED BY SUCH SECTION ONE HUNDRED EIGHTY-SIX-E HAS BEEN SEPARATELY  
38 STATED ON A BILL FROM THE PROVIDER OF TELECOMMUNICATION SERVICES AND  
39 PAID BY SUCH BUSINESS WITH RESPECT TO SUCH SERVICES RENDERED WITHIN A  
40 TAX-FREE NY AREA DURING THE TAXABLE YEAR. UNLESS THE TAXPAYER HAS A  
41 TAX-FREE NY AREA ALLOCATION FACTOR OF ONE HUNDRED PERCENT, THE CREDIT  
42 ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE  
43 TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH  
44 (D) OF SUBDIVISION ONE OF THIS SECTION. PROVIDED, HOWEVER, THE  
45 PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF  
46 THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

47 S 4. Section 606 of the tax law is amended by adding a new subsection  
48 (yy) to read as follows:

49 (YY) THE TAX-FREE NY AREA EXCISE TAX ON TELECOMMUNICATION SERVICES  
50 CREDIT. A TAXPAYER THAT IS A BUSINESS OR OWNER OF A BUSINESS THAT IS  
51 LOCATED IN A TAX-FREE NY AREA APPROVED PURSUANT TO ARTICLE TWENTY-ONE OF  
52 THE ECONOMIC DEVELOPMENT LAW SHALL BE ALLOWED A CREDIT EQUAL TO THE  
53 EXCISE TAX ON TELECOMMUNICATION SERVICES IMPOSED BY SECTION ONE HUNDRED  
54 EIGHTY-SIX-E OF THIS CHAPTER AND PASSED THROUGH TO SUCH BUSINESS DURING  
55 THE TAXABLE YEAR TO THE EXTENT NOT OTHERWISE DEDUCTED IN COMPUTING

FEDERAL ADJUSTED GROSS INCOME. THIS CREDIT MAY BE CLAIMED ONLY WHERE ANY TAX IMPOSED BY SUCH SECTION ONE HUNDRED EIGHTY-SIX-E HAS BEEN SEPARATELY STATED ON A BILL FROM THE PROVIDER OF TELECOMMUNICATION SERVICES AND PAID BY SUCH TAXPAYER WITH RESPECT TO SUCH SERVICES RENDERED WITHIN A TAX-FREE NY AREA DURING THE TAXABLE YEAR. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR EXCEEDS THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS WILL BE TREATED AS AN OVERPAYMENT TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST WILL BE PAID THEREON.

S 5. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xxxviii) to read as follows:

(XXXVIII) TAX FREE NY AREA EXCISE	AMOUNT OF CREDIT UNDER
TAX ON TELECOMMUNICATION SERVICES	SUBDIVISION FORTY-NINE
CREDIT UNDER SUBSECTION (YY)	OF SECTION TWO HUNDRED TEN

S 5-a. Subsection (b) of section 612 of the tax law is amended by adding a new paragraph 39-a to read as follows:

(39-A) THE AMOUNT OF ANY FEDERAL DEDUCTION FOR THE EXCISE TAX ON TELECOMMUNICATION SERVICES TO THE EXTENT SUCH TAXES ARE USED AS THE BASIS OF THE CALCULATION OF TAX-FREE NY AREA EXCISE TAX ON TELECOMMUNICATION SERVICES CREDIT ALLOWED UNDER SUBSECTION (YY) OF SECTION SIX HUNDRED SIX OF THIS ARTICLE.

S 6. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2014; provided that sections two, two-b, three and five of this act shall expire December 31, 2014 when upon such date such provisions shall be deemed repealed.

## PART U

Section 1. Paragraph (a) of subdivision 44 of section 210 of the tax law, as amended by section 2 of part T of chapter 59 of the laws of 2012, is amended to read as follows:

(a) A taxpayer that has been certified by the commissioner of labor as a qualified employer pursuant to section twenty-five-a of the labor law shall be allowed a credit against the tax imposed by this article equal to (i) five hundred dollars per month for up to six months for each qualified employee the employer employs in a full-time job or two hundred fifty dollars per month for up to six months for each qualified employee the employer employs in a part-time job of at least twenty hours per week OR TEN HOURS PER WEEK WHEN THE QUALIFIED EMPLOYEE IS ENROLLED IN HIGH SCHOOL FULL-TIME, and (ii) one thousand dollars for each qualified employee who is employed for at least an additional six months by the qualified employer in a full-time job or five hundred dollars for each qualified employee who is employed for at least an additional six months by the qualified employer in a part-time job of at least twenty hours per week OR TEN HOURS PER WEEK WHEN THE QUALIFIED EMPLOYEE IS ENROLLED IN HIGH SCHOOL FULL-TIME, AND (III) AN ADDITIONAL ONE THOUSAND DOLLARS FOR EACH QUALIFIED EMPLOYEE WHO IS EMPLOYED FOR AT LEAST AN ADDITIONAL YEAR AFTER THE FIRST YEAR OF THE EMPLOYEE'S EMPLOYMENT BY THE QUALIFIED EMPLOYER IN A FULL-TIME JOB OR FIVE HUNDRED DOLLARS FOR EACH QUALIFIED EMPLOYEE WHO IS EMPLOYED FOR AT LEAST AN ADDITIONAL YEAR AFTER THE FIRST YEAR OF THE EMPLOYEE'S EMPLOYMENT BY THE QUALIFIED EMPLOYER IN A PART-TIME JOB OF AT LEAST TWENTY HOURS PER WEEK OR TEN HOURS PER WEEK WHEN THE QUALIFIED EMPLOYEE IS ENROLLED IN HIGH SCHOOL FULL-TIME. For purposes of this subdivision, the term "qualified

employee" shall have the same meaning as set forth in subdivision (b) of section twenty-five-a of the labor law. The portion of the credit described in subparagraph (i) of this paragraph shall be allowed for the taxable year in which the wages are paid to the qualified employee, and the portion of the credit described in subparagraph (ii) of this paragraph shall be allowed in the taxable year in which the additional six month period ends.

S 2. Paragraph 1 of subsection (tt) of section 606 of the tax law, as amended by section 3 of part T of chapter 59 of the laws of 2012, is amended to read as follows:

(1) A taxpayer that has been certified by the commissioner of labor as a qualified employer pursuant to section twenty-five-a of the labor law shall be allowed a credit against the tax imposed by this article equal to (A) five hundred dollars per month for up to six months for each qualified employee the employer employs in a full-time job or two hundred fifty dollars per month for up to six months for each qualified employee the employer employs in a part-time job of at least twenty hours per week OR TEN HOURS PER WEEK WHEN THE QUALIFIED EMPLOYEE IS ENROLLED IN HIGH SCHOOL FULL-TIME, and (B) one thousand dollars for each qualified employee who is employed for at least an additional six months by the qualified employer in a full-time job or five hundred dollars for each qualified employee who is employed for at least an additional six months by the qualified employer in a part-time job of at least twenty hours per week OR TEN HOURS PER WEEK WHEN THE QUALIFIED EMPLOYEE IS ENROLLED IN HIGH SCHOOL FULL-TIME, AND (C) AN ADDITIONAL ONE THOUSAND DOLLARS FOR EACH QUALIFIED EMPLOYEE WHO IS EMPLOYED FOR AT LEAST AN ADDITIONAL YEAR AFTER THE FIRST YEAR OF THE EMPLOYEE'S EMPLOYMENT BY THE QUALIFIED EMPLOYER IN A FULL-TIME JOB OR FIVE HUNDRED DOLLARS FOR EACH QUALIFIED EMPLOYEE WHO IS EMPLOYED FOR AT LEAST AN ADDITIONAL YEAR AFTER THE FIRST YEAR OF THE EMPLOYEE'S EMPLOYMENT BY THE QUALIFIED EMPLOYER IN A PART-TIME JOB OF AT LEAST TWENTY HOURS PER WEEK OR TEN HOURS PER WEEK WHEN THE QUALIFIED EMPLOYEE IS ENROLLED IN HIGH SCHOOL FULL-TIME. A taxpayer that is a partner in a partnership, member of a limited liability company or shareholder in an S corporation that has been certified by the commissioner of labor as a qualified employer pursuant to section twenty-five-a of the labor law shall be allowed its pro rata share of the credit earned by the partnership, limited liability company or S corporation. For purposes of this subsection, the term "qualified employee" shall have the same meaning as set forth in subdivision (b) of section twenty-five-a of the labor law. The portion of the credit described in subparagraph (A) of this paragraph shall be allowed for the taxable year in which the wages are paid to the qualified employee, and the portion of the credit described in subparagraph (B) of this paragraph shall be allowed in the taxable year in which the additional six month period ends.

S 3. Subdivision (a) of section 25-a of the labor law, as amended by section 2 of part DD of chapter 59 of the laws of 2013, is amended to read as follows:

(a) The commissioner is authorized to establish and administer the New York youth works tax credit program to provide tax incentives to employers for employing at risk youth in part-time and full-time positions. There will be five distinct pools of tax incentives. Program one will cover tax incentives allocated for two thousand twelve and two thousand thirteen. Program two will cover tax incentives allocated in two thousand fourteen to be used in two thousand fourteen and fifteen. Program three will cover tax incentives allocated in two thousand fifteen to be

1 used in two thousand fifteen and sixteen. Program four will cover tax  
2 incentives allocated in two thousand sixteen to be used in two thousand  
3 sixteen and seventeen. Program five will cover tax incentives allocated  
4 in two thousand seventeen to be used in two thousand seventeen and eigh-  
5 teen. The commissioner is authorized to allocate up to twenty-five  
6 million dollars of tax credits under program one, [six] TEN million  
7 dollars of tax credits under program two, [six] TEN million dollars of  
8 tax credits under program three, [and six] TEN million dollars of tax  
9 credits under program four, and [six] TEN million dollars of tax credits  
10 under program five.

11 S 4. Subdivision (c) of section 25-a of the labor law, as amended by  
12 chapter 536 of the laws of 2013, is amended to read as follows:

13 (c) A qualified employer shall be entitled to a tax credit equal to  
14 (1) five hundred dollars per month for up to six months for each quali-  
15 fied employee the employer employs in a full-time job or two hundred  
16 fifty dollars per month for up to six months for each qualified employee  
17 the employer employs in a part-time job of at least twenty hours per  
18 week or ten hours per week when the qualified employee is enrolled in  
19 high school full-time, [and] (2) one thousand dollars for each qualified  
20 employee who is employed for at least an additional six months by the  
21 qualified employer in a full-time job or five hundred dollars for each  
22 qualified employee who is employed for at least an additional six months  
23 by the qualified employer in a part-time job of at least twenty hours  
24 per week or ten hours per week when the qualified employee is enrolled  
25 in high school full-time, AND (3) AN ADDITIONAL ONE THOUSAND DOLLARS FOR  
26 EACH QUALIFIED EMPLOYEE WHO IS EMPLOYED FOR AT LEAST AN ADDITIONAL YEAR  
27 AFTER THE FIRST YEAR OF THE EMPLOYEE'S EMPLOYMENT BY THE QUALIFIED  
28 EMPLOYER IN A FULL-TIME JOB OR FIVE HUNDRED DOLLARS FOR EACH QUALIFIED  
29 EMPLOYEE WHO IS EMPLOYED FOR AT LEAST AN ADDITIONAL YEAR AFTER THE FIRST  
30 YEAR OF THE EMPLOYEE'S EMPLOYMENT BY THE QUALIFIED EMPLOYER IN A  
31 PART-TIME JOB OF AT LEAST TWENTY HOURS PER WEEK OR TEN HOURS PER WEEK  
32 WHEN THE QUALIFIED EMPLOYEE IS ENROLLED IN HIGH SCHOOL FULL TIME. The  
33 tax credits shall be claimed by the qualified employer as specified in  
34 subdivision forty-four of section two hundred ten and subsection (tt) of  
35 section six hundred six of the tax law.

36 S 5. Section 25-a of the labor law is amended by adding a new subdivi-  
37 sion (f) to read as follows:

38 (F) THE COMMISSIONER SHALL ANNUALLY PUBLISH A REPORT. SUCH REPORT MUST  
39 CONTAIN THE NAMES AND ADDRESSES OF ANY EMPLOYER ISSUED A CERTIFICATE OF  
40 ELIGIBILITY UNDER THIS SECTION, AND THE MAXIMUM AMOUNT OF NEW YORK YOUTH  
41 WORKS TAX CREDIT ALLOWED TO THE EMPLOYER AS SPECIFIED ON SUCH CERTIF-  
42 ICATE OF ELIGIBILITY.

43 S 6. This act shall take effect immediately; provided, however,  
44 sections one and two of this act shall apply to taxable years beginning  
45 on or after January 1, 2014.

46 PART V

47 Section 1. Section 19 of Part W-1 of chapter 109 of the laws of 2006  
48 amending the tax law and other laws relating to providing exemptions,  
49 reimbursements and credits from various taxes for certain alternative  
50 fuels, as amended by section 1 of part D of chapter 59 of the laws of  
51 2012, is amended to read as follows:

52 S 19. This act shall take effect immediately; provided, however, that  
53 sections one through thirteen of this act shall take effect September 1,  
54 2006 and shall be deemed repealed on September 1, [2014] 2016 and such

1 repeal shall apply in accordance with the applicable transitional  
2 provisions of sections 1106 and 1217 of the tax law, and shall apply to  
3 sales made, fuel compounded or manufactured, and uses occurring on or  
4 after such date, and with respect to sections seven through eleven of  
5 this act, in accordance with applicable transitional provisions of  
6 sections 1106 and 1217 of the tax law; provided, however, that the  
7 commissioner of taxation and finance shall be authorized on and after  
8 the date this act shall have become a law to adopt and amend any rules  
9 or regulations and to take any steps necessary to implement the  
10 provisions of this act; provided further that sections fourteen through  
11 sixteen of this act shall take effect immediately and shall apply to  
12 taxable years beginning on or after January 1, 2006.

13 S 2. This act shall take effect immediately.

14

#### PART W

15 Section 1. Section 11 of part EE of chapter 63 of the laws of 2000,  
16 amending the tax law and other laws relating to modifying the distrib-  
17 ution of funds from the motor vehicle fuel excise tax, as amended by  
18 section 1 of part M of chapter 61 of the laws of 2011, is amended to  
19 read as follows:

20 S 11. Notwithstanding any other law, rule or regulation to the contra-  
21 ry, the comptroller is hereby authorized and directed to deposit in  
22 equal monthly installments and distribute pursuant to the provisions of  
23 subdivision (d) of section 301-j of the tax law amounts listed below to  
24 the credit of the dedicated highway and bridge trust fund and the dedi-  
25 cated mass transportation trust fund from all motor vehicle receipts now  
26 deposited into the general fund pursuant to provisions of the vehicle  
27 and traffic law: twenty-eight million four hundred thousand dollars  
28 from April 1, 2002 through March 31, 2003, sixty-seven million nine  
29 hundred thousand dollars from April 1, 2003 through March 31, 2004, one  
30 hundred seventy million one hundred thousand dollars from April 1, 2004  
31 through March 31, 2005, and one hundred percent of all motor vehicle  
32 receipts pursuant to provisions of the vehicle and traffic law that are  
33 not otherwise directed to be deposited in a fund other than the general  
34 fund from April 1, 2005 through March 31, 2006, and the same amount each  
35 year thereafter UNTIL MARCH 31, 2014. FROM APRIL 1, 2014 THROUGH MARCH  
36 31, 2015, AND EACH YEAR THEREAFTER, THE COMPTROLLER SHALL, ON A QUARTER-  
37 LY BASIS, CERTIFY AND TRANSFER SIXTEEN MILLION FOUR HUNDRED NINETY-EIGHT  
38 THOUSAND TWO HUNDRED FIFTY-FIVE DOLLARS TO THE DEDICATED HIGHWAY AND  
39 BRIDGE TRUST FUND AND FIFTEEN MILLION SIX HUNDRED SIXTY-FIVE THOUSAND  
40 TWO HUNDRED FORTY-FIVE DOLLARS TO THE DEDICATED MASS TRANSPORTATION  
41 TRUST FUND.

42 S 2. Paragraph (f) of subdivision 4 of section 503 of the vehicle and  
43 traffic law, as added by section 1 of part W of chapter 59 of the laws  
44 of 2006, is amended to read as follows:

45 (f) Notwithstanding any other provision of law to the contrary,  
46 commencing April first, two thousand six and ending March thirty-first,  
47 two thousand [seven] FOURTEEN, IN EACH YEAR, the first forty million  
48 seven hundred thousand dollars of fees collected pursuant to this subdi-  
49 vision and section eleven hundred ninety-nine of this chapter, in the  
50 aggregate, shall be paid to the state comptroller who shall deposit such  
51 money in the state treasury pursuant to section one hundred twenty-one  
52 of the state finance law to the credit of the general fund. Any such  
53 fees collected in excess of such amount shall be paid to the credit of  
54 the comptroller on account of the dedicated highway and bridge trust

1 fund established pursuant to section eighty-nine-b of the state finance  
2 law. [Commencing April first, two thousand seven and ending March thir-  
3 ty-first, two thousand eight, and for each such fiscal year thereafter,  
4 the first forty million seven hundred thousand dollars of fees collected  
5 pursuant to this subdivision and section eleven hundred ninety-nine of  
6 this chapter, in the aggregate, shall be paid to the state comptroller  
7 who shall deposit such money in the state treasury pursuant to section  
8 one hundred twenty-one of the state finance law to the credit of the  
9 general fund. Any such fees collected in excess of such amount for each  
10 such state fiscal year, shall be paid to the credit of the comptroller  
11 on account of the dedicated highway and bridge trust fund established  
12 pursuant to section eighty-nine-b of the state finance law.] COMMENCING  
13 APRIL FIRST, TWO THOUSAND FOURTEEN AND FOR EACH SUCH FISCAL YEAR THERE-  
14 AFTER, ANY SUCH FEES COLLECTED PURSUANT TO THIS SUBDIVISION AND SECTION  
15 ELEVEN HUNDRED NINETY-NINE OF THIS CHAPTER SHALL BE PAID TO THE CREDIT  
16 OF THE COMPTROLLER ON ACCOUNT OF THE DEDICATED HIGHWAY AND BRIDGE TRUST  
17 FUND ESTABLISHED PURSUANT TO SECTION EIGHTY-NINE-B OF THE STATE FINANCE  
18 LAW.

19 S 3. This act shall take effect immediately and shall be deemed to  
20 have been in full force and effect on and after April 1, 2014.

21

## PART X

22 Section 1. Section 951 of the tax law, as amended by chapter 67 of the  
23 laws of 1978, subsection (a) as amended by section 1 of part T of chap-  
24 ter 57 of the laws of 2010, subsection (b) as amended by section 5 of  
25 part A of chapter 389 of the laws of 1997 and subsection (c) as added by  
26 chapter 538 of the laws of 2013, is amended to read as follows:

27 S 951. Applicable internal revenue code provisions.-- (a) [Dates]  
28 GENERAL. For purposes of this article, any reference to the internal  
29 revenue code means the United States Internal Revenue Code of 1986, with  
30 all amendments enacted on or before [July twenty-second, nineteen  
31 hundred ninety-eight,] JANUARY FIRST, TWO THOUSAND FOURTEEN and, unless  
32 specifically provided otherwise in this article, any reference to Decem-  
33 ber thirty-first, nineteen hundred seventy-six or January first, nine-  
34 teen hundred seventy-seven contained in the provisions of such code  
35 which are applicable to the determination of the tax imposed by this  
36 article shall be read as a reference to June thirtieth, nineteen hundred  
37 seventy-eight or July first, nineteen hundred seventy-eight, respective-  
38 ly. [Notwithstanding the foregoing, the unified credit against the  
39 estate tax provided in section two thousand ten of the internal revenue  
40 code shall, for purposes of this article, be the amount allowable as if  
41 the federal applicable exclusion amount were one million dollars.]

42 (b) [Applicable generation-skipping transfer tax provisions.--Where  
43 any reference is made in this article (or in the provisions of the  
44 internal revenue code which are made applicable by section two, as  
45 amended, of chapter one thousand thirteen of the laws of nineteen  
46 hundred sixty-two, to the determination of the tax imposed by this arti-  
47 cle and appended thereto) to provisions of the internal revenue code  
48 contained in section one thousand twenty-five of this chapter, such  
49 internal revenue code provisions contained in such section one thousand  
50 twenty-five shall apply to the provisions of this article in the same  
51 manner and with the same force and effect as if the language of such  
52 provisions of the internal revenue code had been incorporated in full  
53 into this article except to the extent that any such provision is either

inconsistent with a provision of this article or is not relevant there-  
to.

(c)] Disposition to surviving spouse who is not a United States citizen. In the case of an estate where a federal estate tax return is not required for federal estate tax purposes, a disposition to a surviving spouse that would qualify for the federal estate tax marital deduction under section 2056 of the internal revenue code if not for the limitation imposed by subsection (d)(1) of such section shall nonetheless be treated as qualifying for the federal estate tax marital deduction for purposes of computing the tax imposed by section nine hundred fifty-two of this part, without requiring that such disposition pass to the surviving spouse in a qualified domestic trust as required for federal purposes by internal revenue code section 2056(d)(2).

S 2. Section 952 of the tax law, as added by section 9 of part A of chapter 389 of the laws of 1997, subsection (b) as amended by section 3 of part I of chapter 60 of the laws of 2004, is amended to read as follows:

S 952. Tax imposed. (a) A tax is hereby imposed on the transfer of the New York estate by every deceased individual who at his or her death was a resident of New York state. [The tax imposed by this subsection shall be an amount equal to the maximum amount allowable against the federal estate tax as a credit for state death taxes under section two thousand eleven of the internal revenue code.]

(b) [If the transfer of any part of the estate of a deceased resident includes real or tangible personal property having an actual situs outside New York state, the tax imposed by subsection (a) of this section shall be reduced by an amount determined by multiplying the maximum amount of the federal credit for state death taxes by a fraction, the numerator of which is the decedent's federal gross estate reduced by his or her New York gross estate and the denominator of which is his or her federal gross estate.] COMPUTATION OF TAX. THE TAX IMPOSED BY THIS SECTION SHALL BE COMPUTED ON THE DECEASED RESIDENT'S NEW YORK TAXABLE ESTATE AS FOLLOWS:

IN THE CASE OF DECEDENTS DYING ON OR AFTER APRIL 1, 2014 AND BEFORE APRIL 1, 2015

IF THE NEW YORK TAXABLE ESTATE IS:	THE TAX IS:
NOT OVER \$500,000	3.06% OF TAXABLE ESTATE
OVER \$500,000 BUT NOT OVER \$1,000,000	\$15,300 PLUS 5.0% OF EXCESS OVER \$500,000
OVER \$1,000,000 BUT NOT OVER \$1,500,000	\$40,300 PLUS 5.5% OF EXCESS OVER \$1,000,000
OVER \$1,500,000 BUT NOT OVER \$2,100,000	\$67,800 PLUS 6.5% OF EXCESS OVER \$1,500,000
OVER \$2,100,000 BUT NOT OVER \$2,600,000	\$106,800 PLUS 8.0% OF EXCESS OVER \$2,100,000
OVER \$2,600,000 BUT NOT OVER \$3,100,000	\$146,800 PLUS 8.8% OF EXCESS OVER \$2,600,000
OVER \$3,100,000 BUT NOT OVER \$3,600,000	\$190,800 PLUS 9.6% OF EXCESS OVER \$3,100,000
OVER \$3,600,000 BUT NOT OVER \$4,100,000	\$238,800 PLUS 10.4% OF EXCESS OVER \$3,600,000
OVER \$4,100,000 BUT NOT OVER \$5,100,000	\$290,800 PLUS 11.2% OF EXCESS OVER \$4,100,000
OVER \$5,100,000 BUT NOT OVER \$6,100,000	\$402,800 PLUS 12.0% OF EXCESS OVER \$5,100,000
OVER \$6,100,000 BUT NOT OVER \$7,100,000	\$522,800 PLUS 12.8% OF EXCESS



1		OVER \$6,100,000
2	OVER \$7,100,000 BUT NOT OVER \$8,100,000	\$650,800 PLUS 13.6% OF EXCESS
3		OVER \$7,100,000
4	OVER \$8,100,000 BUT NOT OVER \$9,100,000	\$786,800 PLUS 14.4% OF EXCESS
5		OVER \$8,100,000
6	OVER \$9,100,000 BUT NOT OVER	\$930,800 PLUS 15.2% OF EXCESS OVER
7	\$10,100,000	\$9,100,000
8	OVER \$10,100,000	\$1,082,800 PLUS 16.0% OF EXCESS
9		OVER \$10,100,000

10 (C) APPLICABLE CREDIT AMOUNT. (1) A CREDIT OF THE APPLICABLE CREDIT  
11 AMOUNT SHALL BE ALLOWED AGAINST THE TAX IMPOSED BY THIS SECTION AS  
12 PROVIDED IN THIS SUBSECTION. IN THE CASE OF A DECEDENT WHOSE NEW YORK  
13 TAXABLE ESTATE IS LESS THAN OR EQUAL TO THE BASIC EXCLUSION AMOUNT, THE  
14 APPLICABLE CREDIT AMOUNT SHALL BE THE AMOUNT OF TAX THAT WOULD BE DUE  
15 UNDER SUBSECTION (B) OF THIS SECTION ON SUCH DECEDENT'S NEW YORK TAXABLE  
16 ESTATE. IN THE CASE OF A DECEDENT WHOSE NEW YORK TAXABLE ESTATE EXCEEDS  
17 THE BASIC EXCLUSION AMOUNT BY AN AMOUNT THAT IS LESS THAN OR EQUAL TO  
18 FIVE PERCENT OF SUCH AMOUNT, THE APPLICABLE CREDIT AMOUNT SHALL BE THE  
19 AMOUNT OF TAX THAT WOULD BE DUE UNDER SUBSECTION (B) OF THIS SECTION IF  
20 THE AMOUNT ON WHICH THE TAX IS TO BE COMPUTED WERE EQUAL TO THE BASIC  
21 EXCLUSION AMOUNT MULTIPLIED BY ONE MINUS A FRACTION, THE NUMERATOR OF  
22 WHICH IS THE DECEDENT'S NEW YORK TAXABLE ESTATE MINUS THE BASIC EXCLU-  
23 SION AMOUNT, AND THE DENOMINATOR OF WHICH IS FIVE PERCENT OF THE BASIC  
24 EXCLUSION AMOUNT. PROVIDED, HOWEVER, THAT THE CREDIT ALLOWED BY THIS  
25 SUBSECTION SHALL NOT EXCEED THE TAX IMPOSED BY THIS SECTION, AND NO  
26 CREDIT SHALL BE ALLOWED TO THE ESTATE OF ANY DECEDENT WHOSE NEW YORK  
27 TAXABLE ESTATE EXCEEDS ONE HUNDRED FIVE PERCENT OF THE BASIC EXCLUSION  
28 AMOUNT.

29 (2) (A) FOR PURPOSES OF THIS SECTION, THE BASIC EXCLUSION AMOUNT SHALL  
30 BE AS FOLLOWS:  
31 IN THE CASE OF DECEDENTS DYING ON OR AFTER: THE BASIC EXCLUSION AMOUNT  
32 IS:

33	APRIL 1, 2014 AND BEFORE APRIL 1, 2015	\$ 2,062,500
34	APRIL 1, 2015 AND BEFORE APRIL 1, 2016	3,125,000
35	APRIL 1, 2016 AND BEFORE APRIL 1, 2017	4,187,500
36	APRIL 1, 2017 AND BEFORE JANUARY 1, 2019	5,250,000

37 (B) IN THE CASE OF ANY DECEDENT DYING IN A CALENDAR YEAR BEGINNING ON  
38 OR AFTER JANUARY FIRST, TWO THOUSAND NINETEEN, THE BASIC EXCLUSION  
39 AMOUNT SHALL BE EQUAL TO:

40 (I) FIVE MILLION DOLLARS, MULTIPLIED BY

41 (II) ONE PLUS THE COST-OF-LIVING ADJUSTMENT, WHICH SHALL BE THE  
42 PERCENTAGE BY WHICH THE CONSUMER PRICE INDEX FOR THE PRECEDING CALENDAR  
43 YEAR EXCEEDS THE CONSUMER PRICE INDEX FOR CALENDAR YEAR TWO THOUSAND  
44 TEN.

45 (C) (I) FOR PURPOSES OF THIS PARAGRAPH, "CONSUMER PRICE INDEX" MEANS  
46 THE MOST RECENT CONSUMER PRICE INDEX FOR ALL-URBAN CONSUMERS PUBLISHED  
47 BY THE UNITED STATES DEPARTMENT OF LABOR.

48 (II) FOR PURPOSES OF CLAUSE (II) OF SUBPARAGRAPH (B) OF THIS PARA-  
49 GRAPH, THE CONSUMER PRICE INDEX FOR ANY CALENDAR YEAR SHALL BE THE AVER-  
50 AGE OF THE CONSUMER PRICE INDEX AS OF THE CLOSE OF THE TWELVE-MONTH  
51 PERIOD ENDING ON AUGUST THIRTY-FIRST OF SUCH CALENDAR YEAR.

52 (III) IF ANY AMOUNT ADJUSTED UNDER THIS PARAGRAPH IS NOT A MULTIPLE OF  
53 TEN THOUSAND DOLLARS, SUCH AMOUNT SHALL BE ROUNDED TO THE NEAREST MULTI-  
54 PLE OF TEN THOUSAND DOLLARS.

55 S 3. Section 954 of the tax law, as amended by chapter 67 of the laws  
56 of 1978, paragraph 1 of subsection (a) as amended by section 10 and

subsection (b) as amended by section 11 of part A of chapter 389 of the laws of 1997, subsection (c) as amended by chapter 916 of the laws of 1982, paragraph 1 of subsection (c) as amended by section 3 of part A of chapter 407 of the laws of 1999 and such subsection (c) as relettered by section 12 of part A of chapter 389 of the laws of 1997, is amended to read as follows:

S 954. Resident's New York gross estate. (a) General.-- The New York gross estate of a deceased resident means his OR HER federal gross estate as defined in the internal revenue code (whether or not a federal estate tax return is required to be filed) modified as follows:

(1) Reduced by the value of real or tangible personal property having an actual situs outside New York state.

(2) Increased by the amount determined under section nine hundred fifty-seven OF THIS PART (relating to limited powers of appointment created prior to September first, nineteen hundred thirty).

(3) INCREASED BY THE AMOUNT OF ANY TAXABLE GIFT UNDER SECTION 2503 OF THE INTERNAL REVENUE CODE NOT OTHERWISE INCLUDED IN THE DECEDENT'S FEDERAL GROSS ESTATE, MADE DURING THE THREE YEAR PERIOD ENDING ON THE DECEDENT'S DATE OF DEATH, BUT NOT INCLUDING ANY GIFT MADE: (1) WHEN THE DECEDENT WAS NOT A RESIDENT OF NEW YORK STATE; (2) BEFORE APRIL FIRST, TWO THOUSAND FOURTEEN; OR (3) ON OR AFTER JANUARY FIRST, TWO THOUSAND NINETEEN.

(b) Valuation. -- (1) The New York gross estate shall be valued as of the TIME OF THE DECEDENT'S DEATH, EXCEPT THAT IF A FEDERAL ESTATE TAX RETURN IS FILED AND THE ALTERNATE VALUATION UNDER SECTION 2032 OF THE INTERNAL REVENUE CODE IS ELECTED FOR FEDERAL ESTATE TAX PURPOSES, THE NEW YORK GROSS ESTATE SHALL BE VALUED AS OF THE applicable federal valuation date or dates. Any real property qualified under section two thousand thirty-two-A of the internal revenue code shall have the same value for purposes of the New York gross estate as it has for federal estate tax purposes.

(2) IF SUCH ALTERNATE VALUATION COULD HAVE BEEN ELECTED PURSUANT TO PARAGRAPH ONE OF THIS SUBSECTION, BUT FOR THE ABSENCE OF AN ESTATE SUFFICIENT TO REQUIRE THE FILING OF A FEDERAL RETURN, THE NEW YORK GROSS ESTATE MAY, UPON THE ELECTION OF THE EXECUTOR, BE VALUED AS OF THE FEDERAL VALUATION DATE OR DATES WHICH WOULD HAVE APPLIED IF A FEDERAL RETURN HAD BEEN FILED. HOWEVER, NO ELECTION MAY BE MADE UNDER THIS PARAGRAPH UNLESS SUCH ELECTION WILL DECREASE THE VALUE OF THE NEW YORK GROSS ESTATE AND THE AMOUNT OF TAX IMPOSED BY THIS ARTICLE (REDUCED BY CREDITS ALLOWABLE AGAINST SUCH TAX). ANY ELECTION MADE UNDER THIS PARAGRAPH SHALL BE IRREVOCABLE. THE ELECTION ALLOWED BY THIS PARAGRAPH SHALL BE MADE NO LATER THAN THE DATE PRESCRIBED FOR THE FILING OF THE RETURN UNDER THIS ARTICLE (INCLUDING EXTENSIONS) OR ANY TIME THEREAFTER AS THE COMMISSIONER MAY PRESCRIBE.

(c) Cross references.-- (1) For provisions of the internal revenue code defining the federal gross estate, see:

Sec. 2031. Definition of gross estate.

Sec. 2032. Alternate valuation.

Sec. 2032A. Valuation of certain farm, etc., real property.

Sec. 2033. Property in which the decedent had an interest.

Sec. 2034. Dower or curtesy interest.

Sec. 2035. Adjustments for gifts made within three years of decedent's death.

Sec. 2036. Transfers with retained life estate.

Sec. 2037. Transfers taking effect at death.

Sec. 2038. Revocable transfers.

1 Sec. 2039. Annuities.

2 Sec. 2040. Joint interests.

3 Sec. 2041. Powers of appointment.

4 Sec. 2042. Proceeds of life insurance.

5 Sec. 2043. Transfers for insufficient consideration.

6 Sec. 2044. Certain property for which marital deduction was previously  
7 allowed.

8 Sec. 2045. Prior interests.

9 Sec. 2046. Disclaimers.

10 (2) FOR PROVISIONS OF THE INTERNAL REVENUE CODE WHICH, EXCEPT TO THE  
11 EXTENT THEY ARE INCONSISTENT WITH THE PROVISIONS OF THIS ARTICLE, ARE  
12 PERTINENT TO THE COMPUTATION OF TAXABLE GIFTS AND THE TAX UNDER THIS  
13 ARTICLE, SEE:

14 SEC. 2503. TAXABLE GIFTS.

15 SEC. 2511. TRANSFERS IN GENERAL.

16 SEC. 2512. VALUATION OF GIFTS.

17 SEC. 2513. GIFT BY HUSBAND OR WIFE TO THIRD PARTY.

18 SEC. 2514. POWERS OF APPOINTMENT.

19 SEC. 2516. CERTAIN PROPERTY SETTLEMENTS.

20 SEC. 2518. DISCLAIMERS.

21 SEC. 2519. DISPOSITIONS OF CERTAIN LIFE ESTATES.

22 SEC. 2522. CHARITABLE AND SIMILAR GIFTS.

23 SEC. 2523. GIFT TO SPOUSE.

24 SEC. 2524. EXTENT OF DEDUCTIONS.

25 SEC. 2701. SPECIAL VALUATION RULES IN CASE OF TRANSFERS OF CERTAIN  
26 INTERESTS IN CORPORATIONS OR PARTNERSHIPS.

27 SEC. 2702. SPECIAL VALUATION RULES IN CASE OF TRANSFERS OF INTERESTS  
28 IN TRUSTS.

29 SEC. 2703. CERTAIN RIGHTS AND RESTRICTIONS DISREGARDED.

30 SEC. 2704. TREATMENT OF CERTAIN LAPSING RIGHTS AND RESTRICTIONS.

31 SEC. 7872. TREATMENT OF LOANS WITH BELOW-MARKET INTEREST RATES.

32 (3) For effect of federal estate tax determinations, see section nine  
33 hundred sixty-one of this article.

34 S 4. The tax law is amended by adding a new section 955 to read as  
35 follows:

36 S 955. RESIDENT'S NEW YORK TAXABLE ESTATE. (A) GENERAL.--THE TAXABLE  
37 ESTATE OF A NEW YORK RESIDENT SHALL BE HIS OR HER NEW YORK GROSS ESTATE,  
38 MINUS THE DEDUCTIONS ALLOWABLE FOR DETERMINING HIS OR HER FEDERAL TAXA-  
39 BLE ESTATE UNDER THE INTERNAL REVENUE CODE (WHETHER OR NOT A FEDERAL  
40 ESTATE TAX RETURN IS REQUIRED TO BE FILED), EXCEPT TO THE EXTENT THAT  
41 SUCH DEDUCTIONS RELATE TO REAL OR TANGIBLE PERSONAL PROPERTY SITUED  
42 OUTSIDE NEW YORK STATE.

43 (B) WAIVER OF DEDUCTIONS.-- IF THE RIGHT TO ANY DEDUCTION OTHERWISE  
44 ALLOWABLE IS WAIVED FOR FEDERAL ESTATE TAX PURPOSES, IT SHALL BE CONSID-  
45 ERED WAIVED FOR NEW YORK ESTATE TAX PURPOSES.

46 (C) QUALIFIED TERMINABLE INTEREST PROPERTY ELECTION.-- EXCEPT AS  
47 OTHERWISE PROVIDED IN THIS SUBSECTION, THE ELECTION REFERRED TO IN PARA-  
48 GRAPH (7) OF SUBSECTION (B) OF SECTION 2056 OF THE INTERNAL REVENUE CODE  
49 SHALL NOT BE ALLOWED UNDER THIS ARTICLE UNLESS SUCH ELECTION WAS MADE  
50 WITH RESPECT TO THE FEDERAL ESTATE TAX RETURN REQUIRED TO BE FILED UNDER  
51 THE PROVISIONS OF THE INTERNAL REVENUE CODE. IF SUCH ELECTION WAS MADE  
52 FOR THE PURPOSES OF THE FEDERAL ESTATE TAX, THEN SUCH ELECTION MUST ALSO  
53 BE MADE BY THE EXECUTOR ON THE RETURN OF THE TAX IMPOSED BY THIS ARTI-  
54 CLE. WHERE NO FEDERAL ESTATE TAX RETURN IS REQUIRED TO BE FILED, THE  
55 EXECUTOR MAY MAKE THE ELECTION REFERRED TO IN SUCH PARAGRAPH (7) WITH  
56 RESPECT TO THE TAX IMPOSED BY THIS ARTICLE ON THE RETURN OF THE TAX

1 IMPOSED BY THIS ARTICLE. ANY ELECTION MADE UNDER THIS SUBSECTION SHALL  
2 BE IRREVOCABLE.

3 (D) CROSS REFERENCES.-- FOR PROVISIONS OF THE INTERNAL REVENUE CODE  
4 SPECIFYING THE DEDUCTIONS ALLOWABLE FOR FEDERAL ESTATE TAX PURPOSES,  
5 SEE:

6 SEC.2032(B). ALTERNATE VALUATION--SPECIAL RULE FOR DEDUCTIONS.

7 SEC.2046. DISCLAIMERS.

8 SEC.2053. EXPENSES, INDEBTEDNESS, AND TAXES.

9 SEC.2054. LOSSES.

10 SEC.2055. TRANSFERS FOR PUBLIC, CHARITABLE, AND RELIGIOUS USES.

11 SEC.2056. BEQUESTS, ETC., TO SURVIVING SPOUSE.

12 S 5. Subsections (b) and (d) of section 960 of the tax law, subsection  
13 (b) as amended by section 4 of part I of chapter 60 of the laws of 2004  
14 and subsection (d) as added by section 190 of the laws of 1980 and  
15 relettered by section 15 of part A of chapter 389 of the laws of 1997,  
16 are amended to read as follows:

17 (b) Computation of tax.--The tax imposed under subsection (a) shall be  
18 the same as the tax that would be due, if the decedent had died a resi-  
19 dent, under subsection (a) of section nine hundred fifty-two, except  
20 that for purposes of [allocating] COMPUTING the tax under subsection (b)  
21 of section nine hundred fifty-two, "New York [gross] TAXABLE estate"[,  
22 in the numerator in subsection (b) of section nine hundred fifty-two,]  
23 shall not include the value of any intangible personal property other-  
24 wise includible in the deceased individual's New York gross estate, AND  
25 SHALL NOT INCLUDE THE AMOUNT OF ANY GIFT UNLESS SUCH GIFT CONSISTS OF  
26 REAL OR TANGIBLE PERSONAL PROPERTY HAVING AN ACTUAL SITUS IN NEW YORK  
27 STATE OR INTANGIBLE PERSONAL PROPERTY EMPLOYED IN A BUSINESS, TRADE OR  
28 PROFESSION CARRIED ON IN THIS STATE.

29 (d) Works of art on loan for exhibition. Notwithstanding the forego-  
30 ing, the tax imposed under subsection (a) OF THIS SECTION on the trans-  
31 fer, from any deceased individual who at his OR HER death was not a  
32 resident of the state of New York, of works of art having an actual  
33 situs in the state of New York and either (i) includible in his OR HER  
34 federal gross estate or (ii) which would be includible in his OR HER New  
35 York gross estate pursuant to section nine hundred fifty-seven (relating  
36 to certain limited powers of appointment) if he OR SHE were a resident  
37 of the state of New York, shall [be an amount equal to the transfer  
38 taxes or death taxes of every character in respect of personal property  
39 which would be imposed on such transfer or such works of art if the  
40 actual situs of such works of art were the state or territory of the  
41 United States of residence of such individual] NOT BE SUBJECT TO THE TAX  
42 IMPOSED BY THIS SECTION if such works of art are [sited in the state of  
43 New York solely for exhibition purposes,] loaned [for such] TO A PUBLIC  
44 GALLERY LOCATED WITHIN THE STATE OF NEW YORK SOLELY FOR EXHIBITION  
45 purposes [to a public gallery or museum ( ) BUT ONLY IF no part of the  
46 net earnings of [which] SUCH PUBLIC GALLERY OR MUSEUM inure to the bene-  
47 fit of any private stockholder or individual[]], and [( ), at the time of  
48 the death of such individual[]] SUCH WORKS OF ART ARE on exhibition or  
49 en route to or from exhibition in such a public gallery or museum.  
50 [Provided however, that if the state or territory of the United States  
51 of residence of such individual imposes transfer taxes or death taxes on  
52 such works of art which are sited in the state of New York for the  
53 purposes herein specified, then such works of art shall not be subject  
54 to the tax imposed by this section.]

1 S 6. Subsection (a) of section 971 of the tax law, as added by section  
2 17 of part A of chapter 389 of the laws of 1997, is amended to read as  
3 follows:

4 (a) Returns by executor. (1) Residents. In the case of the estate of  
5 every individual dying on or after [February first, two thousand] APRIL  
6 FIRST, TWO THOUSAND FOURTEEN, who at his or her death was a resident of  
7 New York state, [if] his or her executor [is required to file a return  
8 with respect to the federal estate tax (determined as if the limitation  
9 contained in subsection (a) of section nine hundred fifty-one of this  
10 article were applicable in determining whether such executor is required  
11 to file such federal return), the executor] shall make a return with  
12 respect to the estate tax imposed by section nine hundred fifty-two of  
13 this article IF THE DECEDENT'S FEDERAL GROSS ESTATE, INCREASED BY THE  
14 AMOUNT OF ANY GIFT INCLUDIBLE IN HIS OR HER NEW YORK GROSS ESTATE,  
15 EXCEEDS THE BASIC EXCLUSION AMOUNT APPLICABLE TO THE DECEDENT'S DATE OF  
16 DEATH IN PARAGRAPH TWO OF SUBSECTION (C) OF SECTION NINE HUNDRED FIFTY-  
17 TWO OF THIS ARTICLE.

18 (2) Nonresidents. In the case of the estate of every individual DYING  
19 ON OR AFTER APRIL FIRST, TWO THOUSAND FOURTEEN, who at his or her death  
20 was not a resident of New York state, [if his or her executor is  
21 required to file a return with respect to the federal estate tax (deter-  
22 mined as if the limitation contained in subsection (a) of section nine  
23 hundred fifty-one of this article were applicable in determining whether  
24 such executor is required to file such federal return) and] if such  
25 individual's federal gross estate includes real or tangible personal  
26 property having an actual situs in New York state, the executor shall  
27 make a return with respect to the estate tax imposed by section nine  
28 hundred sixty of this article IF THE DECEDENT'S FEDERAL GROSS ESTATE,  
29 INCREASED BY THE AMOUNT OF ANY GIFT INCLUDIBLE IN HIS OR HER NEW YORK  
30 GROSS ESTATE, EXCEEDS THE BASIC EXCLUSION AMOUNT APPLICABLE TO THE  
31 DECEDENT'S DATE OF DEATH IN PARAGRAPH TWO OF SUBSECTION (C) OF SECTION  
32 NINE HUNDRED FIFTY-TWO OF THIS ARTICLE.

33 S 7. Subsection (a) of section 997 of the tax law, as amended by  
34 section 27 of part A of chapter 389 of the laws of 1997, is amended to  
35 read as follows:

36 (a) The phrase "adjusted gross estate" shall be read as "adjusted  
37 federal gross estate determined without reference to paragraphs (1)  
38 [and], (2) AND (3) of subsection (a) of section nine hundred fifty-four"  
39 of this article.

40 S 8. Article 26-B of the tax law is REPEALED.

41 S 9. Section 2 of chapter 1013 of the laws of 1962 amending the tax  
42 law relating to imposing a tax on the transfer of estates of decedents  
43 dying on or after April first, nineteen hundred sixty-three is REPEALED.

44 S 10. The tax law is amended by adding a new section 999-a to read as  
45 follows:

46 S 999-A. APPENDIX TO ARTICLE TWENTY-SIX. THE FOLLOWING PROVISIONS OF  
47 THE UNITED STATES INTERNAL REVENUE CODE OF 1986, WITH ALL AMENDMENTS  
48 ENACTED ON OR BEFORE JANUARY FIRST, TWO THOUSAND FOURTEEN, SHALL APPLY  
49 TO THE TAX IMPOSED BY THIS ARTICLE, TO THE EXTENT SPECIFIED IN THIS  
50 ARTICLE.

51 S 2031. DEFINITION OF GROSS ESTATE.

52 (A) GENERAL.--THE VALUE OF THE GROSS ESTATE OF THE DECEDENT SHALL BE  
53 DETERMINED BY INCLUDING TO THE EXTENT PROVIDED FOR IN THIS PART, THE  
54 VALUE AT THE TIME OF HIS DEATH OF ALL PROPERTY, REAL OR PERSONAL, TANGI-  
55 BLE OR INTANGIBLE, WHEREVER SITUATED.

(B) VALUATION OF UNLISTED STOCK AND SECURITIES.--IN THE CASE OF STOCK AND SECURITIES OF A CORPORATION THE VALUE OF WHICH, BY REASON OF THEIR NOT BEING LISTED ON AN EXCHANGE AND BY REASON OF THE ABSENCE OF SALES THEREOF, CANNOT BE DETERMINED WITH REFERENCE TO BID AND ASKED PRICES OR WITH REFERENCE TO SALES PRICES, THE VALUE THEREOF SHALL BE DETERMINED BY TAKING INTO CONSIDERATION, IN ADDITION TO ALL OTHER FACTORS, THE VALUE OF STOCK OR SECURITIES OF CORPORATIONS ENGAGED IN THE SAME OR A SIMILAR LINE OF BUSINESS WHICH ARE LISTED ON AN EXCHANGE.

(C) ESTATE TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.--

(1) IN GENERAL.--IF THE EXECUTOR MAKES THE ELECTION DESCRIBED IN PARAGRAPH (6), THEN, EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THERE SHALL BE EXCLUDED FROM THE GROSS ESTATE THE LESSER OF--

(A) THE APPLICABLE PERCENTAGE OF THE VALUE OF LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT, REDUCED BY THE AMOUNT OF ANY DEDUCTION UNDER SECTION 2055(F) WITH RESPECT TO SUCH LAND, OR

(B) THE EXCLUSION LIMITATION.

(2) APPLICABLE PERCENTAGE.--FOR PURPOSES OF PARAGRAPH (1), THE TERM "APPLICABLE PERCENTAGE" MEANS 40 PERCENT REDUCED (BUT NOT BELOW ZERO) BY 2 PERCENTAGE POINTS FOR EACH PERCENTAGE POINT (OR FRACTION THEREOF) BY WHICH THE VALUE OF THE QUALIFIED CONSERVATION EASEMENT IS LESS THAN 30 PERCENT OF THE VALUE OF THE LAND (DETERMINED WITHOUT REGARD TO THE VALUE OF SUCH EASEMENT AND REDUCED BY THE VALUE OF ANY RETAINED DEVELOPMENT RIGHT (AS DEFINED IN PARAGRAPH (5))). THE VALUES TAKEN INTO ACCOUNT UNDER THE PRECEDING SENTENCE SHALL BE SUCH VALUES AS OF THE DATE OF THE CONTRIBUTION REFERRED TO IN PARAGRAPH (8)(B).

(3) EXCLUSION LIMITATION.--FOR PURPOSES OF PARAGRAPH (1), THE EXCLUSION LIMITATION IS THE LIMITATION DETERMINED IN ACCORDANCE WITH THE FOLLOWING TABLE:

IN THE CASE OF ESTATES OF DECEDENTS DYING THE EXCLUSION LIMITATION DURING: IS:

1998.....	100,000
1999.....	200,000
2000.....	300,000
2001.....	400,000
2002 OR THEREAFTER.....	500,000

(4) TREATMENT OF CERTAIN INDEBTEDNESS.--

(A) IN GENERAL.--THE EXCLUSION PROVIDED IN PARAGRAPH (1) SHALL NOT APPLY TO THE EXTENT THAT THE LAND IS DEBT-FINANCED PROPERTY.

(B) DEFINITIONS.--FOR PURPOSES OF THIS PARAGRAPH--

(I) DEBT-FINANCED PROPERTY.--THE TERM "DEBT-FINANCED PROPERTY" MEANS ANY PROPERTY WITH RESPECT TO WHICH THERE IS AN ACQUISITION INDEBTEDNESS (AS DEFINED IN CLAUSE (II)) ON THE DATE OF THE DECEDENT'S DEATH.

(II) ACQUISITION INDEBTEDNESS.--THE TERM "ACQUISITION INDEBTEDNESS" MEANS, WITH RESPECT TO DEBT-FINANCED PROPERTY, THE UNPAID AMOUNT OF--

(I) THE INDEBTEDNESS INCURRED BY THE DONOR IN ACQUIRING SUCH PROPERTY,

(II) THE INDEBTEDNESS INCURRED BEFORE THE ACQUISITION OF SUCH PROPERTY IF SUCH INDEBTEDNESS WOULD NOT HAVE BEEN INCURRED BUT FOR SUCH ACQUISITION,

(III) THE INDEBTEDNESS INCURRED AFTER THE ACQUISITION OF SUCH PROPERTY IF SUCH INDEBTEDNESS WOULD NOT HAVE BEEN INCURRED BUT FOR SUCH ACQUISITION AND THE INCURRENCE OF SUCH INDEBTEDNESS WAS REASONABLY FORESEEABLE AT THE TIME OF SUCH ACQUISITION, AND

(IV) THE EXTENSION, RENEWAL, OR REFINANCING OF AN ACQUISITION INDEBTEDNESS.

(5) TREATMENT OF RETAINED DEVELOPMENT RIGHT.--

1 (A) IN GENERAL.--PARAGRAPH (1) SHALL NOT APPLY TO THE VALUE OF ANY  
2 DEVELOPMENT RIGHT RETAINED BY THE DONOR IN THE CONVEYANCE OF A QUALIFIED  
3 CONSERVATION EASEMENT.

4 (B) TERMINATION OF RETAINED DEVELOPMENT RIGHT.--IF EVERY PERSON IN  
5 BEING WHO HAS AN INTEREST (WHETHER OR NOT IN POSSESSION) IN THE LAND  
6 EXECUTES AN AGREEMENT TO EXTINGUISH PERMANENTLY SOME OR ALL OF ANY  
7 DEVELOPMENT RIGHTS (AS DEFINED IN SUBPARAGRAPH (D)) RETAINED BY THE  
8 DONOR ON OR BEFORE THE DATE FOR FILING THE RETURN OF THE TAX IMPOSED BY  
9 SECTION 2001, THEN ANY TAX IMPOSED BY SECTION 2001 SHALL BE REDUCED  
10 ACCORDINGLY. SUCH AGREEMENT SHALL BE FILED WITH THE RETURN OF THE TAX  
11 IMPOSED BY SECTION 2001. THE AGREEMENT SHALL BE IN SUCH FORM AS THE  
12 SECRETARY SHALL PRESCRIBE.

13 (C) ADDITIONAL TAX.--ANY FAILURE TO IMPLEMENT THE AGREEMENT DESCRIBED  
14 IN SUBPARAGRAPH (B) NOT LATER THAN THE EARLIER OF--

15 (I) THE DATE WHICH IS 2 YEARS AFTER THE DATE OF THE DECEDENT'S DEATH,  
16 OR

17 (II) THE DATE OF THE SALE OF SUCH LAND SUBJECT TO THE QUALIFIED  
18 CONSERVATION EASEMENT,

19 SHALL RESULT IN THE IMPOSITION OF AN ADDITIONAL TAX IN THE AMOUNT OF  
20 THE TAX WHICH WOULD HAVE BEEN DUE ON THE RETAINED DEVELOPMENT RIGHTS  
21 SUBJECT TO SUCH AGREEMENT. SUCH ADDITIONAL TAX SHALL BE DUE AND PAYABLE  
22 ON THE LAST DAY OF THE 6TH MONTH FOLLOWING SUCH DATE.

23 (D) DEVELOPMENT RIGHT DEFINED.--FOR PURPOSES OF THIS PARAGRAPH, THE  
24 TERM "DEVELOPMENT RIGHT" MEANS ANY RIGHT TO USE THE LAND SUBJECT TO THE  
25 QUALIFIED CONSERVATION EASEMENT IN WHICH SUCH RIGHT IS RETAINED FOR ANY  
26 COMMERCIAL PURPOSE WHICH IS NOT SUBORDINATE TO AND DIRECTLY SUPPORTIVE  
27 OF THE USE OF SUCH LAND AS A FARM FOR FARMING PURPOSES (WITHIN THE MEAN-  
28 ING OF SECTION 2032A(E)(5)).

29 (6) ELECTION.--THE ELECTION UNDER THIS SUBSECTION SHALL BE MADE ON OR  
30 BEFORE THE DUE DATE (INCLUDING EXTENSIONS) FOR FILING THE RETURN OF TAX  
31 IMPOSED BY SECTION 2001 AND SHALL BE MADE ON SUCH RETURN. SUCH AN  
32 ELECTION, ONCE MADE, SHALL BE IRREVOCABLE.

33 (7) CALCULATION OF ESTATE TAX DUE.--AN EXECUTOR MAKING THE ELECTION  
34 DESCRIBED IN PARAGRAPH (6) SHALL, FOR PURPOSES OF CALCULATING THE AMOUNT  
35 OF TAX IMPOSED BY SECTION 2001, INCLUDE THE VALUE OF ANY DEVELOPMENT  
36 RIGHT (AS DEFINED IN PARAGRAPH (5)) RETAINED BY THE DONOR IN THE CONVEY-  
37 ANCE OF SUCH QUALIFIED CONSERVATION EASEMENT. THE COMPUTATION OF TAX ON  
38 ANY RETAINED DEVELOPMENT RIGHT PRESCRIBED IN THIS PARAGRAPH SHALL BE  
39 DONE IN SUCH MANNER AND ON SUCH FORMS AS THE SECRETARY SHALL PRESCRIBE.

40 (8) DEFINITIONS.--FOR PURPOSES OF THIS SUBSECTION--

41 (A) LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.--THE TERM "LAND  
42 SUBJECT TO A QUALIFIED CONSERVATION EASEMENT" MEANS LAND--

43 (I) WHICH IS LOCATED IN THE UNITED STATES OR ANY POSSESSION OF THE  
44 UNITED STATES,

45 (II) WHICH WAS OWNED BY THE DECEDENT OR A MEMBER OF THE DECEDENT'S  
46 FAMILY AT ALL TIMES DURING THE 3-YEAR PERIOD ENDING ON THE DATE OF THE  
47 DECEDENT'S DEATH, AND

48 (III) WITH RESPECT TO WHICH A QUALIFIED CONSERVATION EASEMENT HAS BEEN  
49 MADE BY AN INDIVIDUAL DESCRIBED IN SUBPARAGRAPH (C), AS OF THE DATE OF  
50 THE ELECTION DESCRIBED IN PARAGRAPH (6).

51 (B) QUALIFIED CONSERVATION EASEMENT.--THE TERM "QUALIFIED CONSERVATION  
52 EASEMENT" MEANS A QUALIFIED CONSERVATION CONTRIBUTION (AS DEFINED IN  
53 SECTION 170(H)(1)) OF A QUALIFIED REAL PROPERTY INTEREST (AS DEFINED IN  
54 SECTION 170(H)(2)(C)), EXCEPT THAT CLAUSE (IV) OF SECTION 170(H)(4)(A)  
55 SHALL NOT APPLY, AND THE RESTRICTION ON THE USE OF SUCH INTEREST

DESCRIBED IN SECTION 170(H)(2)(C) SHALL INCLUDE A PROHIBITION ON MORE THAN A DE MINIMIS USE FOR A COMMERCIAL RECREATIONAL ACTIVITY.

(C) INDIVIDUAL DESCRIBED.--AN INDIVIDUAL IS DESCRIBED IN THIS SUBPARAGRAPH IF SUCH INDIVIDUAL IS--

(I) THE DECEDENT,

(II) A MEMBER OF THE DECEDENT'S FAMILY,

(III) THE EXECUTOR OF THE DECEDENT'S ESTATE, OR

(IV) THE TRUSTEE OF A TRUST THE CORPUS OF WHICH INCLUDES THE LAND TO BE SUBJECT TO THE QUALIFIED CONSERVATION EASEMENT.

(D) MEMBER OF FAMILY.--THE TERM "MEMBER OF THE DECEDENT'S FAMILY" MEANS ANY MEMBER OF THE FAMILY (AS DEFINED IN SECTION 2032A(E)(2)) OF THE DECEDENT.

(9) TREATMENT OF EASEMENTS GRANTED AFTER DEATH.--IN ANY CASE IN WHICH THE QUALIFIED CONSERVATION EASEMENT IS GRANTED AFTER THE DATE OF THE DECEDENT'S DEATH AND ON OR BEFORE THE DUE DATE (INCLUDING EXTENSIONS) FOR FILING THE RETURN OF TAX IMPOSED BY SECTION 2001, THE DEDUCTION UNDER SECTION 2055(F) WITH RESPECT TO SUCH EASEMENT SHALL BE ALLOWED TO THE ESTATE BUT ONLY IF NO CHARITABLE DEDUCTION IS ALLOWED UNDER CHAPTER 1 TO ANY PERSON WITH RESPECT TO THE GRANT OF SUCH EASEMENT.

(10) APPLICATION OF THIS SECTION TO INTERESTS IN PARTNERSHIPS, CORPORATIONS, AND TRUSTS.--THIS SECTION SHALL APPLY TO AN INTEREST IN A PARTNERSHIP, CORPORATION, OR TRUST IF AT LEAST 30 PERCENT OF THE ENTITY IS OWNED (DIRECTLY OR INDIRECTLY) BY THE DECEDENT, AS DETERMINED UNDER THE RULES DESCRIBED IN SECTION 2057(E)(3).

(D) CROSS REFERENCE.--

FOR EXECUTOR'S RIGHT TO BE FURNISHED ON REQUEST A STATEMENT REGARDING ANY VALUATION MADE BY THE SECRETARY WITHIN THE GROSS ESTATE, SEE SECTION 7517.

S 2032. ALTERNATE VALUATION.

(A) GENERAL.--THE VALUE OF THE GROSS ESTATE MAY BE DETERMINED, IF THE EXECUTOR SO ELECTS, BY VALUING ALL THE PROPERTY INCLUDED IN THE GROSS ESTATE AS FOLLOWS:

(1) IN THE CASE OF PROPERTY DISTRIBUTED, SOLD, EXCHANGED, OR OTHERWISE DISPOSED OF, WITHIN 6 MONTHS AFTER THE DECEDENT'S DEATH SUCH PROPERTY SHALL BE VALUED AS OF THE DATE OF DISTRIBUTION, SALE, EXCHANGE, OR OTHER DISPOSITION.

(2) IN THE CASE OF PROPERTY NOT DISTRIBUTED, SOLD, EXCHANGED, OR OTHERWISE DISPOSED OF, WITHIN 6 MONTHS AFTER THE DECEDENT'S DEATH SUCH PROPERTY SHALL BE VALUED AS OF THE DATE 6 MONTHS AFTER THE DECEDENT'S DEATH.

(3) ANY INTEREST OR ESTATE WHICH IS AFFECTED BY MERE LAPSE OF TIME SHALL BE INCLUDED AT ITS VALUE AS OF THE TIME OF DEATH (INSTEAD OF THE LATER DATE) WITH ADJUSTMENT FOR ANY DIFFERENCE IN ITS VALUE AS OF THE LATER DATE NOT DUE TO MERE LAPSE OF TIME.

(B) SPECIAL RULES.--NO DEDUCTION UNDER THIS CHAPTER OF ANY ITEM SHALL BE ALLOWED IF ALLOWANCE FOR SUCH ITEMS IS IN EFFECT GIVEN BY THE ALTERNATE VALUATION PROVIDED BY THIS SECTION. WHEREVER IN ANY OTHER SUBSECTION OR SECTION OF THIS CHAPTER REFERENCE IS MADE TO THE VALUE OF PROPERTY AT THE TIME OF THE DECEDENT'S DEATH, SUCH REFERENCE SHALL BE DEEMED TO REFER TO THE VALUE OF SUCH PROPERTY USED IN DETERMINING THE VALUE OF THE GROSS ESTATE. IN CASE OF AN ELECTION MADE BY THE EXECUTOR UNDER THIS SECTION, THEN--

(1) FOR PURPOSES OF THE CHARITABLE DEDUCTION UNDER SECTION 2055 OR 2106(A)(2), ANY BEQUEST, LEGACY, DEVISE, OR TRANSFER ENUMERATED THEREIN, AND



(2) FOR THE PURPOSE OF THE MARITAL DEDUCTION UNDER SECTION 2056, ANY INTEREST IN PROPERTY PASSING TO THE SURVIVING SPOUSE, SHALL BE VALUED AS OF THE DATE OF THE DECEDENT'S DEATH WITH ADJUSTMENT FOR ANY DIFFERENCE IN VALUE (NOT DUE TO MERE LAPSE OF TIME OR THE OCCURRENCE OR NONOCCURRENCE OF A CONTINGENCY) OF THE PROPERTY AS OF THE DATE 6 MONTHS AFTER THE DECEDENT'S DEATH (SUBSTITUTING, IN THE CASE OF PROPERTY DISTRIBUTED BY THE EXECUTOR OR TRUSTEE, OR SOLD, EXCHANGED, OR OTHERWISE DISPOSED OF, DURING SUCH 6-MONTH PERIOD, THE DATE THEREOF).

(C) ELECTION MUST DECREASE GROSS ESTATE AND ESTATE TAX.--NO ELECTION MAY BE MADE UNDER THIS SECTION WITH RESPECT TO AN ESTATE UNLESS SUCH ELECTION WILL DECREASE--

(1) THE VALUE OF THE GROSS ESTATE, AND

(2) THE SUM OF THE TAX IMPOSED BY THIS CHAPTER AND THE TAX IMPOSED BY CHAPTER 13 WITH RESPECT TO PROPERTY INCLUDIBLE IN THE DECEDENT'S GROSS ESTATE (REDUCED BY CREDITS ALLOWABLE AGAINST SUCH TAXES).

(D) ELECTION.--

(1) IN GENERAL.--THE ELECTION PROVIDED FOR IN THIS SECTION SHALL BE MADE BY THE EXECUTOR ON THE RETURN OF THE TAX IMPOSED BY THIS CHAPTER. SUCH ELECTION, ONCE MADE, SHALL BE IRREVOCABLE.

(2) EXCEPTION.--NO ELECTION MAY BE MADE UNDER THIS SECTION IF SUCH RETURN IS FILED MORE THAN 1 YEAR AFTER THE TIME PRESCRIBED BY LAW (INCLUDING EXTENSIONS) FOR FILING SUCH RETURN.

S 2032A. VALUATION OF CERTAIN FARM, ETC., REAL PROPERTY.

(A) VALUE BASED ON USE UNDER WHICH PROPERTY QUALIFIES.--

(1) GENERAL RULE.--IF--

(A) THE DECEDENT WAS (AT THE TIME OF HIS DEATH) A CITIZEN OR RESIDENT OF THE UNITED STATES, AND

(B) THE EXECUTOR ELECTS THE APPLICATION OF THIS SECTION AND FILES THE AGREEMENT REFERRED TO IN SUBSECTION (D)(2),

THEN, FOR PURPOSES OF THIS CHAPTER, THE VALUE OF QUALIFIED REAL PROPERTY SHALL BE ITS VALUE FOR THE USE UNDER WHICH IT QUALIFIES, UNDER SUBSECTION (B), AS QUALIFIED REAL PROPERTY.

(2) LIMITATION ON AGGREGATE REDUCTION IN FAIR MARKET VALUE.--THE AGGREGATE DECREASE IN THE VALUE OF QUALIFIED REAL PROPERTY TAKEN INTO ACCOUNT FOR PURPOSES OF THIS CHAPTER WHICH RESULTS FROM THE APPLICATION OF PARAGRAPH (1) WITH RESPECT TO ANY DECEDENT SHALL NOT EXCEED \$750,000.

(3) INFLATION ADJUSTMENT.--IN THE CASE OF ESTATES OF DECEDENTS DYING IN A CALENDAR YEAR AFTER 1998, THE \$750,000 AMOUNT CONTAINED IN PARAGRAPH (2) SHALL BE INCREASED BY AN AMOUNT EQUAL TO--

(A) \$750,000, MULTIPLIED BY

(B) THE COST-OF-LIVING ADJUSTMENT DETERMINED UNDER SECTION 1(F)(3) FOR SUCH CALENDAR YEAR BY SUBSTITUTING "CALENDAR YEAR 1997" FOR "CALENDAR YEAR 1992" IN SUBPARAGRAPH (B) THEREOF.

IF ANY AMOUNT AS ADJUSTED UNDER THE PRECEDING SENTENCE IS NOT A MULTIPLE OF \$10,000, SUCH AMOUNT SHALL BE ROUNDED TO THE NEXT LOWEST MULTIPLE OF \$10,000.

(B) QUALIFIED REAL PROPERTY.--

(1) IN GENERAL.--FOR PURPOSES OF THIS SECTION, THE TERM "QUALIFIED REAL PROPERTY" MEANS REAL PROPERTY LOCATED IN THE UNITED STATES WHICH WAS ACQUIRED FROM OR PASSED FROM THE DECEDENT TO A QUALIFIED HEIR OF THE DECEDENT AND WHICH, ON THE DATE OF THE DECEDENT'S DEATH, WAS BEING USED FOR A QUALIFIED USE BY THE DECEDENT OR A MEMBER OF THE DECEDENT'S FAMILY, BUT ONLY IF--

(A) 50 PERCENT OR MORE OF THE ADJUSTED VALUE OF THE GROSS ESTATE CONSISTS OF THE ADJUSTED VALUE OF REAL OR PERSONAL PROPERTY WHICH--

1 (I) ON THE DATE OF THE DECEDENT'S DEATH, WAS BEING USED FOR A QUALI-  
2 FIED USE BY THE DECEDENT OR A MEMBER OF THE DECEDENT'S FAMILY, AND

3 (II) WAS ACQUIRED FROM OR PASSED FROM THE DECEDENT TO A QUALIFIED HEIR  
4 OF THE DECEDENT.

5 (B) 25 PERCENT OR MORE OF THE ADJUSTED VALUE OF THE GROSS ESTATE  
6 CONSISTS OF THE ADJUSTED VALUE OF REAL PROPERTY WHICH MEETS THE REQUIRE-  
7 MENTS OF SUBPARAGRAPHS (A)(II) AND (C),

8 (C) DURING THE 8-YEAR PERIOD ENDING ON THE DATE OF THE DECEDENT'S  
9 DEATH THERE HAVE BEEN PERIODS AGGREGATING 5 YEARS OR MORE DURING WHICH--

10 (I) SUCH REAL PROPERTY WAS OWNED BY THE DECEDENT OR A MEMBER OF THE  
11 DECEDENT'S FAMILY AND USED FOR A QUALIFIED USE BY THE DECEDENT OR A  
12 MEMBER OF THE DECEDENT'S FAMILY, AND

13 (II) THERE WAS MATERIAL PARTICIPATION BY THE DECEDENT OR A MEMBER OF  
14 THE DECEDENT'S FAMILY IN THE OPERATION OF THE FARM OR OTHER BUSINESS,  
15 AND

16 (D) SUCH REAL PROPERTY IS DESIGNATED IN THE AGREEMENT REFERRED TO IN  
17 SUBSECTION (D)(2).

18 (2) QUALIFIED USE.--FOR PURPOSES OF THIS SECTION, THE TERM "QUALIFIED  
19 USE" MEANS THE DEVOTION OF THE PROPERTY TO ANY OF THE FOLLOWING:

20 (A) USE AS A FARM FOR FARMING PURPOSES, OR

21 (B) USE IN A TRADE OR BUSINESS OTHER THAN THE TRADE OR BUSINESS OF  
22 FARMING.

23 (3) ADJUSTED VALUE.--FOR PURPOSES OF PARAGRAPH (1), THE TERM "ADJUSTED  
24 VALUE" MEANS--

25 (A) IN THE CASE OF THE GROSS ESTATE, THE VALUE OF THE GROSS ESTATE FOR  
26 PURPOSES OF THIS CHAPTER (DETERMINED WITHOUT REGARD TO THIS SECTION),  
27 REDUCED BY ANY AMOUNTS ALLOWABLE AS A DEDUCTION UNDER PARAGRAPH (4) OF  
28 SECTION 2053(A), OR

29 (B) IN THE CASE OF ANY REAL OR PERSONAL PROPERTY, THE VALUE OF SUCH  
30 PROPERTY FOR PURPOSES OF THIS CHAPTER (DETERMINED WITHOUT REGARD TO THIS  
31 SECTION), REDUCED BY ANY AMOUNTS ALLOWABLE AS A DEDUCTION IN RESPECT OF  
32 SUCH PROPERTY UNDER PARAGRAPH (4) OF SECTION 2053(A).

33 (4) DECEDENTS WHO ARE RETIRED OR DISABLED.--

34 (A) IN GENERAL.--IF, ON THE DATE OF THE DECEDENT'S DEATH, THE REQUIRE-  
35 MENTS OF PARAGRAPH (1)(C)(II) WITH RESPECT TO THE DECEDENT FOR ANY PROP-  
36 erty ARE NOT MET, AND THE DECEDENT--

37 (I) WAS RECEIVING OLD-AGE BENEFITS UNDER TITLE II OF THE SOCIAL SECU-  
38 RITY ACT FOR A CONTINUOUS PERIOD ENDING ON SUCH DATE, OR

39 (II) WAS DISABLED FOR A CONTINUOUS PERIOD ENDING ON SUCH DATE,  
40 THEN PARAGRAPH (1)(C)(II) SHALL BE APPLIED WITH RESPECT TO SUCH PROP-  
41 erty BY SUBSTITUTING "THE DATE ON WHICH THE LONGER OF SUCH CONTINUOUS  
42 PERIODS BEGAN" FOR "THE DATE OF THE DECEDENT'S DEATH" IN PARAGRAPH  
43 (1)(C).

44 (B) DISABLED DEFINED.--FOR PURPOSES OF SUBPARAGRAPH (A), AN INDIVIDUAL  
45 SHALL BE DISABLED IF SUCH INDIVIDUAL HAS A MENTAL OR PHYSICAL IMPAIRMENT  
46 WHICH RENDERS HIM UNABLE TO MATERIALLY PARTICIPATE IN THE OPERATION OF  
47 THE FARM OR OTHER BUSINESS.

48 (C) COORDINATION WITH RECAPTURE.--FOR PURPOSES OF SUBSECTION  
49 (C)(6)(B)(I), IF THE REQUIREMENTS OF PARAGRAPH (1)(C)(II) ARE MET WITH  
50 RESPECT TO ANY DECEDENT BY REASON OF SUBPARAGRAPH (A), THE PERIOD ENDING  
51 ON THE DATE ON WHICH THE CONTINUOUS PERIOD TAKEN INTO ACCOUNT UNDER  
52 SUBPARAGRAPH (A) BEGAN SHALL BE TREATED AS THE PERIOD IMMEDIATELY BEFORE  
53 THE DECEDENT'S DEATH.

54 (5) SPECIAL RULES FOR SURVIVING SPOUSES.--

55 (A) IN GENERAL.--IF PROPERTY IS QUALIFIED REAL PROPERTY WITH RESPECT  
56 TO A DECEDENT (HEREINAFTER IN THIS PARAGRAPH REFERRED TO AS THE "FIRST

DECEDENT") AND SUCH PROPERTY WAS ACQUIRED FROM OR PASSED FROM THE FIRST DECEDENT TO THE SURVIVING SPOUSE OF THE FIRST DECEDENT, FOR PURPOSES OF APPLYING THIS SUBSECTION AND SUBSECTION (C) IN THE CASE OF THE ESTATE OF SUCH SURVIVING SPOUSE, ACTIVE MANAGEMENT OF THE FARM OR OTHER BUSINESS BY THE SURVIVING SPOUSE SHALL BE TREATED AS MATERIAL PARTICIPATION BY SUCH SURVIVING SPOUSE IN THE OPERATION OF SUCH FARM OR BUSINESS.

(B) SPECIAL RULE.--FOR THE PURPOSES OF SUBPARAGRAPH (A), THE DETERMINATION OF WHETHER PROPERTY IS QUALIFIED REAL PROPERTY WITH RESPECT TO THE FIRST DECEDENT SHALL BE MADE WITHOUT REGARD TO SUBPARAGRAPH (D) OF PARAGRAPH (1) AND WITHOUT REGARD TO WHETHER AN ELECTION UNDER THIS SECTION WAS MADE.

(C) COORDINATION WITH PARAGRAPH (4).--IN ANY CASE IN WHICH TO DO SO WILL ENABLE THE REQUIREMENTS OF PARAGRAPH (1)(C)(II) TO BE MET WITH RESPECT TO THE SURVIVING SPOUSE, THIS SUBSECTION AND SUBSECTION (C) SHALL BE APPLIED BY TAKING INTO ACCOUNT ANY APPLICATION OF PARAGRAPH (4).

(C) TAX TREATMENT OF DISPOSITIONS AND FAILURES TO USE FOR QUALIFIED USE.--

(1) IMPOSITION OF ADDITIONAL ESTATE TAX.--IF, WITHIN 10 YEARS AFTER THE DECEDENT'S DEATH AND BEFORE THE DEATH OF THE QUALIFIED HEIR--

(A) THE QUALIFIED HEIR DISPOSES OF ANY INTEREST IN QUALIFIED REAL PROPERTY (OTHER THAN BY A DISPOSITION TO A MEMBER OF HIS FAMILY), OR

(B) THE QUALIFIED HEIR CEASES TO USE FOR THE QUALIFIED USE THE QUALIFIED REAL PROPERTY WHICH WAS ACQUIRED (OR PASSED) FROM THE DECEDENT, THEN, THERE IS HEREBY IMPOSED AN ADDITIONAL ESTATE TAX.

(2) AMOUNT OF ADDITIONAL TAX.--

(A) IN GENERAL.--THE AMOUNT OF THE ADDITIONAL TAX IMPOSED BY PARAGRAPH (1) WITH RESPECT TO ANY INTEREST SHALL BE THE AMOUNT EQUAL TO THE LESSER OF--

(I) THE ADJUSTED TAX DIFFERENCE ATTRIBUTABLE TO SUCH INTEREST, OR

(II) THE EXCESS OF THE AMOUNT REALIZED WITH RESPECT TO THE INTEREST (OR, IN ANY CASE OTHER THAN A SALE OR EXCHANGE AT ARM'S LENGTH, THE FAIR MARKET VALUE OF THE INTEREST) OVER THE VALUE OF THE INTEREST DETERMINED UNDER SUBSECTION (A).

(B) ADJUSTED TAX DIFFERENCE ATTRIBUTABLE TO INTEREST.--FOR PURPOSES OF SUBPARAGRAPH (A), THE ADJUSTED TAX DIFFERENCE ATTRIBUTABLE TO AN INTEREST IS THE AMOUNT WHICH BEARS THE SAME RATIO TO THE ADJUSTED TAX DIFFERENCE WITH RESPECT TO THE ESTATE (DETERMINED UNDER SUBPARAGRAPH (C)) AS--

(I) THE EXCESS OF THE VALUE OF SUCH INTEREST FOR PURPOSES OF THIS CHAPTER (DETERMINED WITHOUT REGARD TO SUBSECTION (A)) OVER THE VALUE OF SUCH INTEREST DETERMINED UNDER SUBSECTION (A), BEARS TO

(II) A SIMILAR EXCESS DETERMINED FOR ALL QUALIFIED REAL PROPERTY.

(C) ADJUSTED TAX DIFFERENCE WITH RESPECT TO THE ESTATE.--FOR PURPOSES OF SUBPARAGRAPH (B), THE TERM "ADJUSTED TAX DIFFERENCE WITH RESPECT TO THE ESTATE" MEANS THE EXCESS OF WHAT WOULD HAVE BEEN THE ESTATE TAX LIABILITY BUT FOR SUBSECTION (A) OVER THE ESTATE TAX LIABILITY. FOR PURPOSES OF THIS SUBPARAGRAPH, THE TERM "ESTATE TAX LIABILITY" MEANS THE TAX IMPOSED BY SECTION 2001 REDUCED BY THE CREDITS ALLOWABLE AGAINST SUCH TAX.

(D) PARTIAL DISPOSITIONS.--FOR PURPOSES OF THIS PARAGRAPH, WHERE THE QUALIFIED HEIR DISPOSES OF A PORTION OF THE INTEREST ACQUIRED BY (OR PASSING TO) SUCH HEIR (OR A PREDECESSOR QUALIFIED HEIR) OR THERE IS A CESSATION OF USE OF SUCH A PORTION--

(I) THE VALUE DETERMINED UNDER SUBSECTION (A) TAKEN INTO ACCOUNT UNDER SUBPARAGRAPH (A)(II) WITH RESPECT TO SUCH PORTION SHALL BE ITS PRO RATA SHARE OF SUCH VALUE OF SUCH INTEREST, AND

(II) THE ADJUSTED TAX DIFFERENCE ATTRIBUTABLE TO THE INTEREST TAKEN INTO ACCOUNT WITH RESPECT TO THE TRANSACTION INVOLVING THE SECOND OR ANY SUCCEEDING PORTION SHALL BE REDUCED BY THE AMOUNT OF THE TAX IMPOSED BY THIS SUBSECTION WITH RESPECT TO ALL PRIOR TRANSACTIONS INVOLVING PORTIONS OF SUCH INTEREST.

(E) SPECIAL RULE FOR DISPOSITION OF TIMBER.--IN THE CASE OF QUALIFIED WOODLAND TO WHICH AN ELECTION UNDER SUBSECTION (E)(13)(A) APPLIES, IF THE QUALIFIED HEIR DISPOSES OF (OR SEVERES) ANY STANDING TIMBER ON SUCH QUALIFIED WOODLAND--

(I) SUCH DISPOSITION (OR SEVERANCE) SHALL BE TREATED AS A DISPOSITION OF A PORTION OF THE INTEREST OF THE QUALIFIED HEIR IN SUCH PROPERTY, AND

(II) THE AMOUNT OF THE ADDITIONAL TAX IMPOSED BY PARAGRAPH (1) WITH RESPECT TO SUCH DISPOSITION SHALL BE AN AMOUNT EQUAL TO THE LESSER OF--

(I) THE AMOUNT REALIZED ON SUCH DISPOSITION (OR, IN ANY CASE OTHER THAN A SALE OR EXCHANGE AT ARM'S LENGTH, THE FAIR MARKET VALUE OF THE PORTION OF THE INTEREST DISPOSED OR SEVERED), OR

(II) THE AMOUNT OF ADDITIONAL TAX DETERMINED UNDER THIS PARAGRAPH (WITHOUT REGARD TO THIS SUBPARAGRAPH) IF THE ENTIRE INTEREST OF THE QUALIFIED HEIR IN THE QUALIFIED WOODLAND HAD BEEN DISPOSED OF, LESS THE SUM OF THE AMOUNT OF THE ADDITIONAL TAX IMPOSED WITH RESPECT TO ALL PRIOR TRANSACTIONS INVOLVING SUCH WOODLAND TO WHICH THIS SUBPARAGRAPH APPLIED.

FOR PURPOSES OF THE PRECEDING SENTENCE, THE DISPOSITION OF A RIGHT TO SEVER SHALL BE TREATED AS THE DISPOSITION OF THE STANDING TIMBER. THE AMOUNT OF ADDITIONAL TAX IMPOSED UNDER PARAGRAPH (1) IN ANY CASE IN WHICH A QUALIFIED HEIR DISPOSES OF HIS ENTIRE INTEREST IN THE QUALIFIED WOODLAND SHALL BE REDUCED BY ANY AMOUNT DETERMINED UNDER THIS SUBPARAGRAPH WITH RESPECT TO SUCH WOODLAND.

(3) ONLY 1 ADDITIONAL TAX IMPOSED WITH RESPECT TO ANY 1 PORTION.--IN THE CASE OF AN INTEREST ACQUIRED FROM (OR PASSING FROM) ANY DECEDENT, IF SUBPARAGRAPH (A) OR (B) OF PARAGRAPH (1) APPLIES TO ANY PORTION OF AN INTEREST, SUBPARAGRAPH (B) OR (A), AS THE CASE MAY BE, OF PARAGRAPH (1) SHALL NOT APPLY WITH RESPECT TO THE SAME PORTION OF SUCH INTEREST.

(4) DUE DATE.--THE ADDITIONAL TAX IMPOSED BY THIS SUBSECTION SHALL BECOME DUE AND PAYABLE ON THE DAY WHICH IS 6 MONTHS AFTER THE DATE OF THE DISPOSITION OR CESSATION REFERRED TO IN PARAGRAPH (1).

(5) LIABILITY FOR TAX; FURNISHING OF BOND.--THE QUALIFIED HEIR SHALL BE PERSONALLY LIABLE FOR THE ADDITIONAL TAX IMPOSED BY THIS SUBSECTION WITH RESPECT TO HIS INTEREST UNLESS THE HEIR HAS FURNISHED BOND WHICH MEETS THE REQUIREMENTS OF SUBSECTION (E)(11).

(6) CESSATION OF QUALIFIED USE.--FOR PURPOSES OF PARAGRAPH (1)(B), REAL PROPERTY SHALL CEASE TO BE USED FOR THE QUALIFIED USE IF--

(A) SUCH PROPERTY CEASES TO BE USED FOR THE QUALIFIED USE SET FORTH IN SUBPARAGRAPH (A) OR (B) OF SUBSECTION (B)(2) UNDER WHICH THE PROPERTY QUALIFIED UNDER SUBSECTION (B), OR

(B) DURING ANY PERIOD OF 8 YEARS ENDING AFTER THE DATE OF THE DECEDENT'S DEATH AND BEFORE THE DATE OF THE DEATH OF THE QUALIFIED HEIR, THERE HAD BEEN PERIODS AGGREGATING MORE THAN 3 YEARS DURING WHICH--

(I) IN THE CASE OF PERIODS DURING WHICH THE PROPERTY WAS HELD BY THE DECEDENT, THERE WAS NO MATERIAL PARTICIPATION BY THE DECEDENT OR ANY MEMBER OF HIS FAMILY IN THE OPERATION OF THE FARM OR OTHER BUSINESS, AND

(II) IN THE CASE OF PERIODS DURING WHICH THE PROPERTY WAS HELD BY ANY QUALIFIED HEIR, THERE WAS NO MATERIAL PARTICIPATION BY SUCH QUALIFIED HEIR OR ANY MEMBER OF HIS FAMILY IN THE OPERATION OF THE FARM OR OTHER BUSINESS.

(7) SPECIAL RULES.--

1 (A) NO TAX IF USE BEGINS WITHIN 2 YEARS.--IF THE DATE ON WHICH THE  
2 QUALIFIED HEIR BEGINS TO USE THE QUALIFIED REAL PROPERTY (HEREINAFTER IN  
3 THIS SUBPARAGRAPH REFERRED TO AS THE COMMENCEMENT DATE) IS BEFORE THE  
4 DATE 2 YEARS AFTER THE DECEDENT'S DEATH--

5 (I) NO TAX SHALL BE IMPOSED UNDER PARAGRAPH (1) BY REASON OF THE FAIL-  
6 URE BY THE QUALIFIED HEIR TO SO USE SUCH PROPERTY BEFORE THE COMMENCE-  
7 MENT DATE, AND

8 (II) THE 10-YEAR PERIOD UNDER PARAGRAPH (1) SHALL BE EXTENDED BY THE  
9 PERIOD AFTER THE DECEDENT'S DEATH AND BEFORE THE COMMENCEMENT DATE.

10 (B) ACTIVE MANAGEMENT BY ELIGIBLE QUALIFIED HEIR TREATED AS MATERIAL  
11 PARTICIPATION.--FOR PURPOSES OF PARAGRAPH (6)(B)(II), THE ACTIVE MANAGE-  
12 MENT OF A FARM OR OTHER BUSINESS BY--

13 (I) AN ELIGIBLE QUALIFIED HEIR, OR

14 (II) A FIDUCIARY OF AN ELIGIBLE QUALIFIED HEIR DESCRIBED IN CLAUSE  
15 (II) OR (III) OF SUBPARAGRAPH (C),

16 SHALL BE TREATED AS MATERIAL PARTICIPATION BY SUCH ELIGIBLE QUALIFIED  
17 HEIR IN THE OPERATION OF SUCH FARM OR BUSINESS. IN THE CASE OF AN ELIGI-  
18 BLE QUALIFIED HEIR DESCRIBED IN CLAUSE (II), (III), OR (IV) OF SUBPARA-  
19 GRAPH (C), THE PRECEDING SENTENCE SHALL APPLY ONLY DURING PERIODS DURING  
20 WHICH SUCH HEIR MEETS THE REQUIREMENTS OF SUCH CLAUSE.

21 (C) ELIGIBLE QUALIFIED HEIR.--FOR PURPOSES OF THIS PARAGRAPH, THE TERM  
22 "ELIGIBLE QUALIFIED HEIR" MEANS A QUALIFIED HEIR WHO--

23 (I) IS THE SURVIVING SPOUSE OF THE DECEDENT,

24 (II) HAS NOT ATTAINED THE AGE OF 21,

25 (III) IS DISABLED (WITHIN THE MEANING OF SUBSECTION (B)(4)(B)), OR

26 (IV) IS A STUDENT.

27 (D) STUDENT.--FOR PURPOSES OF SUBPARAGRAPH (C), AN INDIVIDUAL SHALL BE  
28 TREATED AS A STUDENT WITH RESPECT TO PERIODS DURING ANY CALENDAR YEAR IF  
29 (AND ONLY IF) SUCH INDIVIDUAL IS A STUDENT (WITHIN THE MEANING OF  
30 SECTION 152(F)(2)) FOR SUCH CALENDAR YEAR.

31 (E) CERTAIN RENTS TREATED AS QUALIFIED USE.--FOR PURPOSES OF THIS  
32 SUBSECTION, A SURVIVING SPOUSE OR LINEAL DESCENDANT OF THE DECEDENT  
33 SHALL NOT BE TREATED AS FAILING TO USE QUALIFIED REAL PROPERTY IN A  
34 QUALIFIED USE SOLELY BECAUSE SUCH SPOUSE OR DESCENDANT RENTS SUCH PROP-  
35 erty TO A MEMBER OF THE FAMILY OF SUCH SPOUSE OR DESCENDANT ON A NET  
36 CASH BASIS. FOR PURPOSES OF THE PRECEDING SENTENCE, A LEGALLY ADOPTED  
37 CHILD OF AN INDIVIDUAL SHALL BE TREATED AS THE CHILD OF SUCH INDIVIDUAL  
38 BY BLOOD.

39 (8) QUALIFIED CONSERVATION CONTRIBUTION IS NOT A DISPOSITION.--A QUAL-  
40 IFIED CONSERVATION CONTRIBUTION (AS DEFINED IN SECTION 170(H)) BY GIFT  
41 OR OTHERWISE SHALL NOT BE DEEMED A DISPOSITION UNDER SUBSECTION  
42 (C)(1)(A).

43 (D) ELECTION; AGREEMENT.--

44 (1) ELECTION.--THE ELECTION UNDER THIS SECTION SHALL BE MADE ON THE  
45 RETURN OF THE TAX IMPOSED BY SECTION 2001. SUCH ELECTION SHALL BE MADE  
46 IN SUCH MANNER AS THE SECRETARY SHALL BY REGULATIONS PRESCRIBE. SUCH AN  
47 ELECTION, ONCE MADE, SHALL BE IRREVOCABLE.

48 (2) AGREEMENT.--THE AGREEMENT REFERRED TO IN THIS PARAGRAPH IS A WRIT-  
49 TEN AGREEMENT SIGNED BY EACH PERSON IN BEING WHO HAS AN INTEREST (WHETH-  
50 ER OR NOT IN POSSESSION) IN ANY PROPERTY DESIGNATED IN SUCH AGREEMENT  
51 CONSENTING TO THE APPLICATION OF SUBSECTION (C) WITH RESPECT TO SUCH  
52 PROPERTY.

53 (3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.--THE  
54 SECRETARY SHALL PRESCRIBE PROCEDURES WHICH PROVIDE THAT IN ANY CASE IN  
55 WHICH THE EXECUTOR MAKES AN ELECTION UNDER PARAGRAPH (1) (AND SUBMITS

1 THE AGREEMENT REFERRED TO IN PARAGRAPH (2)) WITHIN THE TIME PRESCRIBED  
2 THEREFOR, BUT--

3 (A) THE NOTICE OF ELECTION, AS FILED, DOES NOT CONTAIN ALL REQUIRED  
4 INFORMATION, OR

5 (B) SIGNATURES OF 1 OR MORE PERSONS REQUIRED TO ENTER INTO THE AGREE-  
6 MENT DESCRIBED IN PARAGRAPH (2) ARE NOT INCLUDED ON THE AGREEMENT AS  
7 FILED, OR THE AGREEMENT DOES NOT CONTAIN ALL REQUIRED INFORMATION,

8 THE EXECUTOR WILL HAVE A REASONABLE PERIOD OF TIME (NOT EXCEEDING 90  
9 DAYS) AFTER NOTIFICATION OF SUCH FAILURES TO PROVIDE SUCH INFORMATION OR  
10 SIGNATURES.

11 (E) DEFINITIONS; SPECIAL RULES.--FOR PURPOSES OF THIS SECTION--

12 (1) QUALIFIED HEIR.--THE TERM "QUALIFIED HEIR" MEANS, WITH RESPECT TO  
13 ANY PROPERTY, A MEMBER OF THE DECEDENT'S FAMILY WHO ACQUIRED SUCH PROP-  
14 erty (OR TO WHOM SUCH PROPERTY PASSED) FROM THE DECEDENT. IF A QUALIFIED  
15 HEIR DISPOSES OF ANY INTEREST IN QUALIFIED REAL PROPERTY TO ANY MEMBER  
16 OF HIS FAMILY, SUCH MEMBER SHALL THEREAFTER BE TREATED AS THE QUALIFIED  
17 HEIR WITH RESPECT TO SUCH INTEREST.

18 (2) MEMBER OF FAMILY.--THE TERM "MEMBER OF THE FAMILY" MEANS, WITH  
19 RESPECT TO ANY INDIVIDUAL, ONLY--

20 (A) AN ANCESTOR OF SUCH INDIVIDUAL,

21 (B) THE SPOUSE OF SUCH INDIVIDUAL,

22 (C) A LINEAL DESCENDANT OF SUCH INDIVIDUAL, OF SUCH INDIVIDUAL'S  
23 SPOUSE, OR OF A PARENT OF SUCH INDIVIDUAL, OR

24 (D) THE SPOUSE OF ANY LINEAL DESCENDANT DESCRIBED IN SUBPARAGRAPH (C).  
25 FOR PURPOSES OF THE PRECEDING SENTENCE, A LEGALLY ADOPTED CHILD OF AN  
26 INDIVIDUAL SHALL BE TREATED AS THE CHILD OF SUCH INDIVIDUAL BY BLOOD.

27 (3) CERTAIN REAL PROPERTY INCLUDED.--IN THE CASE OF REAL PROPERTY  
28 WHICH MEETS THE REQUIREMENTS OF SUBPARAGRAPH (C) OF SUBSECTION (B)(1),  
29 RESIDENTIAL BUILDINGS AND RELATED IMPROVEMENTS ON SUCH REAL PROPERTY  
30 OCCUPIED ON A REGULAR BASIS BY THE OWNER OR LESSEE OF SUCH REAL PROPERTY  
31 OR BY PERSONS EMPLOYED BY SUCH OWNER OR LESSEE FOR THE PURPOSE OF OPER-  
32 ating OR MAINTAINING SUCH REAL PROPERTY, AND ROADS, BUILDINGS, AND OTHER  
33 STRUCTURES AND IMPROVEMENTS FUNCTIONALLY RELATED TO THE QUALIFIED USE  
34 SHALL BE TREATED AS REAL PROPERTY DEVOTED TO THE QUALIFIED USE.

35 (4) FARM.--THE TERM "FARM" INCLUDES STOCK, DAIRY, POULTRY, FRUIT,  
36 FURBEARING ANIMAL, AND TRUCK FARMS, PLANTATIONS, RANCHES, NURSERIES,  
37 RANGES, GREENHOUSES OR OTHER SIMILAR STRUCTURES USED PRIMARILY FOR THE  
38 RAISING OF AGRICULTURAL OR HORTICULTURAL COMMODITIES, AND ORCHARDS AND  
39 WOODLANDS.

40 (5) FARMING PURPOSES.--THE TERM "FARMING PURPOSES" MEANS--

41 (A) CULTIVATING THE SOIL OR RAISING OR HARVESTING ANY AGRICULTURAL OR  
42 HORTICULTURAL COMMODITY (INCLUDING THE RAISING, SHEARING, FEEDING,  
43 CARING FOR, TRAINING, AND MANAGEMENT OF ANIMALS) ON A FARM;

44 (B) HANDLING, DRYING, PACKING, GRADING, OR STORING ON A FARM ANY AGRI-  
45 CULTURAL OR HORTICULTURAL COMMODITY IN ITS UNMANUFACTURED STATE, BUT  
46 ONLY IF THE OWNER, TENANT, OR OPERATOR OF THE FARM REGULARLY PRODUCES  
47 MORE THAN ONE-HALF OF THE COMMODITY SO TREATED; AND

48 (C)(I) THE PLANTING, CULTIVATING, CARING FOR, OR CUTTING OF TREES, OR

49 (II) THE PREPARATION (OTHER THAN MILLING) OF TREES FOR MARKET.

50 (6) MATERIAL PARTICIPATION.--MATERIAL PARTICIPATION SHALL BE DETER-  
51 MINED IN A MANNER SIMILAR TO THE MANNER USED FOR PURPOSES OF PARAGRAPH  
52 (1) OF SECTION 1402(A) (RELATING TO NET EARNINGS FROM SELF-EMPLOYMENT).

53 (7) METHOD OF VALUING FARMS.--

54 (A) IN GENERAL.--EXCEPT AS PROVIDED IN SUBPARAGRAPH (B), THE VALUE OF  
55 A FARM FOR FARMING PURPOSES SHALL BE DETERMINED BY DIVIDING--

1 (I) THE EXCESS OF THE AVERAGE ANNUAL GROSS CASH RENTAL FOR COMPARABLE  
2 LAND USED FOR FARMING PURPOSES AND LOCATED IN THE LOCALITY OF SUCH FARM  
3 OVER THE AVERAGE ANNUAL STATE AND LOCAL REAL ESTATE TAXES FOR SUCH  
4 COMPARABLE LAND, BY

5 (II) THE AVERAGE ANNUAL EFFECTIVE INTEREST RATE FOR ALL NEW FEDERAL  
6 LAND BANK LOANS.

7 FOR PURPOSES OF THE PRECEDING SENTENCE, EACH AVERAGE ANNUAL COMPUTA-  
8 TION SHALL BE MADE ON THE BASIS OF THE 5 MOST RECENT CALENDAR YEARS  
9 ENDING BEFORE THE DATE OF THE DECEDENT'S DEATH.

10 (B) VALUE BASED ON NET SHARE RENTAL IN CERTAIN CASES.--

11 (I) IN GENERAL.--IF THERE IS NO COMPARABLE LAND FROM WHICH THE AVERAGE  
12 ANNUAL GROSS CASH RENTAL MAY BE DETERMINED BUT THERE IS COMPARABLE LAND  
13 FROM WHICH THE AVERAGE NET SHARE RENTAL MAY BE DETERMINED, SUBPARAGRAPH  
14 (A)(I) SHALL BE APPLIED BY SUBSTITUTING "AVERAGE ANNUAL NET SHARE  
15 RENTAL" FOR "AVERAGE ANNUAL GROSS CASH RENTAL".

16 (II) NET SHARE RENTAL.--FOR PURPOSES OF THIS PARAGRAPH, THE TERM "NET  
17 SHARE RENTAL" MEANS THE EXCESS OF--

18 (I) THE VALUE OF THE PRODUCE RECEIVED BY THE LESSOR OF THE LAND ON  
19 WHICH SUCH PRODUCE IS GROWN, OVER

20 (II) THE CASH OPERATING EXPENSES OF GROWING SUCH PRODUCE WHICH, UNDER  
21 THE LEASE, ARE PAID BY THE LESSOR.

22 (C) EXCEPTION.--THE FORMULA PROVIDED BY SUBPARAGRAPH (A) SHALL NOT BE  
23 USED--

24 (I) WHERE IT IS ESTABLISHED THAT THERE IS NO COMPARABLE LAND FROM  
25 WHICH THE AVERAGE ANNUAL GROSS CASH RENTAL MAY BE DETERMINED, OR

26 (II) WHERE THE EXECUTOR ELECTS TO HAVE THE VALUE OF THE FARM FOR FARM-  
27 ING PURPOSES DETERMINED AND THAT THERE IS NO COMPARABLE LAND FROM WHICH  
28 THE AVERAGE NET SHARE RENTAL MAY BE DETERMINED UNDER PARAGRAPH (8).

29 (8) METHOD OF VALUING CLOSELY HELD BUSINESS INTERESTS, ETC.--IN ANY  
30 CASE TO WHICH PARAGRAPH (7)(A) DOES NOT APPLY, THE FOLLOWING FACTORS  
31 SHALL APPLY IN DETERMINING THE VALUE OF ANY QUALIFIED REAL PROPERTY:

32 (A) THE CAPITALIZATION OF INCOME WHICH THE PROPERTY CAN BE EXPECTED TO  
33 YIELD FOR FARMING OR CLOSELY HELD BUSINESS PURPOSES OVER A REASONABLE  
34 PERIOD OF TIME UNDER PRUDENT MANAGEMENT USING TRADITIONAL CROPPING  
35 PATTERNS FOR THE AREA, TAKING INTO ACCOUNT SOIL CAPACITY, TERRAIN  
36 CONFIGURATION, AND SIMILAR FACTORS,

37 (B) THE CAPITALIZATION OF THE FAIR RENTAL VALUE OF THE LAND FOR FARM-  
38 LAND OR CLOSELY HELD BUSINESS PURPOSES,

39 (C) ASSESSED LAND VALUES IN A STATE WHICH PROVIDES A DIFFERENTIAL OR  
40 USE VALUE ASSESSMENT LAW FOR FARMLAND OR CLOSELY HELD BUSINESS,

41 (D) COMPARABLE SALES OF OTHER FARM OR CLOSELY HELD BUSINESS LAND IN  
42 THE SAME GEOGRAPHICAL AREA FAR ENOUGH REMOVED FROM A METROPOLITAN OR  
43 RESORT AREA SO THAT NONAGRICULTURAL USE IS NOT A SIGNIFICANT FACTOR IN  
44 THE SALES PRICE, AND

45 (E) ANY OTHER FACTOR WHICH FAIRLY VALUES THE FARM OR CLOSELY HELD  
46 BUSINESS VALUE OF THE PROPERTY.

47 (9) PROPERTY ACQUIRED FROM DECEDENT.--PROPERTY SHALL BE CONSIDERED TO  
48 HAVE BEEN ACQUIRED FROM OR TO HAVE PASSED FROM THE DECEDENT IF--

49 (A) SUCH PROPERTY IS SO CONSIDERED UNDER SECTION 1014(B) (RELATING TO  
50 BASIS OF PROPERTY ACQUIRED FROM A DECEDENT),

51 (B) SUCH PROPERTY IS ACQUIRED BY ANY PERSON FROM THE ESTATE, OR

52 (C) SUCH PROPERTY IS ACQUIRED BY ANY PERSON FROM A TRUST (TO THE  
53 EXTENT SUCH PROPERTY IS INCLUDIBLE IN THE GROSS ESTATE OF THE DECEDENT).

54 (10) COMMUNITY PROPERTY.--IF THE DECEDENT AND HIS SURVIVING SPOUSE AT  
55 ANY TIME HELD QUALIFIED REAL PROPERTY AS COMMUNITY PROPERTY, THE INTER-  
56 EST OF THE SURVIVING SPOUSE IN SUCH PROPERTY SHALL BE TAKEN INTO ACCOUNT

1 UNDER THIS SECTION TO THE EXTENT NECESSARY TO PROVIDE A RESULT UNDER  
2 THIS SECTION WITH RESPECT TO SUCH PROPERTY WHICH IS CONSISTENT WITH THE  
3 RESULT WHICH WOULD HAVE OBTAINED UNDER THIS SECTION IF SUCH PROPERTY HAD  
4 NOT BEEN COMMUNITY PROPERTY.

5 (11) BOND IN LIEU OF PERSONAL LIABILITY.--IF THE QUALIFIED HEIR MAKES  
6 WRITTEN APPLICATION TO THE SECRETARY FOR DETERMINATION OF THE MAXIMUM  
7 AMOUNT OF THE ADDITIONAL TAX WHICH MAY BE IMPOSED BY SUBSECTION (C) WITH  
8 RESPECT TO THE QUALIFIED HEIR'S INTEREST, THE SECRETARY (AS SOON AS  
9 POSSIBLE, AND IN ANY EVENT WITHIN 1 YEAR AFTER THE MAKING OF SUCH APPLI-  
10 CATION) SHALL NOTIFY THE HEIR OF SUCH MAXIMUM AMOUNT. THE QUALIFIED  
11 HEIR, ON FURNISHING A BOND IN SUCH AMOUNT AND FOR SUCH PERIOD AS MAY BE  
12 REQUIRED, SHALL BE DISCHARGED FROM PERSONAL LIABILITY FOR ANY ADDITIONAL  
13 TAX IMPOSED BY SUBSECTION (C) AND SHALL BE ENTITLED TO A RECEIPT OR  
14 WRITING SHOWING SUCH DISCHARGE.

15 (12) ACTIVE MANAGEMENT.--THE TERM "ACTIVE MANAGEMENT" MEANS THE MAKING  
16 OF THE MANAGEMENT DECISIONS OF A BUSINESS (OTHER THAN THE DAILY OPERAT-  
17 ING DECISIONS).

18 (13) SPECIAL RULES FOR WOODLANDS.--

19 (A) IN GENERAL.--IN THE CASE OF ANY QUALIFIED WOODLAND WITH RESPECT TO  
20 WHICH THE EXECUTOR ELECTS TO HAVE THIS SUBPARAGRAPH APPLY, TREES GROWING  
21 ON SUCH WOODLAND SHALL NOT BE TREATED AS A CROP.

22 (B) QUALIFIED WOODLAND.--THE TERM "QUALIFIED WOODLAND" MEANS ANY REAL  
23 PROPERTY WHICH--

24 (I) IS USED IN TIMBER OPERATIONS, AND

25 (II) IS AN IDENTIFIABLE AREA OF LAND SUCH AS AN ACRE OR OTHER AREA FOR  
26 WHICH RECORDS ARE NORMALLY MAINTAINED IN CONDUCTING TIMBER OPERATIONS.

27 (C) TIMBER OPERATIONS.--THE TERM "TIMBER OPERATIONS" MEANS--

28 (I) THE PLANTING, CULTIVATING, CARING FOR, OR CUTTING OF TREES, OR

29 (II) THE PREPARATION (OTHER THAN MILLING) OF TREES FOR MARKET.

30 (D) ELECTION.--AN ELECTION UNDER SUBPARAGRAPH (A) SHALL BE MADE ON THE  
31 RETURN OF THE TAX IMPOSED BY SECTION 2001. SUCH ELECTION SHALL BE MADE  
32 IN SUCH MANNER AS THE SECRETARY SHALL BY REGULATIONS PRESCRIBE. SUCH AN  
33 ELECTION, ONCE MADE, SHALL BE IRREVOCABLE.

34 (14) TREATMENT OF REPLACEMENT PROPERTY ACQUIRED IN SECTION 1031 OR  
35 1033 TRANSACTIONS.--

36 (A) IN GENERAL.--IN THE CASE OF ANY QUALIFIED REPLACEMENT PROPERTY,  
37 ANY PERIOD DURING WHICH THERE WAS OWNERSHIP, QUALIFIED USE, OR MATERIAL  
38 PARTICIPATION WITH RESPECT TO THE REPLACED PROPERTY BY THE DECEDENT OR  
39 ANY MEMBER OF HIS FAMILY SHALL BE TREATED AS A PERIOD DURING WHICH THERE  
40 WAS SUCH OWNERSHIP, USE, OR MATERIAL PARTICIPATION (AS THE CASE MAY BE)  
41 WITH RESPECT TO THE QUALIFIED REPLACEMENT PROPERTY.

42 (B) LIMITATION.--SUBPARAGRAPH (A) SHALL NOT APPLY TO THE EXTENT THAT  
43 THE FAIR MARKET VALUE OF THE QUALIFIED REPLACEMENT PROPERTY (AS OF THE  
44 DATE OF ITS ACQUISITION) EXCEEDS THE FAIR MARKET VALUE OF THE REPLACED  
45 PROPERTY (AS OF THE DATE OF ITS DISPOSITION).

46 (C) DEFINITIONS.--FOR PURPOSES OF THIS PARAGRAPH--

47 (I) QUALIFIED REPLACEMENT PROPERTY.--THE TERM "QUALIFIED REPLACEMENT  
48 PROPERTY" MEANS ANY REAL PROPERTY WHICH IS--

49 (I) ACQUIRED IN AN EXCHANGE WHICH QUALIFIES UNDER SECTION 1031, OR

50 (II) THE ACQUISITION OF WHICH RESULTS IN THE NONRECOGNITION OF GAIN  
51 UNDER SECTION 1033.

52 SUCH TERM SHALL ONLY INCLUDE PROPERTY WHICH IS USED FOR THE SAME QUAL-  
53 IFIED USE AS THE REPLACED PROPERTY WAS BEING USED BEFORE THE EXCHANGE.

54 (II) REPLACED PROPERTY.--THE TERM "REPLACED PROPERTY" MEANS--

55 (I) THE PROPERTY TRANSFERRED IN THE EXCHANGE WHICH QUALIFIES UNDER  
56 SECTION 1031, OR



1 (II) THE PROPERTY COMPULSORILY OR INVOLUNTARILY CONVERTED (WITHIN THE  
2 MEANING OF SECTION 1033).

3 (F) STATUTE OF LIMITATIONS.--IF QUALIFIED REAL PROPERTY IS DISPOSED OF  
4 OR CEASES TO BE USED FOR A QUALIFIED USE, THEN--

5 (1) THE STATUTORY PERIOD FOR THE ASSESSMENT OF ANY ADDITIONAL TAX  
6 UNDER SUBSECTION (C) ATTRIBUTABLE TO SUCH DISPOSITION OR CESSATION SHALL  
7 NOT EXPIRE BEFORE THE EXPIRATION OF 3 YEARS FROM THE DATE THE SECRETARY  
8 IS NOTIFIED (IN SUCH MANNER AS THE SECRETARY MAY BY REGULATIONS  
9 PRESCRIBE) OF SUCH DISPOSITION OR CESSATION (OR IF LATER IN THE CASE OF  
10 AN INVOLUNTARY CONVERSION OR EXCHANGE TO WHICH SUBSECTION (H) OR (I)  
11 APPLIES, 3 YEARS FROM THE DATE THE SECRETARY IS NOTIFIED OF THE REPLACE-  
12 MENT OF THE CONVERTED PROPERTY OR OF AN INTENTION NOT TO REPLACE OR OF  
13 THE EXCHANGE OF PROPERTY), AND

14 (2) SUCH ADDITIONAL TAX MAY BE ASSESSED BEFORE THE EXPIRATION OF SUCH  
15 3-YEAR PERIOD NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW OR RULE OF  
16 LAW WHICH WOULD OTHERWISE PREVENT SUCH ASSESSMENT.

17 (G) APPLICATION OF THIS SECTION AND SECTION 6324B TO INTERESTS IN  
18 PARTNERSHIPS, CORPORATIONS, AND TRUSTS.--THE SECRETARY SHALL PRESCRIBE  
19 REGULATIONS SETTING FORTH THE APPLICATION OF THIS SECTION AND SECTION  
20 6324B IN THE CASE OF AN INTEREST IN A PARTNERSHIP, CORPORATION, OR TRUST  
21 WHICH, WITH RESPECT TO THE DECEDENT, IS AN INTEREST IN A CLOSELY HELD  
22 BUSINESS (WITHIN THE MEANING OF PARAGRAPH (1) OF SECTION 6166(B)). FOR  
23 PURPOSES OF THE PRECEDING SENTENCE, AN INTEREST IN A DISCRETIONARY TRUST  
24 ALL THE BENEFICIARIES OF WHICH ARE QUALIFIED HEIRS SHALL BE TREATED AS A  
25 PRESENT INTEREST.

26 (H) SPECIAL RULES FOR INVOLUNTARY CONVERSIONS OF QUALIFIED REAL PROP-  
27 ERTY.--

28 (1) TREATMENT OF CONVERTED PROPERTY.--

29 (A) IN GENERAL.--IF THERE IS AN INVOLUNTARY CONVERSION OF AN INTEREST  
30 IN QUALIFIED REAL PROPERTY--

31 (I) NO TAX SHALL BE IMPOSED BY SUBSECTION (C) ON SUCH CONVERSION IF  
32 THE COST OF THE QUALIFIED REPLACEMENT PROPERTY EQUALS OR EXCEEDS THE  
33 AMOUNT REALIZED ON SUCH CONVERSION, OR

34 (II) IF CLAUSE (I) DOES NOT APPLY, THE AMOUNT OF THE TAX IMPOSED BY  
35 SUBSECTION (C) ON SUCH CONVERSION SHALL BE THE AMOUNT DETERMINED UNDER  
36 SUBPARAGRAPH (B).

37 (B) AMOUNT OF TAX WHERE THERE IS NOT COMPLETE REINVESTMENT.--THE  
38 AMOUNT DETERMINED UNDER THIS SUBPARAGRAPH WITH RESPECT TO ANY INVOLUN-  
39 TARY CONVERSION IS THE AMOUNT OF THE TAX WHICH (BUT FOR THIS SUBSECTION)  
40 WOULD HAVE BEEN IMPOSED ON SUCH CONVERSION REDUCED BY AN AMOUNT WHICH--

41 (I) BEARS THE SAME RATIO TO SUCH TAX, AS

42 (II) THE COST OF THE QUALIFIED REPLACEMENT PROPERTY BEARS TO THE  
43 AMOUNT REALIZED ON THE CONVERSION.

44 (2) TREATMENT OF REPLACEMENT PROPERTY.--FOR PURPOSES OF SUBSECTION  
45 (C)--

46 (A) ANY QUALIFIED REPLACEMENT PROPERTY SHALL BE TREATED IN THE SAME  
47 MANNER AS IF IT WERE A PORTION OF THE INTEREST IN QUALIFIED REAL PROPER-  
48 TY WHICH WAS INVOLUNTARILY CONVERTED; EXCEPT THAT WITH RESPECT TO SUCH  
49 QUALIFIED REPLACEMENT PROPERTY THE 10-YEAR PERIOD UNDER PARAGRAPH (1) OF  
50 SUBSECTION (C) SHALL BE EXTENDED BY ANY PERIOD, BEYOND THE 2-YEAR PERIOD  
51 REFERRED TO IN SECTION 1033(A)(2)(B)(I), DURING WHICH THE QUALIFIED HEIR  
52 WAS ALLOWED TO REPLACE THE QUALIFIED REAL PROPERTY,

53 (B) ANY TAX IMPOSED BY SUBSECTION (C) ON THE INVOLUNTARY CONVERSION  
54 SHALL BE TREATED AS A TAX IMPOSED ON A PARTIAL DISPOSITION, AND

55 (C) PARAGRAPH (6) OF SUBSECTION (C) SHALL BE APPLIED--

1 (I) BY NOT TAKING INTO ACCOUNT PERIODS AFTER THE INVOLUNTARY CONVER-  
2 SION AND BEFORE THE ACQUISITION OF THE QUALIFIED REPLACEMENT PROPERTY,  
3 AND

4 (II) BY TREATING MATERIAL PARTICIPATION WITH RESPECT TO THE CONVERTED  
5 PROPERTY AS MATERIAL PARTICIPATION WITH RESPECT TO THE QUALIFIED  
6 REPLACEMENT PROPERTY.

7 (3) DEFINITIONS AND SPECIAL RULES.--FOR PURPOSES OF THIS SUBSECTION--

8 (A) INVOLUNTARY CONVERSION.--THE TERM "INVOLUNTARY CONVERSION" MEANS A  
9 COMPULSORY OR INVOLUNTARY CONVERSION WITHIN THE MEANING OF SECTION 1033.

10 (B) QUALIFIED REPLACEMENT PROPERTY.--THE TERM "QUALIFIED REPLACEMENT  
11 PROPERTY" MEANS--

12 (I) IN THE CASE OF AN INVOLUNTARY CONVERSION DESCRIBED IN SECTION  
13 1033(A)(1), ANY REAL PROPERTY INTO WHICH THE QUALIFIED REAL PROPERTY IS  
14 CONVERTED, OR

15 (II) IN THE CASE OF AN INVOLUNTARY CONVERSION DESCRIBED IN SECTION  
16 1033(A)(2), ANY REAL PROPERTY PURCHASED BY THE QUALIFIED HEIR DURING THE  
17 PERIOD SPECIFIED IN SECTION 1033(A)(2)(B) FOR PURPOSES OF REPLACING THE  
18 QUALIFIED REAL PROPERTY.

19 SUCH TERM ONLY INCLUDES PROPERTY WHICH IS TO BE USED FOR THE QUALIFIED  
20 USE SET FORTH IN SUBPARAGRAPH (A) OR (B) OF SUBSECTION (B)(2) UNDER  
21 WHICH THE QUALIFIED REAL PROPERTY QUALIFIED UNDER SUBSECTION (A).

22 (4) CERTAIN RULES MADE APPLICABLE.--THE RULES OF THE LAST SENTENCE OF  
23 SECTION 1033(A)(2)(A) SHALL APPLY FOR PURPOSES OF PARAGRAPH (3)(B)(II).

24 (I) EXCHANGES OF QUALIFIED REAL PROPERTY.--

25 (1) TREATMENT OF PROPERTY EXCHANGED.--

26 (A) EXCHANGES SOLELY FOR QUALIFIED EXCHANGE PROPERTY.--IF AN INTEREST  
27 IN QUALIFIED REAL PROPERTY IS EXCHANGED SOLELY FOR AN INTEREST IN QUALI-  
28 FIED EXCHANGE PROPERTY IN A TRANSACTION WHICH QUALIFIES UNDER SECTION  
29 1031, NO TAX SHALL BE IMPOSED BY SUBSECTION (C) BY REASON OF SUCH  
30 EXCHANGE.

31 (B) EXCHANGES WHERE OTHER PROPERTY RECEIVED.--IF AN INTEREST IN QUALI-  
32 FIED REAL PROPERTY IS EXCHANGED FOR AN INTEREST IN QUALIFIED EXCHANGE  
33 PROPERTY AND OTHER PROPERTY IN A TRANSACTION WHICH QUALIFIES UNDER  
34 SECTION 1031, THE AMOUNT OF THE TAX IMPOSED BY SUBSECTION (C) BY REASON  
35 OF SUCH EXCHANGE SHALL BE THE AMOUNT OF TAX WHICH (BUT FOR THIS SUBPARA-  
36 GRAPH) WOULD HAVE BEEN IMPOSED ON SUCH EXCHANGE UNDER SUBSECTION (C)(1),  
37 REDUCED BY AN AMOUNT WHICH--

38 (I) BEARS THE SAME RATIO TO SUCH TAX, AS

39 (II) THE FAIR MARKET VALUE OF THE QUALIFIED EXCHANGE PROPERTY BEARS TO  
40 THE FAIR MARKET VALUE OF THE QUALIFIED REAL PROPERTY EXCHANGED.

41 FOR PURPOSES OF CLAUSE (II) OF THE PRECEDING SENTENCE, FAIR MARKET  
42 VALUE SHALL BE DETERMINED AS OF THE TIME OF THE EXCHANGE.

43 (2) TREATMENT OF QUALIFIED EXCHANGE PROPERTY.--FOR PURPOSES OF  
44 SUBSECTION (C)--

45 (A) ANY INTEREST IN QUALIFIED EXCHANGE PROPERTY SHALL BE TREATED IN  
46 THE SAME MANNER AS IF IT WERE A PORTION OF THE INTEREST IN QUALIFIED  
47 REAL PROPERTY WHICH WAS EXCHANGED,

48 (B) ANY TAX IMPOSED BY SUBSECTION (C) BY REASON OF THE EXCHANGE SHALL  
49 BE TREATED AS A TAX IMPOSED ON A PARTIAL DISPOSITION, AND

50 (C) PARAGRAPH (6) OF SUBSECTION (C) SHALL BE APPLIED BY TREATING MATE-  
51 RIAL PARTICIPATION WITH RESPECT TO THE EXCHANGED PROPERTY AS MATERIAL  
52 PARTICIPATION WITH RESPECT TO THE QUALIFIED EXCHANGE PROPERTY.

53 (3) QUALIFIED EXCHANGE PROPERTY.--FOR PURPOSES OF THIS SUBSECTION, THE  
54 TERM "QUALIFIED EXCHANGE PROPERTY" MEANS REAL PROPERTY WHICH IS TO BE  
55 USED FOR THE QUALIFIED USE SET FORTH IN SUBPARAGRAPH (A) OR (B) OF

1 SUBSECTION (B)(2) UNDER WHICH THE REAL PROPERTY EXCHANGED THEREFOR  
2 ORIGINALLY QUALIFIED UNDER SUBSECTION (A).

3 S 2033. PROPERTY IN WHICH THE DECEDENT HAD AN INTEREST. THE VALUE OF  
4 THE GROSS ESTATE SHALL INCLUDE THE VALUE OF ALL PROPERTY TO THE EXTENT  
5 OF THE INTEREST THEREIN OF THE DECEDENT AT THE TIME OF HIS DEATH.

6 S 2034. DOWER OR CURTESY INTERESTS. THE VALUE OF THE GROSS ESTATE  
7 SHALL INCLUDE THE VALUE OF ALL PROPERTY TO THE EXTENT OF ANY INTEREST  
8 THEREIN OF THE SURVIVING SPOUSE, EXISTING AT THE TIME OF THE DECEDENT'S  
9 DEATH AS DOWER OR CURTESY, OR BY VIRTUE OF A STATUTE CREATING AN ESTATE  
10 IN LIEU OF DOWER OR CURTESY.

11 S 2035. ADJUSTMENTS FOR CERTAIN GIFTS MADE WITHIN THREE YEARS OF  
12 DECEDENT'S DEATH. (A) INCLUSION OF CERTAIN PROPERTY IN GROSS  
13 ESTATE.--IF--

14 (1) THE DECEDENT MADE A TRANSFER (BY TRUST OR OTHERWISE) OF AN INTER-  
15 EST IN ANY PROPERTY, OR RELINQUISHED A POWER WITH RESPECT TO ANY PROPER-  
16 TY, DURING THE 3-YEAR PERIOD ENDING ON THE DATE OF THE DECEDENT'S DEATH,  
17 AND

18 (2) THE VALUE OF SUCH PROPERTY (OR AN INTEREST THEREIN) WOULD HAVE  
19 BEEN INCLUDED IN THE DECEDENT'S GROSS ESTATE UNDER SECTION 2036, 2037,  
20 2038, OR 2042 IF SUCH TRANSFERRED INTEREST OR RELINQUISHED POWER HAD  
21 BEEN RETAINED BY THE DECEDENT ON THE DATE OF HIS DEATH,

22 THE VALUE OF THE GROSS ESTATE SHALL INCLUDE THE VALUE OF ANY PROPERTY  
23 (OR INTEREST THEREIN) WHICH WOULD HAVE BEEN SO INCLUDED.

24 (B) INCLUSION OF GIFT TAX ON GIFTS MADE DURING 3 YEARS BEFORE  
25 DECEDENT'S DEATH.--THE AMOUNT OF THE GROSS ESTATE (DETERMINED WITHOUT  
26 REGARD TO THIS SUBSECTION) SHALL BE INCREASED BY THE AMOUNT OF ANY TAX  
27 PAID UNDER CHAPTER 12 BY THE DECEDENT OR HIS ESTATE ON ANY GIFT MADE BY  
28 THE DECEDENT OR HIS SPOUSE DURING THE 3-YEAR PERIOD ENDING ON THE DATE  
29 OF THE DECEDENT'S DEATH.

30 (C) OTHER RULES RELATING TO TRANSFERS WITHIN 3 YEARS OF DEATH.--

31 (1) IN GENERAL.--FOR PURPOSES OF--

32 (A) SECTION 303(B) (RELATING TO DISTRIBUTIONS IN REDEMPTION OF STOCK  
33 TO PAY DEATH TAXES),

34 (B) SECTION 2032A (RELATING TO SPECIAL VALUATION OF CERTAIN FARMS,  
35 ETC., REAL PROPERTY), AND

36 (C) SUBCHAPTER C OF CHAPTER 64 (RELATING TO LIEN FOR TAXES),

37 THE VALUE OF THE GROSS ESTATE SHALL INCLUDE THE VALUE OF ALL PROPERTY  
38 TO THE EXTENT OF ANY INTEREST THEREIN OF WHICH THE DECEDENT HAS AT ANY  
39 TIME MADE A TRANSFER, BY TRUST OR OTHERWISE, DURING THE 3-YEAR PERIOD  
40 ENDING ON THE DATE OF THE DECEDENT'S DEATH.

41 (2) COORDINATION WITH SECTION 6166.--AN ESTATE SHALL BE TREATED AS  
42 MEETING THE 35 PERCENT OF ADJUSTED GROSS ESTATE REQUIREMENT OF SECTION  
43 6166(A)(1) ONLY IF THE ESTATE MEETS SUCH REQUIREMENT BOTH WITH AND WITH-  
44 OUT THE APPLICATION OF SUBSECTION (A).

45 (3) MARITAL AND SMALL TRANSFERS.--PARAGRAPH (1) SHALL NOT APPLY TO ANY  
46 TRANSFER (OTHER THAN A TRANSFER WITH RESPECT TO A LIFE INSURANCE POLICY)  
47 MADE DURING A CALENDAR YEAR TO ANY DONEE IF THE DECEDENT WAS NOT  
48 REQUIRED BY SECTION 6019 (OTHER THAN BY REASON OF SECTION 6019(2)) TO  
49 FILE ANY GIFT TAX RETURN FOR SUCH YEAR WITH RESPECT TO TRANSFERS TO SUCH  
50 DONEE.

51 (D) EXCEPTION.--SUBSECTION (A) AND PARAGRAPH (1) OF SUBSECTION (C)  
52 SHALL NOT APPLY TO ANY BONA FIDE SALE FOR AN ADEQUATE AND FULL CONSIDER-  
53 ATION IN MONEY OR MONEY'S WORTH.

54 (E) TREATMENT OF CERTAIN TRANSFERS FROM REVOCABLE TRUSTS.--FOR  
55 PURPOSES OF THIS SECTION AND SECTION 2038, ANY TRANSFER FROM ANY PORTION  
56 OF A TRUST DURING ANY PERIOD THAT SUCH PORTION WAS TREATED UNDER SECTION

676 AS OWNED BY THE DECEDENT BY REASON OF A POWER IN THE GRANTOR (DETERMINED WITHOUT REGARD TO SECTION 672(E)) SHALL BE TREATED AS A TRANSFER MADE DIRECTLY BY THE DECEDENT.

S 2036. TRANSFERS WITH RETAINED LIFE ESTATE. (A) GENERAL RULE.--THE VALUE OF THE GROSS ESTATE SHALL INCLUDE THE VALUE OF ALL PROPERTY TO THE EXTENT OF ANY INTEREST THEREIN OF WHICH THE DECEDENT HAS AT ANY TIME MADE A TRANSFER (EXCEPT IN CASE OF A BONA FIDE SALE FOR AN ADEQUATE AND FULL CONSIDERATION IN MONEY OR MONEY'S WORTH), BY TRUST OR OTHERWISE, UNDER WHICH HE HAS RETAINED FOR HIS LIFE OR FOR ANY PERIOD NOT ASCERTAINABLE WITHOUT REFERENCE TO HIS DEATH OR FOR ANY PERIOD WHICH DOES NOT IN FACT END BEFORE HIS DEATH--

(1) THE POSSESSION OR ENJOYMENT OF, OR THE RIGHT TO THE INCOME FROM, THE PROPERTY, OR

(2) THE RIGHT, EITHER ALONE OR IN CONJUNCTION WITH ANY PERSON, TO DESIGNATE THE PERSONS WHO SHALL POSSESS OR ENJOY THE PROPERTY OR THE INCOME THEREFROM.

(B) VOTING RIGHTS.--

(1) IN GENERAL.--FOR PURPOSES OF SUBSECTION (A)(1), THE RETENTION OF THE RIGHT TO VOTE (DIRECTLY OR INDIRECTLY) SHARES OF STOCK OF A CONTROLLED CORPORATION SHALL BE CONSIDERED TO BE A RETENTION OF THE ENJOYMENT OF TRANSFERRED PROPERTY.

(2) CONTROLLED CORPORATION.--FOR PURPOSES OF PARAGRAPH (1), A CORPORATION SHALL BE TREATED AS A CONTROLLED CORPORATION IF, AT ANY TIME AFTER THE TRANSFER OF THE PROPERTY AND DURING THE 3-YEAR PERIOD ENDING ON THE DATE OF THE DECEDENT'S DEATH, THE DECEDENT OWNED (WITH THE APPLICATION OF SECTION 318), OR HAD THE RIGHT (EITHER ALONE OR IN CONJUNCTION WITH ANY PERSON) TO VOTE, STOCK POSSESSING AT LEAST 20 PERCENT OF THE TOTAL COMBINED VOTING POWER OF ALL CLASSES OF STOCK.

(3) COORDINATION WITH SECTION 2035.--FOR PURPOSES OF APPLYING SECTION 2035 WITH RESPECT TO PARAGRAPH (1), THE RELINQUISHMENT OR CESSATION OF VOTING RIGHTS SHALL BE TREATED AS A TRANSFER OF PROPERTY MADE BY THE DECEDENT.

(C) LIMITATION ON APPLICATION OF GENERAL RULE.--THIS SECTION SHALL NOT APPLY TO A TRANSFER MADE BEFORE MARCH 4, 1931; NOR TO A TRANSFER MADE AFTER MARCH 3, 1931, AND BEFORE JUNE 7, 1932, UNLESS THE PROPERTY TRANSFERRED WOULD HAVE BEEN INCLUDIBLE IN THE DECEDENT'S GROSS ESTATE BY REASON OF THE AMENDATORY LANGUAGE OF THE JOINT RESOLUTION OF MARCH 3, 1931 (46 STAT. 1516).

S 2037. TRANSFERS TAKING EFFECT AT DEATH. (A) GENERAL RULE.--THE VALUE OF THE GROSS ESTATE SHALL INCLUDE THE VALUE OF ALL PROPERTY TO THE EXTENT OF ANY INTEREST THEREIN OF WHICH THE DECEDENT HAS AT ANY TIME AFTER SEPTEMBER 7, 1916, MADE A TRANSFER (EXCEPT IN CASE OF A BONA FIDE SALE FOR AN ADEQUATE AND FULL CONSIDERATION IN MONEY OR MONEY'S WORTH), BY TRUST OR OTHERWISE, IF--

(1) POSSESSION OR ENJOYMENT OF THE PROPERTY CAN, THROUGH OWNERSHIP OF SUCH INTEREST, BE OBTAINED ONLY BY SURVIVING THE DECEDENT, AND

(2) THE DECEDENT HAS RETAINED A REVERSIONARY INTEREST IN THE PROPERTY (BUT IN THE CASE OF A TRANSFER MADE BEFORE OCTOBER 8, 1949, ONLY IF SUCH REVERSIONARY INTEREST AROSE BY THE EXPRESS TERMS OF THE INSTRUMENT OF TRANSFER), AND THE VALUE OF SUCH REVERSIONARY INTEREST IMMEDIATELY BEFORE THE DEATH OF THE DECEDENT EXCEEDS 5 PERCENT OF THE VALUE OF SUCH PROPERTY.

(B) SPECIAL RULES.--FOR PURPOSES OF THIS SECTION, THE TERM "REVERSIONARY INTEREST" INCLUDES A POSSIBILITY THAT PROPERTY TRANSFERRED BY THE DECEDENT--

(1) MAY RETURN TO HIM OR HIS ESTATE, OR

1 (2) MAY BE SUBJECT TO A POWER OF DISPOSITION BY HIM,  
2 BUT SUCH TERM DOES NOT INCLUDE A POSSIBILITY THAT THE INCOME ALONE  
3 FROM SUCH PROPERTY MAY RETURN TO HIM OR BECOME SUBJECT TO A POWER OF  
4 DISPOSITION BY HIM. THE VALUE OF A REVERSIONARY INTEREST IMMEDIATELY  
5 BEFORE THE DEATH OF THE DECEDENT SHALL BE DETERMINED (WITHOUT REGARD TO  
6 THE FACT OF THE DECEDENT'S DEATH) BY USUAL METHODS OF VALUATION, INCLUD-  
7 ING THE USE OF TABLES OF MORTALITY AND ACTUARIAL PRINCIPLES, UNDER REGU-  
8 LATIONS PRESCRIBED BY THE SECRETARY. IN DETERMINING THE VALUE OF A  
9 POSSIBILITY THAT PROPERTY MAY BE SUBJECT TO A POWER OF DISPOSITION BY  
10 THE DECEDENT, SUCH POSSIBILITY SHALL BE VALUED AS IF IT WERE A POSSIBIL-  
11 ITY THAT SUCH PROPERTY MAY RETURN TO THE DECEDENT OR HIS ESTATE.  
12 NOTWITHSTANDING THE FOREGOING, AN INTEREST SO TRANSFERRED SHALL NOT BE  
13 INCLUDED IN THE DECEDENT'S GROSS ESTATE UNDER THIS SECTION IF POSSESSION  
14 OR ENJOYMENT OF THE PROPERTY COULD HAVE BEEN OBTAINED BY ANY BENEFICIARY  
15 DURING THE DECEDENT'S LIFE THROUGH THE EXERCISE OF A GENERAL POWER OF  
16 APPOINTMENT (AS DEFINED IN SECTION 2041) WHICH IN FACT WAS EXERCISABLE  
17 IMMEDIATELY BEFORE THE DECEDENT'S DEATH.

18 S 2038. REVOCABLE TRANSFERS. (A) IN GENERAL.--THE VALUE OF THE GROSS  
19 ESTATE SHALL INCLUDE THE VALUE OF ALL PROPERTY--

20 (1) TRANSFERS AFTER JUNE 22, 1936.--TO THE EXTENT OF ANY INTEREST  
21 THEREIN OF WHICH THE DECEDENT HAS AT ANY TIME MADE A TRANSFER (EXCEPT IN  
22 CASE OF A BONA FIDE SALE FOR AN ADEQUATE AND FULL CONSIDERATION IN MONEY  
23 OR MONEY'S WORTH), BY TRUST OR OTHERWISE, WHERE THE ENJOYMENT THEREOF  
24 WAS SUBJECT AT THE DATE OF HIS DEATH TO ANY CHANGE THROUGH THE EXERCISE  
25 OF A POWER (IN WHATEVER CAPACITY EXERCISABLE) BY THE DECEDENT ALONE OR  
26 BY THE DECEDENT IN CONJUNCTION WITH ANY OTHER PERSON (WITHOUT REGARD TO  
27 WHEN OR FROM WHAT SOURCE THE DECEDENT ACQUIRED SUCH POWER), TO ALTER,  
28 AMEND, REVOKE, OR TERMINATE, OR WHERE ANY SUCH POWER IS RELINQUISHED  
29 DURING THE 3-YEAR PERIOD ENDING ON THE DATE OF THE DECEDENT'S DEATH.

30 (2) TRANSFERS ON OR BEFORE JUNE 22, 1936.--TO THE EXTENT OF ANY INTER-  
31 EST THEREIN OF WHICH THE DECEDENT HAS AT ANY TIME MADE A TRANSFER  
32 (EXCEPT IN CASE OF A BONA FIDE SALE FOR AN ADEQUATE AND FULL CONSIDER-  
33 ATION IN MONEY OR MONEY'S WORTH), BY TRUST OR OTHERWISE, WHERE THE  
34 ENJOYMENT THEREOF WAS SUBJECT AT THE DATE OF HIS DEATH TO ANY CHANGE  
35 THROUGH THE EXERCISE OF A POWER, EITHER BY THE DECEDENT ALONE OR IN  
36 CONJUNCTION WITH ANY PERSON, TO ALTER, AMEND, OR REVOKE, OR WHERE THE  
37 DECEDENT RELINQUISHED ANY SUCH POWER DURING THE 3-YEAR PERIOD ENDING ON  
38 THE DATE OF THE DECEDENT'S DEATH. EXCEPT IN THE CASE OF TRANSFERS MADE  
39 AFTER JUNE 22, 1936, NO INTEREST OF THE DECEDENT OF WHICH HE HAS MADE A  
40 TRANSFER SHALL BE INCLUDED IN THE GROSS ESTATE UNDER PARAGRAPH (1)  
41 UNLESS IT IS INCLUDIBLE UNDER THIS PARAGRAPH.

42 (B) DATE OF EXISTENCE OF POWER.--FOR PURPOSES OF THIS SECTION, THE  
43 POWER TO ALTER, AMEND, REVOKE, OR TERMINATE SHALL BE CONSIDERED TO EXIST  
44 ON THE DATE OF THE DECEDENT'S DEATH EVEN THOUGH THE EXERCISE OF THE  
45 POWER IS SUBJECT TO A PRECEDENT GIVING OF NOTICE OR EVEN THOUGH THE  
46 ALTERATION, AMENDMENT, REVOCATION, OR TERMINATION TAKES EFFECT ONLY ON  
47 THE EXPIRATION OF A STATED PERIOD AFTER THE EXERCISE OF THE POWER,  
48 WHETHER OR NOT ON OR BEFORE THE DATE OF THE DECEDENT'S DEATH NOTICE HAS  
49 BEEN GIVEN OR THE POWER HAS BEEN EXERCISED. IN SUCH CASES PROPER ADJUST-  
50 MENT SHALL BE MADE REPRESENTING THE INTERESTS WHICH WOULD HAVE BEEN  
51 EXCLUDED FROM THE POWER IF THE DECEDENT HAD LIVED, AND FOR SUCH PURPOSE,  
52 IF THE NOTICE HAS NOT BEEN GIVEN OR THE POWER HAS NOT BEEN EXERCISED ON  
53 OR BEFORE THE DATE OF HIS DEATH, SUCH NOTICE SHALL BE CONSIDERED TO HAVE  
54 BEEN GIVEN, OR THE POWER EXERCISED, ON THE DATE OF HIS DEATH.

55 S 2039. ANNUITIES. (A) GENERAL.--THE GROSS ESTATE SHALL INCLUDE THE  
56 VALUE OF AN ANNUITY OR OTHER PAYMENT RECEIVABLE BY ANY BENEFICIARY BY

1 REASON OF SURVIVING THE DECEDENT UNDER ANY FORM OF CONTRACT OR AGREEMENT  
2 ENTERED INTO AFTER MARCH 3, 1931 (OTHER THAN AS INSURANCE UNDER POLICIES  
3 ON THE LIFE OF THE DECEDENT), IF, UNDER SUCH CONTRACT OR AGREEMENT, AN  
4 ANNUITY OR OTHER PAYMENT WAS PAYABLE TO THE DECEDENT, OR THE DECEDENT  
5 POSSESSED THE RIGHT TO RECEIVE SUCH ANNUITY OR PAYMENT, EITHER ALONE OR  
6 IN CONJUNCTION WITH ANOTHER FOR HIS LIFE OR FOR ANY PERIOD NOT ASCER-  
7 TAINABLE WITHOUT REFERENCE TO HIS DEATH OR FOR ANY PERIOD WHICH DOES NOT  
8 IN FACT END BEFORE HIS DEATH.

9 (B) AMOUNT INCLUDIBLE.--SUBSECTION (A) SHALL APPLY TO ONLY SUCH PART  
10 OF THE VALUE OF THE ANNUITY OR OTHER PAYMENT RECEIVABLE UNDER SUCH  
11 CONTRACT OR AGREEMENT AS IS PROPORTIONATE TO THAT PART OF THE PURCHASE  
12 PRICE THEREFOR CONTRIBUTED BY THE DECEDENT. FOR PURPOSES OF THIS  
13 SECTION, ANY CONTRIBUTION BY THE DECEDENT'S EMPLOYER OR FORMER EMPLOYER  
14 TO THE PURCHASE PRICE OF SUCH CONTRACT OR AGREEMENT (WHETHER OR NOT TO  
15 AN EMPLOYEE'S TRUST OR FUND FORMING PART OF A PENSION, ANNUITY, RETIRE-  
16 MENT, BONUS OR PROFIT SHARING PLAN) SHALL BE CONSIDERED TO BE CONTRIB-  
17 UTED BY THE DECEDENT IF MADE BY REASON OF HIS EMPLOYMENT.

18 S 2040. JOINT INTERESTS. (A) GENERAL RULE.--THE VALUE OF THE GROSS  
19 ESTATE SHALL INCLUDE THE VALUE OF ALL PROPERTY TO THE EXTENT OF THE  
20 INTEREST THEREIN HELD AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP BY THE  
21 DECEDENT AND ANY OTHER PERSON, OR AS TENANTS BY THE ENTIRETY BY THE  
22 DECEDENT AND SPOUSE, OR DEPOSITED, WITH ANY PERSON CARRYING ON THE BANK-  
23 ING BUSINESS, IN THEIR JOINT NAMES AND PAYABLE TO EITHER OR THE SURVI-  
24 VOR, EXCEPT SUCH PART THEREOF AS MAY BE SHOWN TO HAVE ORIGINALLY  
25 BELONGED TO SUCH OTHER PERSON AND NEVER TO HAVE BEEN RECEIVED OR  
26 ACQUIRED BY THE LATTER FROM THE DECEDENT FOR LESS THAN AN ADEQUATE AND  
27 FULL CONSIDERATION IN MONEY OR MONEY'S WORTH: PROVIDED, THAT WHERE SUCH  
28 PROPERTY OR ANY PART THEREOF, OR PART OF THE CONSIDERATION WITH WHICH  
29 SUCH PROPERTY WAS ACQUIRED, IS SHOWN TO HAVE BEEN AT ANY TIME ACQUIRED  
30 BY SUCH OTHER PERSON FROM THE DECEDENT FOR LESS THAN AN ADEQUATE AND  
31 FULL CONSIDERATION IN MONEY OR MONEY'S WORTH, THERE SHALL BE EXCEPTED  
32 ONLY SUCH PART OF THE VALUE OF SUCH PROPERTY AS IS PROPORTIONATE TO THE  
33 CONSIDERATION FURNISHED BY SUCH OTHER PERSON: PROVIDED FURTHER, THAT  
34 WHERE ANY PROPERTY HAS BEEN ACQUIRED BY GIFT, BEQUEST, DEVISE, OR INHER-  
35 ITANCE, AS A TENANCY BY THE ENTIRETY BY THE DECEDENT AND SPOUSE, THEN TO  
36 THE EXTENT OF ONE-HALF OF THE VALUE THEREOF, OR, WHERE SO ACQUIRED BY  
37 THE DECEDENT AND ANY OTHER PERSON AS JOINT TENANTS WITH RIGHT OF SURVI-  
38 VORSHIP AND THEIR INTERESTS ARE NOT OTHERWISE SPECIFIED OR FIXED BY LAW,  
39 THEN TO THE EXTENT OF THE VALUE OF A FRACTIONAL PART TO BE DETERMINED BY  
40 DIVIDING THE VALUE OF THE PROPERTY BY THE NUMBER OF JOINT TENANTS WITH  
41 RIGHT OF SURVIVORSHIP.

42 (B) CERTAIN JOINT INTERESTS OF HUSBAND AND WIFE.--

43 (1) INTERESTS OF SPOUSE EXCLUDED FROM GROSS ESTATE.--NOTWITHSTANDING  
44 SUBSECTION (A), IN THE CASE OF ANY QUALIFIED JOINT INTEREST, THE VALUE  
45 INCLUDED IN THE GROSS ESTATE WITH RESPECT TO SUCH INTEREST BY REASON OF  
46 THIS SECTION IS ONE-HALF OF THE VALUE OF SUCH QUALIFIED JOINT INTEREST.

47 (2) QUALIFIED JOINT INTEREST DEFINED.--FOR PURPOSES OF PARAGRAPH (1),  
48 THE TERM "QUALIFIED JOINT INTEREST" MEANS ANY INTEREST IN PROPERTY HELD  
49 BY THE DECEDENT AND THE DECEDENT'S SPOUSE AS--

50 (A) TENANTS BY THE ENTIRETY, OR

51 (B) JOINT TENANTS WITH RIGHT OF SURVIVORSHIP, BUT ONLY IF THE DECEDENT  
52 AND THE SPOUSE OF THE DECEDENT ARE THE ONLY JOINT TENANTS.

53 S 2041. POWERS OF APPOINTMENT. (A) IN GENERAL.--THE VALUE OF THE GROSS  
54 ESTATE SHALL INCLUDE THE VALUE OF ALL PROPERTY--

55 (1) POWERS OF APPOINTMENT CREATED ON OR BEFORE OCTOBER 21, 1942.--TO  
56 THE EXTENT OF ANY PROPERTY WITH RESPECT TO WHICH A GENERAL POWER OF

1 APPOINTMENT CREATED ON OR BEFORE OCTOBER 21, 1942, IS EXERCISED BY THE  
2 DECEDENT--

3 (A) BY WILL, OR

4 (B) BY A DISPOSITION WHICH IS OF SUCH NATURE THAT IF IT WERE A TRANS-  
5 FER OF PROPERTY OWNED BY THE DECEDENT, SUCH PROPERTY WOULD BE INCLUDIBLE  
6 IN THE DECEDENT'S GROSS ESTATE UNDER SECTIONS 2035 TO 2038, INCLUSIVE;

7 BUT THE FAILURE TO EXERCISE SUCH A POWER OR THE COMPLETE RELEASE OF  
8 SUCH A POWER SHALL NOT BE DEEMED AN EXERCISE THEREOF. IF A GENERAL POWER  
9 OF APPOINTMENT CREATED ON OR BEFORE OCTOBER 21, 1942, HAS BEEN PARTIALLY  
10 RELEASED SO THAT IT IS NO LONGER A GENERAL POWER OF APPOINTMENT, THE  
11 EXERCISE OF SUCH POWER SHALL NOT BE DEEMED TO BE THE EXERCISE OF A  
12 GENERAL POWER OF APPOINTMENT IF--

13 (I) SUCH PARTIAL RELEASE OCCURRED BEFORE NOVEMBER 1, 1951, OR

14 (II) THE DONEE OF SUCH POWER WAS UNDER A LEGAL DISABILITY TO RELEASE  
15 SUCH POWER ON OCTOBER 21, 1942, AND SUCH PARTIAL RELEASE OCCURRED NOT  
16 LATER THAN 6 MONTHS AFTER THE TERMINATION OF SUCH LEGAL DISABILITY.

17 (2) POWERS CREATED AFTER OCTOBER 21, 1942.--TO THE EXTENT OF ANY PROP-  
18 ERTY WITH RESPECT TO WHICH THE DECEDENT HAS AT THE TIME OF HIS DEATH A  
19 GENERAL POWER OF APPOINTMENT CREATED AFTER OCTOBER 21, 1942, OR WITH  
20 RESPECT TO WHICH THE DECEDENT HAS AT ANY TIME EXERCISED OR RELEASED SUCH  
21 A POWER OF APPOINTMENT BY A DISPOSITION WHICH IS OF SUCH NATURE THAT IF  
22 IT WERE A TRANSFER OF PROPERTY OWNED BY THE DECEDENT, SUCH PROPERTY  
23 WOULD BE INCLUDIBLE IN THE DECEDENT'S GROSS ESTATE UNDER SECTIONS 2035  
24 TO 2038, INCLUSIVE. FOR PURPOSES OF THIS PARAGRAPH (2), THE POWER OF  
25 APPOINTMENT SHALL BE CONSIDERED TO EXIST ON THE DATE OF THE DECEDENT'S  
26 DEATH EVEN THOUGH THE EXERCISE OF THE POWER IS SUBJECT TO A PRECEDENT  
27 GIVING OF NOTICE OR EVEN THOUGH THE EXERCISE OF THE POWER TAKES EFFECT  
28 ONLY ON THE EXPIRATION OF A STATED PERIOD AFTER ITS EXERCISE, WHETHER OR  
29 NOT ON OR BEFORE THE DATE OF THE DECEDENT'S DEATH NOTICE HAS BEEN GIVEN  
30 OR THE POWER HAS BEEN EXERCISED.

31 (3) CREATION OF ANOTHER POWER IN CERTAIN CASES.--TO THE EXTENT OF ANY  
32 PROPERTY WITH RESPECT TO WHICH THE DECEDENT--

33 (A) BY WILL, OR

34 (B) BY A DISPOSITION WHICH IS OF SUCH NATURE THAT IF IT WERE A TRANS-  
35 FER OF PROPERTY OWNED BY THE DECEDENT SUCH PROPERTY WOULD BE INCLUDIBLE  
36 IN THE DECEDENT'S GROSS ESTATE UNDER SECTION 2035, 2036, OR 2037,

37 EXERCISES A POWER OF APPOINTMENT CREATED AFTER OCTOBER 21, 1942, BY  
38 CREATING ANOTHER POWER OF APPOINTMENT WHICH UNDER THE APPLICABLE LOCAL  
39 LAW CAN BE VALIDLY EXERCISED SO AS TO POSTPONE THE VESTING OF ANY ESTATE  
40 OR INTEREST IN SUCH PROPERTY, OR SUSPEND THE ABSOLUTE OWNERSHIP OR POWER  
41 OF ALIENATION OF SUCH PROPERTY, FOR A PERIOD ASCERTAINABLE WITHOUT  
42 REGARD TO THE DATE OF THE CREATION OF THE FIRST POWER.

43 (B) DEFINITIONS.--FOR PURPOSES OF SUBSECTION (A)--

44 (1) GENERAL POWER OF APPOINTMENT.--THE TERM "GENERAL POWER OF APPOINT-  
45 MENT" MEANS A POWER WHICH IS EXERCISABLE IN FAVOR OF THE DECEDENT, HIS  
46 ESTATE, HIS CREDITORS, OR THE CREDITORS OF HIS ESTATE; EXCEPT THAT--

47 (A) A POWER TO CONSUME, INVAD, OR APPROPRIATE PROPERTY FOR THE BENE-  
48 FIT OF THE DECEDENT WHICH IS LIMITED BY AN ASCERTAINABLE STANDARD RELAT-  
49 ING TO THE HEALTH, EDUCATION, SUPPORT, OR MAINTENANCE OF THE DECEDENT  
50 SHALL NOT BE DEEMED A GENERAL POWER OF APPOINTMENT.

51 (B) A POWER OF APPOINTMENT CREATED ON OR BEFORE OCTOBER 21, 1942,  
52 WHICH IS EXERCISABLE BY THE DECEDENT ONLY IN CONJUNCTION WITH ANOTHER  
53 PERSON SHALL NOT BE DEEMED A GENERAL POWER OF APPOINTMENT.

54 (C) IN THE CASE OF A POWER OF APPOINTMENT CREATED AFTER OCTOBER 21,  
55 1942, WHICH IS EXERCISABLE BY THE DECEDENT ONLY IN CONJUNCTION WITH  
56 ANOTHER PERSON--

1 (I) IF THE POWER IS NOT EXERCISABLE BY THE DECEDENT EXCEPT IN CONJUNC-  
2 TION WITH THE CREATOR OF THE POWER--SUCH POWER SHALL NOT BE DEEMED A  
3 GENERAL POWER OF APPOINTMENT.

4 (II) IF THE POWER IS NOT EXERCISABLE BY THE DECEDENT EXCEPT IN  
5 CONJUNCTION WITH A PERSON HAVING A SUBSTANTIAL INTEREST IN THE PROPERTY,  
6 SUBJECT TO THE POWER, WHICH IS ADVERSE TO EXERCISE OF THE POWER IN FAVOR  
7 OF THE DECEDENT--SUCH POWER SHALL NOT BE DEEMED A GENERAL POWER OF  
8 APPOINTMENT. FOR THE PURPOSES OF THIS CLAUSE A PERSON WHO, AFTER THE  
9 DEATH OF THE DECEDENT, MAY BE POSSESSED OF A POWER OF APPOINTMENT (WITH  
10 RESPECT TO THE PROPERTY SUBJECT TO THE DECEDENT'S POWER) WHICH HE MAY  
11 EXERCISE IN HIS OWN FAVOR SHALL BE DEEMED AS HAVING AN INTEREST IN THE  
12 PROPERTY AND SUCH INTEREST SHALL BE DEEMED ADVERSE TO SUCH EXERCISE OF  
13 THE DECEDENT'S POWER.

14 (III) IF (AFTER THE APPLICATION OF CLAUSES (I) AND (II)) THE POWER IS  
15 A GENERAL POWER OF APPOINTMENT AND IS EXERCISABLE IN FAVOR OF SUCH OTHER  
16 PERSON--SUCH POWER SHALL BE DEEMED A GENERAL POWER OF APPOINTMENT ONLY  
17 IN RESPECT OF A FRACTIONAL PART OF THE PROPERTY SUBJECT TO SUCH POWER,  
18 SUCH PART TO BE DETERMINED BY DIVIDING THE VALUE OF SUCH PROPERTY BY THE  
19 NUMBER OF SUCH PERSONS (INCLUDING THE DECEDENT) IN FAVOR OF WHOM SUCH  
20 POWER IS EXERCISABLE.

21 FOR PURPOSES OF CLAUSES (II) AND (III), A POWER SHALL BE DEEMED TO BE  
22 EXERCISABLE IN FAVOR OF A PERSON IF IT IS EXERCISABLE IN FAVOR OF SUCH  
23 PERSON, HIS ESTATE, HIS CREDITORS, OR THE CREDITORS OF HIS ESTATE.

24 (2) LAPSE OF POWER.--THE LAPSE OF A POWER OF APPOINTMENT CREATED AFTER  
25 OCTOBER 21, 1942, DURING THE LIFE OF THE INDIVIDUAL POSSESSING THE POWER  
26 SHALL BE CONSIDERED A RELEASE OF SUCH POWER. THE PRECEDING SENTENCE  
27 SHALL APPLY WITH RESPECT TO THE LAPSE OF POWERS DURING ANY CALENDAR YEAR  
28 ONLY TO THE EXTENT THAT THE PROPERTY, WHICH COULD HAVE BEEN APPOINTED BY  
29 EXERCISE OF SUCH LAPSED POWERS, EXCEEDED IN VALUE, AT THE TIME OF SUCH  
30 LAPSE, THE GREATER OF THE FOLLOWING AMOUNTS:

31 (A) \$5,000, OR

32 (B) 5 PERCENT OF THE AGGREGATE VALUE, AT THE TIME OF SUCH LAPSE, OF  
33 THE ASSETS OUT OF WHICH, OR THE PROCEEDS OF WHICH, THE EXERCISE OF THE  
34 LAPSED POWERS COULD HAVE BEEN SATISFIED.

35 (3) DATE OF CREATION OF POWER.--FOR PURPOSES OF THIS SECTION, A POWER  
36 OF APPOINTMENT CREATED BY A WILL EXECUTED ON OR BEFORE OCTOBER 21, 1942,  
37 SHALL BE CONSIDERED A POWER CREATED ON OR BEFORE SUCH DATE IF THE PERSON  
38 EXECUTING SUCH WILL DIES BEFORE JULY 1, 1949, WITHOUT HAVING REPUBLISHED  
39 SUCH WILL, BY CODICIL OR OTHERWISE, AFTER OCTOBER 21, 1942.

40 S 2042. PROCEEDS OF LIFE INSURANCE. THE VALUE OF THE GROSS ESTATE  
41 SHALL INCLUDE THE VALUE OF ALL PROPERTY--

42 (1) RECEIVABLE BY THE EXECUTOR.--TO THE EXTENT OF THE AMOUNT RECEIV-  
43 ABLE BY THE EXECUTOR AS INSURANCE UNDER POLICIES ON THE LIFE OF THE  
44 DECEDENT.

45 (2) RECEIVABLE BY OTHER BENEFICIARIES.--TO THE EXTENT OF THE AMOUNT  
46 RECEIVABLE BY ALL OTHER BENEFICIARIES AS INSURANCE UNDER POLICIES ON THE  
47 LIFE OF THE DECEDENT WITH RESPECT TO WHICH THE DECEDENT POSSESSED AT HIS  
48 DEATH ANY OF THE INCIDENTS OF OWNERSHIP, EXERCISABLE EITHER ALONE OR IN  
49 CONJUNCTION WITH ANY OTHER PERSON. FOR PURPOSES OF THE PRECEDING  
50 SENTENCE, THE TERM "INCIDENT OF OWNERSHIP" INCLUDES A REVERSIONARY  
51 INTEREST (WHETHER ARISING BY THE EXPRESS TERMS OF THE POLICY OR OTHER  
52 INSTRUMENT OR BY OPERATION OF LAW) ONLY IF THE VALUE OF SUCH REVERSION-  
53 ARY INTEREST EXCEEDED 5 PERCENT OF THE VALUE OF THE POLICY IMMEDIATELY  
54 BEFORE THE DEATH OF THE DECEDENT. AS USED IN THIS PARAGRAPH, THE TERM  
55 "REVERSIONARY INTEREST" INCLUDES A POSSIBILITY THAT THE POLICY, OR THE  
56 PROCEEDS OF THE POLICY, MAY RETURN TO THE DECEDENT OR HIS ESTATE, OR MAY



BE SUBJECT TO A POWER OF DISPOSITION BY HIM. THE VALUE OF A REVERSIONARY INTEREST AT ANY TIME SHALL BE DETERMINED (WITHOUT REGARD TO THE FACT OF THE DECEDENT'S DEATH) BY USUAL METHODS OF VALUATION, INCLUDING THE USE OF TABLES OF MORTALITY AND ACTUARIAL PRINCIPLES, PURSUANT TO REGULATIONS PRESCRIBED BY THE SECRETARY. IN DETERMINING THE VALUE OF A POSSIBILITY THAT THE POLICY OR PROCEEDS THEREOF MAY BE SUBJECT TO A POWER OF DISPOSITION BY THE DECEDENT, SUCH POSSIBILITY SHALL BE VALUED AS IF IT WERE A POSSIBILITY THAT SUCH POLICY OR PROCEEDS MAY RETURN TO THE DECEDENT OR HIS ESTATE.

S 2043. TRANSFERS FOR INSUFFICIENT CONSIDERATION. (A) IN GENERAL.--IF ANY ONE OF THE TRANSFERS, TRUSTS, INTERESTS, RIGHTS, OR POWERS ENUMERATED AND DESCRIBED IN SECTIONS 2035 TO 2038, INCLUSIVE, AND SECTION 2041 IS MADE, CREATED, EXERCISED, OR RELINQUISHED FOR A CONSIDERATION IN MONEY OR MONEY'S WORTH, BUT IS NOT A BONA FIDE SALE FOR AN ADEQUATE AND FULL CONSIDERATION IN MONEY OR MONEY'S WORTH, THERE SHALL BE INCLUDED IN THE GROSS ESTATE ONLY THE EXCESS OF THE FAIR MARKET VALUE AT THE TIME OF DEATH OF THE PROPERTY OTHERWISE TO BE INCLUDED ON ACCOUNT OF SUCH TRANSACTION, OVER THE VALUE OF THE CONSIDERATION RECEIVED THEREFOR BY THE DECEDENT.

(B) MARITAL RIGHTS NOT TREATED AS CONSIDERATION.--

(1) IN GENERAL.--FOR PURPOSES OF THIS CHAPTER, A RELINQUISHMENT OR PROMISED RELINQUISHMENT OF DOWER OR CURTESY, OR OF A STATUTORY ESTATE CREATED IN LIEU OF DOWER OR CURTESY, OR OF OTHER MARITAL RIGHTS IN THE DECEDENT'S PROPERTY OR ESTATE, SHALL NOT BE CONSIDERED TO ANY EXTENT A CONSIDERATION "IN MONEY OR MONEY'S WORTH".

(2) EXCEPTION.--FOR PURPOSES OF SECTION 2053 (RELATING TO EXPENSES, INDEBTEDNESS, AND TAXES), A TRANSFER OF PROPERTY WHICH SATISFIES THE REQUIREMENTS OF PARAGRAPH (1) OF SECTION 2516 (RELATING TO CERTAIN PROPERTY SETTLEMENTS) SHALL BE CONSIDERED TO BE MADE FOR AN ADEQUATE AND FULL CONSIDERATION IN MONEY OR MONEY'S WORTH.

S 2044. CERTAIN PROPERTY FOR WHICH MARITAL DEDUCTION WAS PREVIOUSLY ALLOWED. (A) GENERAL RULE.--THE VALUE OF THE GROSS ESTATE SHALL INCLUDE THE VALUE OF ANY PROPERTY TO WHICH THIS SECTION APPLIES IN WHICH THE DECEDENT HAD A QUALIFYING INCOME INTEREST FOR LIFE.

(B) PROPERTY TO WHICH THIS SECTION APPLIES.--THIS SECTION APPLIES TO ANY PROPERTY IF--

(1) A DEDUCTION WAS ALLOWED WITH RESPECT TO THE TRANSFER OF SUCH PROPERTY TO THE DECEDENT--

(A) UNDER SECTION 2056 BY REASON OF SUBSECTION (B)(7) THEREOF, OR

(B) UNDER SECTION 2523 BY REASON OF SUBSECTION (F) THEREOF, AND

(2) SECTION 2519 (RELATING TO DISPOSITIONS OF CERTAIN LIFE ESTATES) DID NOT APPLY WITH RESPECT TO A DISPOSITION BY THE DECEDENT OF PART OR ALL OF SUCH PROPERTY.

(C) PROPERTY TREATED AS HAVING PASSED FROM DECEDENT.--FOR PURPOSES OF THIS CHAPTER AND CHAPTER 13, PROPERTY INCLUDIBLE IN THE GROSS ESTATE OF THE DECEDENT UNDER SUBSECTION (A) SHALL BE TREATED AS PROPERTY PASSING FROM THE DECEDENT.

S 2045. PRIOR INTERESTS. EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED BY LAW, SECTIONS 2034 TO 2042, INCLUSIVE, SHALL APPLY TO THE TRANSFERS, TRUSTS, ESTATES, INTERESTS, RIGHTS, POWERS, AND RELINQUISHMENT OF POWERS, AS SEVERALLY ENUMERATED AND DESCRIBED THEREIN, WHENEVER MADE, CREATED, ARISING, EXISTING, EXERCISED, OR RELINQUISHED.

S 2046. DISCLAIMERS. FOR PROVISIONS RELATING TO THE EFFECT OF A QUALIFIED DISCLAIMER FOR PURPOSES OF THIS CHAPTER, SEE SECTION 2518.

S 2053. EXPENSES, INDEBTEDNESS, AND TAXES. (A) GENERAL RULE.--FOR PURPOSES OF THE TAX IMPOSED BY SECTION 2001, THE VALUE OF THE TAXABLE

1 ESTATE SHALL BE DETERMINED BY DEDUCTING FROM THE VALUE OF THE GROSS  
2 ESTATE SUCH AMOUNTS--

- 3 (1) FOR FUNERAL EXPENSES,
- 4 (2) FOR ADMINISTRATION EXPENSES,
- 5 (3) FOR CLAIMS AGAINST THE ESTATE, AND

6 (4) FOR UNPAID MORTGAGES ON, OR ANY INDEBTEDNESS IN RESPECT OF, PROP-  
7 ERTY WHERE THE VALUE OF THE DECEDENT'S INTEREST THEREIN, UNDIMINISHED BY  
8 SUCH MORTGAGE OR INDEBTEDNESS, IS INCLUDED IN THE VALUE OF THE GROSS  
9 ESTATE,

10 AS ARE ALLOWABLE BY THE LAWS OF THE JURISDICTION, WHETHER WITHIN OR  
11 WITHOUT THE UNITED STATES, UNDER WHICH THE ESTATE IS BEING ADMINISTERED.

12 (B) OTHER ADMINISTRATION EXPENSES.--SUBJECT TO THE LIMITATIONS IN  
13 PARAGRAPH (1) OF SUBSECTION (C), THERE SHALL BE DEDUCTED IN DETERMINING  
14 THE TAXABLE ESTATE AMOUNTS REPRESENTING EXPENSES INCURRED IN ADMINISTER-  
15 ING PROPERTY NOT SUBJECT TO CLAIMS WHICH IS INCLUDED IN THE GROSS ESTATE  
16 TO THE SAME EXTENT SUCH AMOUNTS WOULD BE ALLOWABLE AS A DEDUCTION UNDER  
17 SUBSECTION (A) IF SUCH PROPERTY WERE SUBJECT TO CLAIMS, AND SUCH AMOUNTS  
18 ARE PAID BEFORE THE EXPIRATION OF THE PERIOD OF LIMITATION FOR ASSESS-  
19 MENT PROVIDED IN SECTION 6501.

20 (C) LIMITATIONS.--

21 (1) LIMITATIONS APPLICABLE TO SUBSECTIONS (A) AND (B).--

22 (A) CONSIDERATION FOR CLAIMS.--THE DEDUCTION ALLOWED BY THIS SECTION  
23 IN THE CASE OF CLAIMS AGAINST THE ESTATE, UNPAID MORTGAGES, OR ANY  
24 INDEBTEDNESS SHALL, WHEN FOUNDED ON A PROMISE OR AGREEMENT, BE LIMITED  
25 TO THE EXTENT THAT THEY WERE CONTRACTED BONA FIDE AND FOR AN ADEQUATE  
26 AND FULL CONSIDERATION IN MONEY OR MONEY'S WORTH; EXCEPT THAT IN ANY  
27 CASE IN WHICH ANY SUCH CLAIM IS FOUNDED ON A PROMISE OR AGREEMENT OF THE  
28 DECEDENT TO MAKE A CONTRIBUTION OR GIFT TO OR FOR THE USE OF ANY DONEE  
29 DESCRIBED IN SECTION 2055 FOR THE PURPOSES SPECIFIED THEREIN, THE  
30 DEDUCTION FOR SUCH CLAIMS SHALL NOT BE SO LIMITED, BUT SHALL BE LIMITED  
31 TO THE EXTENT THAT IT WOULD BE ALLOWABLE AS A DEDUCTION UNDER SECTION  
32 2055 IF SUCH PROMISE OR AGREEMENT CONSTITUTED A BEQUEST.

33 (B) CERTAIN TAXES.--ANY INCOME TAXES ON INCOME RECEIVED AFTER THE  
34 DEATH OF THE DECEDENT, OR PROPERTY TAXES NOT ACCRUED BEFORE HIS DEATH,  
35 OR ANY ESTATE, SUCCESSION, LEGACY, OR INHERITANCE TAXES, SHALL NOT BE  
36 DEDUCTIBLE UNDER THIS SECTION.

37 (C) CERTAIN CLAIMS BY REMAINDERMEN.--NO DEDUCTION SHALL BE ALLOWED  
38 UNDER THIS SECTION FOR A CLAIM AGAINST THE ESTATE BY A REMAINDERMAN  
39 RELATING TO ANY PROPERTY DESCRIBED IN SECTION 2044.

40 (D) SECTION 6166 INTEREST.--NO DEDUCTION SHALL BE ALLOWED UNDER THIS  
41 SECTION FOR ANY INTEREST PAYABLE UNDER SECTION 6601 ON ANY UNPAID  
42 PORTION OF THE TAX IMPOSED BY SECTION 2001 FOR THE PERIOD DURING WHICH  
43 AN EXTENSION OF TIME FOR PAYMENT OF SUCH TAX IS IN EFFECT UNDER SECTION  
44 6166.

45 (2) LIMITATIONS APPLICABLE ONLY TO SUBSECTION (A).--IN THE CASE OF THE  
46 AMOUNTS DESCRIBED IN SUBSECTION (A), THERE SHALL BE DISALLOWED THE  
47 AMOUNT BY WHICH THE DEDUCTIONS SPECIFIED THEREIN EXCEED THE VALUE, AT  
48 THE TIME OF THE DECEDENT'S DEATH, OF PROPERTY SUBJECT TO CLAIMS, EXCEPT  
49 TO THE EXTENT THAT SUCH DEDUCTIONS REPRESENT AMOUNTS PAID BEFORE THE  
50 DATE PRESCRIBED FOR THE FILING OF THE ESTATE TAX RETURN. FOR PURPOSES OF  
51 THIS SECTION, THE TERM "PROPERTY SUBJECT TO CLAIMS" MEANS PROPERTY  
52 INCLUDIBLE IN THE GROSS ESTATE OF THE DECEDENT WHICH, OR THE AVAILS OF  
53 WHICH, WOULD UNDER THE APPLICABLE LAW, BEAR THE BURDEN OF THE PAYMENT OF  
54 SUCH DEDUCTIONS IN THE FINAL ADJUSTMENT AND SETTLEMENT OF THE ESTATE,  
55 EXCEPT THAT THE VALUE OF THE PROPERTY SHALL BE REDUCED BY THE AMOUNT OF  
56 THE DEDUCTION UNDER SECTION 2054 ATTRIBUTABLE TO SUCH PROPERTY.

(D) CERTAIN FOREIGN DEATH TAXES.--

(1) IN GENERAL.--NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (C)(1)(B), FOR PURPOSES OF THE TAX IMPOSED BY SECTION 2001, THE VALUE OF THE TAXABLE ESTATE MAY BE DETERMINED, IF THE EXECUTOR SO ELECTS BEFORE THE EXPIRATION OF THE PERIOD OF LIMITATION FOR ASSESSMENT PROVIDED IN SECTION 6501, BY DEDUCTING FROM THE VALUE OF THE GROSS ESTATE THE AMOUNT (AS DETERMINED IN ACCORDANCE WITH REGULATIONS PRESCRIBED BY THE SECRETARY) OF ANY ESTATE, SUCCESSION, LEGACY, OR INHERITANCE TAX IMPOSED BY AND ACTUALLY PAID TO ANY FOREIGN COUNTRY, IN RESPECT OF ANY PROPERTY SITUATED WITHIN SUCH FOREIGN COUNTRY AND INCLUDED IN THE GROSS ESTATE OF A CITIZEN OR RESIDENT OF THE UNITED STATES, UPON A TRANSFER BY THE DECEDENT FOR PUBLIC, CHARITABLE, OR RELIGIOUS USES DESCRIBED IN SECTION 2055. THE DETERMINATION UNDER THIS PARAGRAPH OF THE COUNTRY WITHIN WHICH PROPERTY IS SITUATED SHALL BE MADE IN ACCORDANCE WITH THE RULES APPLICABLE UNDER SUBCHAPTER B (SEC. 2101 AND FOLLOWING) IN DETERMINING WHETHER PROPERTY IS SITUATED WITHIN OR WITHOUT THE UNITED STATES. ANY ELECTION UNDER THIS PARAGRAPH SHALL BE EXERCISED IN ACCORDANCE WITH REGULATIONS PRESCRIBED BY THE SECRETARY.

(2) CONDITION FOR ALLOWANCE OF DEDUCTION.--NO DEDUCTION SHALL BE ALLOWED UNDER PARAGRAPH (1) FOR A FOREIGN DEATH TAX SPECIFIED THEREIN UNLESS THE DECREASE IN THE TAX IMPOSED BY SECTION 2001 WHICH RESULTS FROM THE DEDUCTION PROVIDED IN PARAGRAPH (1) WILL INURE SOLELY FOR THE BENEFIT OF THE PUBLIC, CHARITABLE, OR RELIGIOUS TRANSFEREES DESCRIBED IN SECTION 2055 OR SECTION 2106(A)(2). IN ANY CASE WHERE THE TAX IMPOSED BY SECTION 2001 IS EQUITABLY APPORTIONED AMONG ALL THE TRANSFEREES OF PROPERTY INCLUDED IN THE GROSS ESTATE, INCLUDING THOSE DESCRIBED IN SECTIONS 2055 AND 2106(A)(2) (TAKING INTO ACCOUNT ANY EXEMPTIONS, CREDITS, OR DEDUCTIONS ALLOWED BY THIS CHAPTER), IN DETERMINING SUCH DECREASE, THERE SHALL BE DISREGARDED ANY DECREASE IN THE FEDERAL ESTATE TAX WHICH ANY TRANSFEREES OTHER THAN THOSE DESCRIBED IN SECTIONS 2055 AND 2106(A)(2) ARE REQUIRED TO PAY.

(3) EFFECT ON CREDIT FOR FOREIGN DEATH TAXES OF DEDUCTION UNDER THIS SUBSECTION.--

(A) ELECTION.--AN ELECTION UNDER THIS SUBSECTION SHALL BE DEEMED A WAIVER OF THE RIGHT TO CLAIM A CREDIT, AGAINST THE FEDERAL ESTATE TAX, UNDER A DEATH TAX CONVENTION WITH ANY FOREIGN COUNTRY FOR ANY TAX OR PORTION THEREOF IN RESPECT OF WHICH A DEDUCTION IS TAKEN UNDER THIS SUBSECTION.

(B) CROSS REFERENCE.--

SEE SECTION 2011(D) FOR THE EFFECT OF A DEDUCTION TAKEN UNDER THIS PARAGRAPH ON THE CREDIT FOR FOREIGN DEATH TAXES.

(E) MARITAL RIGHTS.--

FOR PROVISIONS TREATING CERTAIN RELINQUISHMENTS OF MARITAL RIGHTS AS CONSIDERATION IN MONEY OR MONEY'S WORTH, SEE SECTION 2043(B)(2).

S 2054. LOSSES. FOR PURPOSES OF THE TAX IMPOSED BY SECTION 2001, THE VALUE OF THE TAXABLE ESTATE SHALL BE DETERMINED BY DEDUCTING FROM THE VALUE OF THE GROSS ESTATE LOSSES INCURRED DURING THE SETTLEMENT OF ESTATES ARISING FROM FIRES, STORMS, SHIPWRECKS, OR OTHER CASUALTIES, OR FROM THEFT, WHEN SUCH LOSSES ARE NOT COMPENSATED FOR BY INSURANCE OR OTHERWISE.

S 2055. TRANSFERS FOR PUBLIC, CHARITABLE, AND RELIGIOUS USES.

(A) IN GENERAL.--FOR PURPOSES OF THE TAX IMPOSED BY SECTION 2001, THE VALUE OF THE TAXABLE ESTATE SHALL BE DETERMINED BY DEDUCTING FROM THE VALUE OF THE GROSS ESTATE THE AMOUNT OF ALL BEQUESTS, LEGACIES, DEVISES, OR TRANSFERS--

1 (1) TO OR FOR THE USE OF THE UNITED STATES, ANY STATE, ANY POLITICAL  
2 SUBDIVISION THEREOF, OR THE DISTRICT OF COLUMBIA, FOR EXCLUSIVELY PUBLIC  
3 PURPOSES;

4 (2) TO OR FOR THE USE OF ANY CORPORATION ORGANIZED AND OPERATED EXCLU-  
5 SIVELY FOR RELIGIOUS, CHARITABLE, SCIENTIFIC, LITERARY, OR EDUCATIONAL  
6 PURPOSES, INCLUDING THE ENCOURAGEMENT OF ART, OR TO FOSTER NATIONAL OR  
7 INTERNATIONAL AMATEUR SPORTS COMPETITION (BUT ONLY IF NO PART OF ITS  
8 ACTIVITIES INVOLVE THE PROVISION OF ATHLETIC FACILITIES OR EQUIPMENT),  
9 AND THE PREVENTION OF CRUELTY TO CHILDREN OR ANIMALS, NO PART OF THE NET  
10 EARNINGS OF WHICH INURES TO THE BENEFIT OF ANY PRIVATE STOCKHOLDER OR  
11 INDIVIDUAL, WHICH IS NOT DISQUALIFIED FOR TAX EXEMPTION UNDER SECTION  
12 501(C)(3) BY REASON OF ATTEMPTING TO INFLUENCE LEGISLATION, AND WHICH  
13 DOES NOT PARTICIPATE IN, OR INTERVENE IN (INCLUDING THE PUBLISHING OR  
14 DISTRIBUTING OF STATEMENTS), ANY POLITICAL CAMPAIGN ON BEHALF OF (OR IN  
15 OPPOSITION TO) ANY CANDIDATE FOR PUBLIC OFFICE;

16 (3) TO A TRUSTEE OR TRUSTEES, OR A FRATERNAL SOCIETY, ORDER, OR ASSO-  
17 CIATION OPERATING UNDER THE LODGE SYSTEM, BUT ONLY IF SUCH CONTRIBUTIONS  
18 OR GIFTS ARE TO BE USED BY SUCH TRUSTEE OR TRUSTEES, OR BY SUCH FRATER-  
19 NAL SOCIETY, ORDER, OR ASSOCIATION, EXCLUSIVELY FOR RELIGIOUS, CHARITA-  
20 BLE, SCIENTIFIC, LITERARY, OR EDUCATIONAL PURPOSES, OR FOR THE  
21 PREVENTION OF CRUELTY TO CHILDREN OR ANIMALS, SUCH TRUST, FRATERNAL  
22 SOCIETY, ORDER, OR ASSOCIATION WOULD NOT BE DISQUALIFIED FOR TAX  
23 EXEMPTION UNDER SECTION 501(C)(3) BY REASON OF ATTEMPTING TO INFLUENCE  
24 LEGISLATION, AND SUCH TRUSTEE OR TRUSTEES, OR SUCH FRATERNAL SOCIETY,  
25 ORDER, OR ASSOCIATION, DOES NOT PARTICIPATE IN, OR INTERVENE IN (INCLUD-  
26 ING THE PUBLISHING OR DISTRIBUTING OF STATEMENTS), ANY POLITICAL  
27 CAMPAIGN ON BEHALF OF (OR IN OPPOSITION TO) ANY CANDIDATE FOR PUBLIC  
28 OFFICE;

29 (4) TO OR FOR THE USE OF ANY VETERANS' ORGANIZATION INCORPORATED BY  
30 ACT OF CONGRESS, OR OF ITS DEPARTMENTS OR LOCAL CHAPTERS OR POSTS, NO  
31 PART OF THE NET EARNINGS OF WHICH INURES TO THE BENEFIT OF ANY PRIVATE  
32 SHAREHOLDER OR INDIVIDUAL; OR

33 (5) TO AN EMPLOYEE STOCK OWNERSHIP PLAN IF SUCH TRANSFER QUALIFIES AS  
34 A QUALIFIED GRATUITOUS TRANSFER OF QUALIFIED EMPLOYER SECURITIES WITHIN  
35 THE MEANING OF SECTION 664(G).

36 FOR PURPOSES OF THIS SUBSECTION, THE COMPLETE TERMINATION BEFORE THE  
37 DATE PRESCRIBED FOR THE FILING OF THE ESTATE TAX RETURN OF A POWER TO  
38 CONSUME, INVADGE, OR APPROPRIATE PROPERTY FOR THE BENEFIT OF AN INDIVID-  
39 UAL BEFORE SUCH POWER HAS BEEN EXERCISED BY REASON OF THE DEATH OF SUCH  
40 INDIVIDUAL OR FOR ANY OTHER REASON SHALL BE CONSIDERED AND DEEMED TO BE  
41 A QUALIFIED DISCLAIMER WITH THE SAME FULL FORCE AND EFFECT AS THOUGH HE  
42 HAD FILED SUCH QUALIFIED DISCLAIMER. RULES SIMILAR TO THE RULES OF  
43 SECTION 501(J) SHALL APPLY FOR PURPOSES OF PARAGRAPH (2).

44 (B) POWERS OF APPOINTMENT.--PROPERTY INCLUDIBLE IN THE DECEDENT'S  
45 GROSS ESTATE UNDER SECTION 2041 (RELATING TO POWERS OF APPOINTMENT)  
46 RECEIVED BY A DONEE DESCRIBED IN THIS SECTION SHALL, FOR PURPOSES OF  
47 THIS SECTION, BE CONSIDERED A BEQUEST OF SUCH DECEDENT.

48 (C) DEATH TAXES PAYABLE OUT OF BEQUESTS.--IF THE TAX IMPOSED BY  
49 SECTION 2001, OR ANY ESTATE, SUCCESSION, LEGACY, OR INHERITANCE TAXES,  
50 ARE, EITHER BY THE TERMS OF THE WILL, BY THE LAW OF THE JURISDICTION  
51 UNDER WHICH THE ESTATE IS ADMINISTERED, OR BY THE LAW OF THE JURISDIC-  
52 TION IMPOSING THE PARTICULAR TAX, PAYABLE IN WHOLE OR IN PART OUT OF THE  
53 BEQUESTS, LEGACIES, OR DEVISES OTHERWISE DEDUCTIBLE UNDER THIS SECTION,  
54 THEN THE AMOUNT DEDUCTIBLE UNDER THIS SECTION SHALL BE THE AMOUNT OF  
55 SUCH BEQUESTS, LEGACIES, OR DEVISES REDUCED BY THE AMOUNT OF SUCH TAXES.

1 (D) LIMITATION ON DEDUCTION.--THE AMOUNT OF THE DEDUCTION UNDER THIS  
2 SECTION FOR ANY TRANSFER SHALL NOT EXCEED THE VALUE OF THE TRANSFERRED  
3 PROPERTY REQUIRED TO BE INCLUDED IN THE GROSS ESTATE.

4 (E) DISALLOWANCE OF DEDUCTIONS IN CERTAIN CASES.--

5 (1) NO DEDUCTION SHALL BE ALLOWED UNDER THIS SECTION FOR A TRANSFER TO  
6 OR FOR THE USE OF AN ORGANIZATION OR TRUST DESCRIBED IN SECTION 508(D)  
7 OR 4948(C)(4) SUBJECT TO THE CONDITIONS SPECIFIED IN SUCH SECTIONS.

8 (2) WHERE AN INTEREST IN PROPERTY (OTHER THAN AN INTEREST DESCRIBED IN  
9 SECTION 170(F)(3)(B)) PASSES OR HAS PASSED FROM THE DECEDENT TO A  
10 PERSON, OR FOR A USE, DESCRIBED IN SUBSECTION (A), AND AN INTEREST  
11 (OTHER THAN AN INTEREST WHICH IS EXTINGUISHED UPON THE DECEDENT'S DEATH)  
12 IN THE SAME PROPERTY PASSES OR HAS PASSED (FOR LESS THAN AN ADEQUATE AND  
13 FULL CONSIDERATION IN MONEY OR MONEY'S WORTH) FROM THE DECEDENT TO A  
14 PERSON, OR FOR A USE, NOT DESCRIBED IN SUBSECTION (A), NO DEDUCTION  
15 SHALL BE ALLOWED UNDER THIS SECTION FOR THE INTEREST WHICH PASSES OR HAS  
16 PASSED TO THE PERSON, OR FOR THE USE, DESCRIBED IN SUBSECTION (A)  
17 UNLESS--

18 (A) IN THE CASE OF A REMAINDER INTEREST, SUCH INTEREST IS IN A TRUST  
19 WHICH IS A CHARITABLE REMAINDER ANNUITY TRUST OR A CHARITABLE REMAINDER  
20 UNITRUST (DESCRIBED IN SECTION 664) OR A POOLED INCOME FUND (DESCRIBED  
21 IN SECTION 642(C)(5)), OR

22 (B) IN THE CASE OF ANY OTHER INTEREST, SUCH INTEREST IS IN THE FORM OF  
23 A GUARANTEED ANNUITY OR IS A FIXED PERCENTAGE DISTRIBUTED YEARLY OF THE  
24 FAIR MARKET VALUE OF THE PROPERTY (TO BE DETERMINED YEARLY).

25 (3) REFORMATIONS TO COMPLY WITH PARAGRAPH (2).--

26 (A) IN GENERAL.--A DEDUCTION SHALL BE ALLOWED UNDER SUBSECTION (A) IN  
27 RESPECT OF ANY QUALIFIED REFORMATION.

28 (B) QUALIFIED REFORMATION.--FOR PURPOSES OF THIS PARAGRAPH, THE TERM  
29 "QUALIFIED REFORMATION" MEANS A CHANGE OF A GOVERNING INSTRUMENT BY  
30 REFORMATION, AMENDMENT, CONSTRUCTION, OR OTHERWISE WHICH CHANGES A  
31 REFORMABLE INTEREST INTO A QUALIFIED INTEREST BUT ONLY IF--

32 (I) ANY DIFFERENCE BETWEEN--

33 (I) THE ACTUARIAL VALUE (DETERMINED AS OF THE DATE OF THE DECEDENT'S  
34 DEATH) OF THE QUALIFIED INTEREST, AND

35 (II) THE ACTUARIAL VALUE (AS SO DETERMINED) OF THE REFORMABLE INTER-  
36 EST,

37 DOES NOT EXCEED 5 PERCENT OF THE ACTUARIAL VALUE (AS SO DETERMINED) OF  
38 THE REFORMABLE INTEREST,

39 (II) IN THE CASE OF--

40 (I) A CHARITABLE REMAINDER INTEREST, THE NONREMAINDER INTEREST (BEFORE  
41 AND AFTER THE QUALIFIED REFORMATION) TERMINATED AT THE SAME TIME, OR

42 (II) ANY OTHER INTEREST, THE REFORMABLE INTEREST AND THE QUALIFIED  
43 INTEREST ARE FOR THE SAME PERIOD, AND

44 (III) SUCH CHANGE IS EFFECTIVE AS OF THE DATE OF THE DECEDENT'S DEATH.

45 A NONREMAINDER INTEREST (BEFORE REFORMATION) FOR A TERM OF YEARS IN  
46 EXCESS OF 20 YEARS SHALL BE TREATED AS SATISFYING SUBCLAUSE (I) OF  
47 CLAUSE (II) IF SUCH INTEREST (AFTER REFORMATION) IS FOR A TERM OF 20  
48 YEARS.

49 (C) REFORMABLE INTEREST.--FOR PURPOSES OF THIS PARAGRAPH--

50 (I) IN GENERAL.--THE TERM "REFORMABLE INTEREST" MEANS ANY INTEREST FOR  
51 WHICH A DEDUCTION WOULD BE ALLOWABLE UNDER SUBSECTION (A) AT THE TIME OF  
52 THE DECEDENT'S DEATH BUT FOR PARAGRAPH (2).

53 (II) BENEFICIARY'S INTEREST MUST BE FIXED.--THE TERM "REFORMABLE  
54 INTEREST" DOES NOT INCLUDE ANY INTEREST UNLESS, BEFORE THE REMAINDER  
55 VESTS IN POSSESSION, ALL PAYMENTS TO PERSONS OTHER THAN AN ORGANIZATION  
56 DESCRIBED IN SUBSECTION (A) ARE EXPRESSED EITHER IN SPECIFIED DOLLAR

1 AMOUNTS OR A FIXED PERCENTAGE OF THE FAIR MARKET VALUE OF THE PROPERTY.  
2 FOR PURPOSES OF DETERMINING WHETHER ALL SUCH PAYMENTS ARE EXPRESSED AS A  
3 FIXED PERCENTAGE OF THE FAIR MARKET VALUE OF THE PROPERTY, SECTION  
4 664(D)(3) SHALL BE TAKEN INTO ACCOUNT.

5 (III) SPECIAL RULE WHERE TIMELY COMMENCEMENT OF REFORMATION.--CLAUSE  
6 (II) SHALL NOT APPLY TO ANY INTEREST IF A JUDICIAL PROCEEDING IS  
7 COMMENCED TO CHANGE SUCH INTEREST INTO A QUALIFIED INTEREST NOT LATER  
8 THAN THE 90TH DAY AFTER--

9 (I) IF AN ESTATE TAX RETURN IS REQUIRED TO BE FILED, THE LAST DATE  
10 (INCLUDING EXTENSIONS) FOR FILING SUCH RETURN, OR

11 (II) IF NO ESTATE TAX RETURN IS REQUIRED TO BE FILED, THE LAST DATE  
12 (INCLUDING EXTENSIONS) FOR FILING THE INCOME TAX RETURN FOR THE 1ST  
13 TAXABLE YEAR FOR WHICH SUCH A RETURN IS REQUIRED TO BE FILED BY THE  
14 TRUST.

15 (IV) SPECIAL RULE FOR WILL EXECUTED BEFORE JANUARY 1, 1979, ETC.--IN  
16 THE CASE OF ANY INTEREST PASSING UNDER A WILL EXECUTED BEFORE JANUARY 1,  
17 1979, OR UNDER A TRUST CREATED BEFORE SUCH DATE, CLAUSE (II) SHALL NOT  
18 APPLY.

19 (D) QUALIFIED INTEREST.--FOR PURPOSES OF THIS PARAGRAPH, THE TERM  
20 "QUALIFIED INTEREST" MEANS AN INTEREST FOR WHICH A DEDUCTION IS ALLOW-  
21 ABLE UNDER SUBSECTION (A).

22 (E) LIMITATION.--THE DEDUCTION REFERRED TO IN SUBPARAGRAPH (A) SHALL  
23 NOT EXCEED THE AMOUNT OF THE DEDUCTION WHICH WOULD HAVE BEEN ALLOWABLE  
24 FOR THE REFORMABLE INTEREST BUT FOR PARAGRAPH (2).

25 (F) SPECIAL RULE WHERE INCOME BENEFICIARY DIES.--IF (BY REASON OF THE  
26 DEATH OF ANY INDIVIDUAL, OR BY TERMINATION OR DISTRIBUTION OF A TRUST IN  
27 ACCORDANCE WITH THE TERMS OF THE TRUST INSTRUMENT) BY THE DUE DATE FOR  
28 FILING THE ESTATE TAX RETURN (INCLUDING ANY EXTENSION THEREOF) A REFORM-  
29 ABLE INTEREST IS IN A WHOLLY CHARITABLE TRUST OR PASSES DIRECTLY TO A  
30 PERSON OR FOR A USE DESCRIBED IN SUBSECTION (A), A DEDUCTION SHALL BE  
31 ALLOWED FOR SUCH REFORMABLE INTEREST AS IF IT HAD MET THE REQUIREMENTS  
32 OF PARAGRAPH (2) ON THE DATE OF THE DECEDENT'S DEATH. FOR PURPOSES OF  
33 THE PRECEDING SENTENCE, THE TERM "WHOLLY CHARITABLE TRUST" MEANS A CHAR-  
34 ITABLE TRUST WHICH, UPON THE ALLOWANCE OF A DEDUCTION, WOULD BE  
35 DESCRIBED IN SECTION 4947(A)(1).

36 (G) STATUTE OF LIMITATIONS.--THE PERIOD FOR ASSESSING ANY DEFICIENCY  
37 OF ANY TAX ATTRIBUTABLE TO THE APPLICATION OF THIS PARAGRAPH SHALL NOT  
38 EXPIRE BEFORE THE DATE 1 YEAR AFTER THE DATE ON WHICH THE SECRETARY IS  
39 NOTIFIED THAT SUCH REFORMATION (OR OTHER PROCEEDING PURSUANT TO SUBPARA-  
40 GRAPH (J))1 HAS OCCURRED.

41 (H) REGULATIONS.--THE SECRETARY SHALL PRESCRIBE SUCH REGULATIONS AS  
42 MAY BE NECESSARY TO CARRY OUT THE PURPOSES OF THIS PARAGRAPH, INCLUDING  
43 REGULATIONS PROVIDING SUCH ADJUSTMENTS IN THE APPLICATION OF THE  
44 PROVISIONS OF SECTION 508 (RELATING TO SPECIAL RULES RELATING TO SECTION  
45 501(C)(3) ORGANIZATIONS), SUBCHAPTER J (RELATING TO ESTATES, TRUSTS,  
46 BENEFICIARIES, AND DECEDENTS), AND CHAPTER 42 (RELATING TO PRIVATE FOUN-  
47 DATIONS) AS MAY BE NECESSARY BY REASON OF THE QUALIFIED REFORMATION.

48 (I) REFORMATIONS PERMITTED IN CASE OF REMAINDER INTERESTS IN RESIDENCE  
49 OR FARM, POOLED INCOME FUNDS, ETC.--THE SECRETARY SHALL PRESCRIBE REGU-  
50 LATIONS (CONSISTENT WITH THE PROVISIONS OF THIS PARAGRAPH) PERMITTING  
51 REFORMATIONS IN THE CASE OF ANY FAILURE--

52 (I) TO MEET THE REQUIREMENTS OF SECTION 170(F)(3)(B) (RELATING TO  
53 REMAINDER INTERESTS IN PERSONAL RESIDENCE OR FARM, ETC.), OR

54 (II) TO MEET THE REQUIREMENTS OF SECTION 642(C)(5).

55 (J) VOID OR REFORMED TRUST IN CASES OF INSUFFICIENT REMAINDER INTER-  
56 ESTS.--IN THE CASE OF A TRUST THAT WOULD QUALIFY (OR COULD BE REFORMED

TO QUALIFY PURSUANT TO SUBPARAGRAPH (B)) BUT FOR FAILURE TO SATISFY THE REQUIREMENT OF PARAGRAPH (1)(D) OR (2)(D) OF SECTION 664(D), SUCH TRUST MAY BE--

(I) DECLARED NULL AND VOID AB INITIO, OR

(II) CHANGED BY REFORMATION, AMENDMENT, OR OTHERWISE TO MEET SUCH REQUIREMENT BY REDUCING THE PAYOUT RATE OR THE DURATION (OR BOTH) OF ANY NONCHARITABLE BENEFICIARY'S INTEREST TO THE EXTENT NECESSARY TO SATISFY SUCH REQUIREMENT,

PURSUANT TO A PROCEEDING THAT IS COMMENCED WITHIN THE PERIOD REQUIRED IN SUBPARAGRAPH (C)(III). IN A CASE DESCRIBED IN CLAUSE (I), NO DEDUCTION SHALL BE ALLOWED UNDER THIS TITLE FOR ANY TRANSFER TO THE TRUST AND ANY TRANSACTIONS ENTERED INTO BY THE TRUST PRIOR TO BEING DECLARED VOID SHALL BE TREATED AS ENTERED INTO BY THE TRANSFEROR.

(4) WORKS OF ART AND THEIR COPYRIGHTS TREATED AS SEPARATE PROPERTIES IN CERTAIN CASES.--

(A) IN GENERAL.--IN THE CASE OF A QUALIFIED CONTRIBUTION OF A WORK OF ART, THE WORK OF ART AND THE COPYRIGHT ON SUCH WORK OF ART SHALL BE TREATED AS SEPARATE PROPERTIES FOR PURPOSES OF PARAGRAPH (2).

(B) WORK OF ART DEFINED.--FOR PURPOSES OF THIS PARAGRAPH, THE TERM "WORK OF ART" MEANS ANY TANGIBLE PERSONAL PROPERTY WITH RESPECT TO WHICH THERE IS A COPYRIGHT UNDER FEDERAL LAW.

(C) QUALIFIED CONTRIBUTION DEFINED.--FOR PURPOSES OF THIS PARAGRAPH, THE TERM "QUALIFIED CONTRIBUTION" MEANS ANY TRANSFER OF PROPERTY TO A QUALIFIED ORGANIZATION IF THE USE OF THE PROPERTY BY THE ORGANIZATION IS RELATED TO THE PURPOSE OR FUNCTION CONSTITUTING THE BASIS FOR ITS EXEMPTION UNDER SECTION 501.

(D) QUALIFIED ORGANIZATION DEFINED.--FOR PURPOSES OF THIS PARAGRAPH, THE TERM "QUALIFIED ORGANIZATION" MEANS ANY ORGANIZATION DESCRIBED IN SECTION 501(C)(3) OTHER THAN A PRIVATE FOUNDATION (AS DEFINED IN SECTION 509). FOR PURPOSES OF THE PRECEDING SENTENCE, A PRIVATE OPERATING FOUNDATION (AS DEFINED IN SECTION 4942(J)(3)) SHALL NOT BE TREATED AS A PRIVATE FOUNDATION.

(5) CONTRIBUTIONS TO DONOR ADVISED FUNDS.--A DEDUCTION OTHERWISE ALLOWED UNDER SUBSECTION (A) FOR ANY CONTRIBUTION TO A DONOR ADVISED FUND (AS DEFINED IN SECTION 4966(D)(2)) SHALL ONLY BE ALLOWED IF--

(A) THE SPONSORING ORGANIZATION (AS DEFINED IN SECTION 4966(D)(1)) WITH RESPECT TO SUCH DONOR ADVISED FUND IS NOT--

(I) DESCRIBED IN PARAGRAPH (3) OR (4) OF SUBSECTION (A), OR

(II) A TYPE III SUPPORTING ORGANIZATION (AS DEFINED IN SECTION 4943(F)(5)(A)) WHICH IS NOT A FUNCTIONALLY INTEGRATED TYPE III SUPPORTING ORGANIZATION (AS DEFINED IN SECTION 4943(F)(5)(B)), AND

(B) THE TAXPAYER OBTAINS A CONTEMPORANEOUS WRITTEN ACKNOWLEDGMENT (DETERMINED UNDER RULES SIMILAR TO THE RULES OF SECTION 170(F)(8)(C)) FROM THE SPONSORING ORGANIZATION (AS SO DEFINED) OF SUCH DONOR ADVISED FUND THAT SUCH ORGANIZATION HAS EXCLUSIVE LEGAL CONTROL OVER THE ASSETS CONTRIBUTED.

(F) SPECIAL RULE FOR IRREVOCABLE TRANSFERS OF EASEMENTS IN REAL PROPERTY.--A DEDUCTION SHALL BE ALLOWED UNDER SUBSECTION (A) IN RESPECT OF ANY TRANSFER OF A QUALIFIED REAL PROPERTY INTEREST (AS DEFINED IN SECTION 170(H)(2)(C)) WHICH MEETS THE REQUIREMENTS OF SECTION 170(H) (WITHOUT REGARD TO PARAGRAPH (4)(A) THEREOF).

(G) CROSS REFERENCES.--

(1) FOR OPTION AS TO TIME FOR VALUATION FOR PURPOSE OF DEDUCTION UNDER THIS SECTION, SEE SECTION 2032.

(2) FOR TREATMENT OF CERTAIN ORGANIZATIONS PROVIDING CHILD CARE, SEE SECTION 501(K).

(3) FOR EXEMPTION OF GIFTS AND BEQUESTS TO OR FOR THE BENEFIT OF LIBRARY OF CONGRESS, SEE SECTION 5 OF THE ACT OF MARCH 3, 1925, AS AMENDED (2 U.S.C. 161).

(4) FOR TREATMENT OF GIFTS AND BEQUESTS FOR THE BENEFIT OF THE NAVAL HISTORICAL CENTER AS GIFTS OR BEQUESTS TO OR FOR THE USE OF THE UNITED STATES, SEE SECTION 7222 OF TITLE 10, UNITED STATES CODE.

(5) FOR TREATMENT OF GIFTS AND BEQUESTS TO OR FOR THE BENEFIT OF NATIONAL PARK FOUNDATION AS GIFTS OR BEQUESTS TO OR FOR THE USE OF THE UNITED STATES, SEE SECTION 8 OF THE ACT OF DECEMBER 18, 1967 (16 U.S.C. 191).

(6) FOR TREATMENT OF GIFTS, DEVISES, OR BEQUESTS ACCEPTED BY THE SECRETARY OF STATE, THE DIRECTOR OF THE INTERNATIONAL COMMUNICATION AGENCY, OR THE DIRECTOR OF THE UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY AS GIFTS, DEVISES, OR BEQUESTS TO OR FOR THE USE OF THE UNITED STATES, SEE SECTION 25 OF THE STATE DEPARTMENT BASIC AUTHORITIES ACT OF 1956.

(7) FOR TREATMENT OF GIFTS OR BEQUESTS OF MONEY ACCEPTED BY THE ATTORNEY GENERAL FOR CREDIT TO "COMMISSARY FUNDS, FEDERAL PRISONS" AS GIFTS OR BEQUESTS TO OR FOR THE USE OF THE UNITED STATES, SEE SECTION 4043 OF TITLE 18, UNITED STATES CODE.

(8) FOR PAYMENT OF TAX ON GIFTS AND BEQUESTS OF UNITED STATES OBLIGATIONS TO THE UNITED STATES, SEE SECTION 3113(E) OF TITLE 31, UNITED STATES CODE.

(9) FOR TREATMENT OF GIFTS AND BEQUESTS FOR BENEFIT OF THE NAVAL ACADEMY AS GIFTS OR BEQUESTS TO OR FOR THE USE OF THE UNITED STATES, SEE SECTION 6973 OF TITLE 10, UNITED STATES CODE.

(10) FOR TREATMENT OF GIFTS AND BEQUESTS FOR BENEFIT OF THE NAVAL ACADEMY MUSEUM AS GIFTS OR BEQUESTS TO OR FOR THE USE OF THE UNITED STATES, SEE SECTION 6974 OF TITLE 10, UNITED STATES CODE.

(11) FOR EXEMPTION OF GIFTS AND BEQUESTS RECEIVED BY NATIONAL ARCHIVES TRUST FUND BOARD, SEE SECTION 2308 OF TITLE 44, UNITED STATES CODE.

(12) FOR TREATMENT OF GIFTS AND BEQUESTS TO OR FOR THE USE OF INDIAN TRIBAL GOVERNMENTS (OR THEIR SUBDIVISIONS), SEE SECTION 7871.

S 2056. BEQUESTS, ETC., TO SURVIVING SPOUSE. (A) ALLOWANCE OF MARITAL DEDUCTION.--FOR PURPOSES OF THE TAX IMPOSED BY SECTION 2001, THE VALUE OF THE TAXABLE ESTATE SHALL, EXCEPT AS LIMITED BY SUBSECTION (B), BE DETERMINED BY DEDUCTING FROM THE VALUE OF THE GROSS ESTATE AN AMOUNT EQUAL TO THE VALUE OF ANY INTEREST IN PROPERTY WHICH PASSES OR HAS PASSED FROM THE DECEDENT TO HIS SURVIVING SPOUSE, BUT ONLY TO THE EXTENT THAT SUCH INTEREST IS INCLUDED IN DETERMINING THE VALUE OF THE GROSS ESTATE.

(B) LIMITATION IN THE CASE OF LIFE ESTATE OR OTHER TERMINABLE INTEREST.--

(1) GENERAL RULE.--WHERE, ON THE LAPSE OF TIME, ON THE OCCURRENCE OF AN EVENT OR CONTINGENCY, OR ON THE FAILURE OF AN EVENT OR CONTINGENCY TO OCCUR, AN INTEREST PASSING TO THE SURVIVING SPOUSE WILL TERMINATE OR FAIL, NO DEDUCTION SHALL BE ALLOWED UNDER THIS SECTION WITH RESPECT TO SUCH INTEREST--

(A) IF AN INTEREST IN SUCH PROPERTY PASSES OR HAS PASSED (FOR LESS THAN AN ADEQUATE AND FULL CONSIDERATION IN MONEY OR MONEY'S WORTH) FROM THE DECEDENT TO ANY PERSON OTHER THAN SUCH SURVIVING SPOUSE (OR THE ESTATE OF SUCH SPOUSE); AND

(B) IF BY REASON OF SUCH PASSING SUCH PERSON (OR HIS HEIRS OR ASSIGNS) MAY POSSESS OR ENJOY ANY PART OF SUCH PROPERTY AFTER SUCH TERMINATION OR FAILURE OF THE INTEREST SO PASSING TO THE SURVIVING SPOUSE;



1 AND NO DEDUCTION SHALL BE ALLOWED WITH RESPECT TO SUCH INTEREST (EVEN  
2 IF SUCH DEDUCTION IS NOT DISALLOWED UNDER SUBPARAGRAPHS (A) AND (B))--

3 (C) IF SUCH INTEREST IS TO BE ACQUIRED FOR THE SURVIVING SPOUSE,  
4 PURSUANT TO DIRECTIONS OF THE DECEDENT, BY HIS EXECUTOR OR BY THE TRUS-  
5 TEE OF A TRUST.

6 FOR PURPOSES OF THIS PARAGRAPH, AN INTEREST SHALL NOT BE CONSIDERED AS  
7 AN INTEREST WHICH WILL TERMINATE OR FAIL MERELY BECAUSE IT IS THE OWNER-  
8 SHIP OF A BOND, NOTE, OR SIMILAR CONTRACTUAL OBLIGATION, THE DISCHARGE  
9 OF WHICH WOULD NOT HAVE THE EFFECT OF AN ANNUITY FOR LIFE OR FOR A TERM.

10 (2) INTEREST IN UNIDENTIFIED ASSETS.--WHERE THE ASSETS (INCLUDED IN  
11 THE DECEDENT'S GROSS ESTATE) OUT OF WHICH, OR THE PROCEEDS OF WHICH, AN  
12 INTEREST PASSING TO THE SURVIVING SPOUSE MAY BE SATISFIED INCLUDE A  
13 PARTICULAR ASSET OR ASSETS WITH RESPECT TO WHICH NO DEDUCTION WOULD BE  
14 ALLOWED IF SUCH ASSET OR ASSETS PASSED FROM THE DECEDENT TO SUCH SPOUSE,  
15 THEN THE VALUE OF SUCH INTEREST PASSING TO SUCH SPOUSE SHALL, FOR  
16 PURPOSES OF SUBSECTION (A), BE REDUCED BY THE AGGREGATE VALUE OF SUCH  
17 PARTICULAR ASSETS.

18 (3) INTEREST OF SPOUSE CONDITIONAL ON SURVIVAL FOR LIMITED  
19 PERIOD.--FOR PURPOSES OF THIS SUBSECTION, AN INTEREST PASSING TO THE  
20 SURVIVING SPOUSE SHALL NOT BE CONSIDERED AS AN INTEREST WHICH WILL  
21 TERMINATE OR FAIL ON THE DEATH OF SUCH SPOUSE IF--

22 (A) SUCH DEATH WILL CAUSE A TERMINATION OR FAILURE OF SUCH INTEREST  
23 ONLY IF IT OCCURS WITHIN A PERIOD NOT EXCEEDING 6 MONTHS AFTER THE  
24 DECEDENT'S DEATH, OR ONLY IF IT OCCURS AS A RESULT OF A COMMON DISASTER  
25 RESULTING IN THE DEATH OF THE DECEDENT AND THE SURVIVING SPOUSE, OR ONLY  
26 IF IT OCCURS IN THE CASE OF EITHER SUCH EVENT; AND

27 (B) SUCH TERMINATION OR FAILURE DOES NOT IN FACT OCCUR.

28 (4) VALUATION OF INTEREST PASSING TO SURVIVING SPOUSE.--IN DETERMINING  
29 FOR PURPOSES OF SUBSECTION (A) THE VALUE OF ANY INTEREST IN PROPERTY  
30 PASSING TO THE SURVIVING SPOUSE FOR WHICH A DEDUCTION IS ALLOWED BY THIS  
31 SECTION--

32 (A) THERE SHALL BE TAKEN INTO ACCOUNT THE EFFECT WHICH THE TAX IMPOSED  
33 BY SECTION 2001, OR ANY ESTATE, SUCCESSION, LEGACY, OR INHERITANCE TAX,  
34 HAS ON THE NET VALUE TO THE SURVIVING SPOUSE OF SUCH INTEREST; AND

35 (B) WHERE SUCH INTEREST OR PROPERTY IS ENCUMBERED IN ANY MANNER, OR  
36 WHERE THE SURVIVING SPOUSE INCURS ANY OBLIGATION IMPOSED BY THE DECEDENT  
37 WITH RESPECT TO THE PASSING OF SUCH INTEREST, SUCH ENCUMBRANCE OR OBLI-  
38 GATION SHALL BE TAKEN INTO ACCOUNT IN THE SAME MANNER AS IF THE AMOUNT  
39 OF A GIFT TO SUCH SPOUSE OF SUCH INTEREST WERE BEING DETERMINED.

40 (5) LIFE ESTATE WITH POWER OF APPOINTMENT IN SURVIVING SPOUSE.--IN THE  
41 CASE OF AN INTEREST IN PROPERTY PASSING FROM THE DECEDENT, IF HIS  
42 SURVIVING SPOUSE IS ENTITLED FOR LIFE TO ALL THE INCOME FROM THE ENTIRE  
43 INTEREST, OR ALL THE INCOME FROM A SPECIFIC PORTION THEREOF, PAYABLE  
44 ANNUALLY OR AT MORE FREQUENT INTERVALS, WITH POWER IN THE SURVIVING  
45 SPOUSE TO APPOINT THE ENTIRE INTEREST, OR SUCH SPECIFIC PORTION (EXER-  
46 CISABLE IN FAVOR OF SUCH SURVIVING SPOUSE, OR OF THE ESTATE OF SUCH  
47 SURVIVING SPOUSE, OR IN FAVOR OF EITHER, WHETHER OR NOT IN EACH CASE THE  
48 POWER IS EXERCISABLE IN FAVOR OF OTHERS), AND WITH NO POWER IN ANY OTHER  
49 PERSON TO APPOINT ANY PART OF THE INTEREST, OR SUCH SPECIFIC PORTION, TO  
50 ANY PERSON OTHER THAN THE SURVIVING SPOUSE--

51 (A) THE INTEREST OR SUCH PORTION THEREOF SO PASSING SHALL, FOR  
52 PURPOSES OF SUBSECTION (A), BE CONSIDERED AS PASSING TO THE SURVIVING  
53 SPOUSE, AND

54 (B) NO PART OF THE INTEREST SO PASSING SHALL, FOR PURPOSES OF PARA-  
55 GRAPH (1)(A), BE CONSIDERED AS PASSING TO ANY PERSON OTHER THAN THE  
56 SURVIVING SPOUSE.

1 THIS PARAGRAPH SHALL APPLY ONLY IF SUCH POWER IN THE SURVIVING SPOUSE  
2 TO APPOINT THE ENTIRE INTEREST, OR SUCH SPECIFIC PORTION THEREOF, WHETH-  
3 ER EXERCISABLE BY WILL OR DURING LIFE, IS EXERCISABLE BY SUCH SPOUSE  
4 ALONE AND IN ALL EVENTS.

5 (6) LIFE INSURANCE OR ANNUITY PAYMENTS WITH POWER OF APPOINTMENT IN  
6 SURVIVING SPOUSE.--IN THE CASE OF AN INTEREST IN PROPERTY PASSING FROM  
7 THE DECEDENT CONSISTING OF PROCEEDS UNDER A LIFE INSURANCE, ENDOWMENT,  
8 OR ANNUITY CONTRACT, IF UNDER THE TERMS OF THE CONTRACT SUCH PROCEEDS  
9 ARE PAYABLE IN INSTALLMENTS OR ARE HELD BY THE INSURER SUBJECT TO AN  
10 AGREEMENT TO PAY INTEREST THEREON (WHETHER THE PROCEEDS, ON THE TERMI-  
11 NATION OF ANY INTEREST PAYMENTS, ARE PAYABLE IN A LUMP SUM OR IN ANNUAL  
12 OR MORE FREQUENT INSTALLMENTS), AND SUCH INSTALLMENT OR INTEREST  
13 PAYMENTS ARE PAYABLE ANNUALLY OR AT MORE FREQUENT INTERVALS, COMMENCING  
14 NOT LATER THAN 13 MONTHS AFTER THE DECEDENT'S DEATH, AND ALL AMOUNTS, OR  
15 A SPECIFIC PORTION OF ALL SUCH AMOUNTS, PAYABLE DURING THE LIFE OF THE  
16 SURVIVING SPOUSE ARE PAYABLE ONLY TO SUCH SPOUSE, AND SUCH SPOUSE HAS  
17 THE POWER TO APPOINT ALL AMOUNTS, OR SUCH SPECIFIC PORTION, PAYABLE  
18 UNDER SUCH CONTRACT (EXERCISABLE IN FAVOR OF SUCH SURVIVING SPOUSE, OR  
19 OF THE ESTATE OF SUCH SURVIVING SPOUSE, OR IN FAVOR OF EITHER, WHETHER  
20 OR NOT IN EACH CASE THE POWER IS EXERCISABLE IN FAVOR OF OTHERS), WITH  
21 NO POWER IN ANY OTHER PERSON TO APPOINT SUCH AMOUNTS TO ANY PERSON OTHER  
22 THAN THE SURVIVING SPOUSE--

23 (A) SUCH AMOUNTS SHALL, FOR PURPOSES OF SUBSECTION (A), BE CONSIDERED  
24 AS PASSING TO THE SURVIVING SPOUSE, AND

25 (B) NO PART OF SUCH AMOUNTS SHALL, FOR PURPOSES OF PARAGRAPH (1)(A),  
26 BE CONSIDERED AS PASSING TO ANY PERSON OTHER THAN THE SURVIVING SPOUSE.

27 THIS PARAGRAPH SHALL APPLY ONLY IF, UNDER THE TERMS OF THE CONTRACT,  
28 SUCH POWER IN THE SURVIVING SPOUSE TO APPOINT SUCH AMOUNTS, WHETHER  
29 EXERCISABLE BY WILL OR DURING LIFE, IS EXERCISABLE BY SUCH SPOUSE ALONE  
30 AND IN ALL EVENTS.

31 (7) ELECTION WITH RESPECT TO LIFE ESTATE FOR SURVIVING SPOUSE.--

32 (A) IN GENERAL.--IN THE CASE OF QUALIFIED TERMINABLE INTEREST PROPER-  
33 TY--

34 (I) FOR PURPOSES OF SUBSECTION (A), SUCH PROPERTY SHALL BE TREATED AS  
35 PASSING TO THE SURVIVING SPOUSE, AND

36 (II) FOR PURPOSES OF PARAGRAPH (1)(A), NO PART OF SUCH PROPERTY SHALL  
37 BE TREATED AS PASSING TO ANY PERSON OTHER THAN THE SURVIVING SPOUSE.

38 (B) QUALIFIED TERMINABLE INTEREST PROPERTY DEFINED.--FOR PURPOSES OF  
39 THIS PARAGRAPH--

40 (I) IN GENERAL.--THE TERM "QUALIFIED TERMINABLE INTEREST PROPERTY"  
41 MEANS PROPERTY--

42 (I) WHICH PASSES FROM THE DECEDENT,

43 (II) IN WHICH THE SURVIVING SPOUSE HAS A QUALIFYING INCOME INTEREST  
44 FOR LIFE, AND

45 (III) TO WHICH AN ELECTION UNDER THIS PARAGRAPH APPLIES.

46 (II) QUALIFYING INCOME INTEREST FOR LIFE.--THE SURVIVING SPOUSE HAS A  
47 QUALIFYING INCOME INTEREST FOR LIFE IF--

48 (I) THE SURVIVING SPOUSE IS ENTITLED TO ALL THE INCOME FROM THE PROP-  
49 erty, PAYABLE ANNUALLY OR AT MORE FREQUENT INTERVALS, OR HAS A USUFRUCT  
50 INTEREST FOR LIFE IN THE PROPERTY, AND

51 (II) NO PERSON HAS A POWER TO APPOINT ANY PART OF THE PROPERTY TO ANY  
52 PERSON OTHER THAN THE SURVIVING SPOUSE.

53 SUBCLAUSE (II) SHALL NOT APPLY TO A POWER EXERCISABLE ONLY AT OR AFTER  
54 THE DEATH OF THE SURVIVING SPOUSE. TO THE EXTENT PROVIDED IN REGU-  
55 LATIONS, AN ANNUITY SHALL BE TREATED IN A MANNER SIMILAR TO AN INCOME

1 INTEREST IN PROPERTY (REGARDLESS OF WHETHER THE PROPERTY FROM WHICH THE  
2 ANNUITY IS PAYABLE CAN BE SEPARATELY IDENTIFIED).

3 (III) PROPERTY INCLUDES INTEREST THEREIN.--THE TERM "PROPERTY"  
4 INCLUDES AN INTEREST IN PROPERTY.

5 (IV) SPECIFIC PORTION TREATED AS SEPARATE PROPERTY.--A SPECIFIC  
6 PORTION OF PROPERTY SHALL BE TREATED AS SEPARATE PROPERTY.

7 (V) ELECTION.--AN ELECTION UNDER THIS PARAGRAPH WITH RESPECT TO ANY  
8 PROPERTY SHALL BE MADE BY THE EXECUTOR ON THE RETURN OF TAX IMPOSED BY  
9 SECTION 2001. SUCH AN ELECTION, ONCE MADE, SHALL BE IRREVOCABLE.

10 (C) TREATMENT OF SURVIVOR ANNUITIES.--IN THE CASE OF AN ANNUITY  
11 INCLUDED IN THE GROSS ESTATE OF THE DECEDENT UNDER SECTION 2039 (OR, IN  
12 THE CASE OF AN INTEREST IN AN ANNUITY ARISING UNDER THE COMMUNITY PROP-  
13 erty LAWS OF A STATE, INCLUDED IN THE GROSS ESTATE OF THE DECEDENT UNDER  
14 SECTION 2033) WHERE ONLY THE SURVIVING SPOUSE HAS THE RIGHT TO RECEIVE  
15 PAYMENTS BEFORE THE DEATH OF SUCH SURVIVING SPOUSE--

16 (I) THE INTEREST OF SUCH SURVIVING SPOUSE SHALL BE TREATED AS A QUALI-  
17 FYING INCOME INTEREST FOR LIFE, AND

18 (II) THE EXECUTOR SHALL BE TREATED AS HAVING MADE AN ELECTION UNDER  
19 THIS SUBSECTION WITH RESPECT TO SUCH ANNUITY UNLESS THE EXECUTOR OTHER-  
20 WISE ELECTS ON THE RETURN OF TAX IMPOSED BY SECTION 2001.

21 AN ELECTION UNDER CLAUSE (II), ONCE MADE, SHALL BE IRREVOCABLE.

22 (8) SPECIAL RULE FOR CHARITABLE REMAINDER TRUSTS.--

23 (A) IN GENERAL.--IF THE SURVIVING SPOUSE OF THE DECEDENT IS THE ONLY  
24 BENEFICIARY OF A QUALIFIED CHARITABLE REMAINDER TRUST WHO IS NOT A CHAR-  
25 ITABLE BENEFICIARY NOR AN ESOP BENEFICIARY, PARAGRAPH (1) SHALL NOT  
26 APPLY TO ANY INTEREST IN SUCH TRUST WHICH PASSES OR HAS PASSED FROM THE  
27 DECEDENT TO SUCH SURVIVING SPOUSE.

28 (B) DEFINITIONS.--FOR PURPOSES OF SUBPARAGRAPH (A)--

29 (I) CHARITABLE BENEFICIARY.--THE TERM "CHARITABLE BENEFICIARY" MEANS  
30 ANY BENEFICIARY WHICH IS AN ORGANIZATION DESCRIBED IN SECTION 170(C).

31 (II) ESOP BENEFICIARY.--THE TERM "ESOP BENEFICIARY" MEANS ANY BENEFI-  
32 CIARY WHICH IS AN EMPLOYEE STOCK OWNERSHIP PLAN (AS DEFINED IN SECTION  
33 4975(E)(7)) THAT HOLDS A REMAINDER INTEREST IN QUALIFIED EMPLOYER SECU-  
34 RITIES (AS DEFINED IN SECTION 664(G)(4)) TO BE TRANSFERRED TO SUCH PLAN  
35 IN A QUALIFIED GRATUITOUS TRANSFER (AS DEFINED IN SECTION 664(G)(1)).

36 (III) QUALIFIED CHARITABLE REMAINDER TRUST.--THE TERM "QUALIFIED CHAR-  
37 ITABLE REMAINDER TRUST" MEANS A CHARITABLE REMAINDER ANNUITY TRUST OR A  
38 CHARITABLE REMAINDER UNITRUST (DESCRIBED IN SECTION 664).

39 (9) DENIAL OF DOUBLE DEDUCTION.--NOTHING IN THIS SECTION OR ANY OTHER  
40 PROVISION OF THIS CHAPTER SHALL ALLOW THE VALUE OF ANY INTEREST IN PROP-  
41 erty TO BE DEDUCTED UNDER THIS CHAPTER MORE THAN ONCE WITH RESPECT TO  
42 THE SAME DECEDENT.

43 (10) SPECIFIC PORTION.--FOR PURPOSES OF PARAGRAPHS (5), (6), AND  
44 (7)(B)(IV), THE TERM "SPECIFIC PORTION" ONLY INCLUDES A PORTION DETER-  
45 MINED ON A FRACTIONAL OR PERCENTAGE BASIS.

46 (C) DEFINITION.--FOR PURPOSES OF THIS SECTION, AN INTEREST IN PROPERTY  
47 SHALL BE CONSIDERED AS PASSING FROM THE DECEDENT TO ANY PERSON IF AND  
48 ONLY IF--

49 (1) SUCH INTEREST IS BEQUEATHED OR DEVISED TO SUCH PERSON BY THE DECE-  
50 DENT;

51 (2) SUCH INTEREST IS INHERITED BY SUCH PERSON FROM THE DECEDENT;

52 (3) SUCH INTEREST IS THE DOWER OR CURTESY INTEREST (OR STATUTORY  
53 INTEREST IN LIEU THEREOF) OF SUCH PERSON AS SURVIVING SPOUSE OF THE  
54 DECEDENT;

55 (4) SUCH INTEREST HAS BEEN TRANSFERRED TO SUCH PERSON BY THE DECEDENT  
56 AT ANY TIME;

1 (5) SUCH INTEREST WAS, AT THE TIME OF THE DECEDENT'S DEATH, HELD BY  
2 SUCH PERSON AND THE DECEDENT (OR BY THEM AND ANY OTHER PERSON) IN JOINT  
3 OWNERSHIP WITH RIGHT OF SURVIVORSHIP;

4 (6) THE DECEDENT HAD A POWER (EITHER ALONE OR IN CONJUNCTION WITH ANY  
5 PERSON) TO APPOINT SUCH INTEREST AND IF HE APPOINTS OR HAS APPOINTED  
6 SUCH INTEREST TO SUCH PERSON, OR IF SUCH PERSON TAKES SUCH INTEREST IN  
7 DEFAULT ON THE RELEASE OR NONEXERCISE OF SUCH POWER; OR

8 (7) SUCH INTEREST CONSISTS OF PROCEEDS OF INSURANCE ON THE LIFE OF THE  
9 DECEDENT RECEIVABLE BY SUCH PERSON.

10 EXCEPT AS PROVIDED IN PARAGRAPH (5) OR (6) OF SUBSECTION (B), WHERE AT  
11 THE TIME OF THE DECEDENT'S DEATH IT IS NOT POSSIBLE TO ASCERTAIN THE  
12 PARTICULAR PERSON OR PERSONS TO WHOM AN INTEREST IN PROPERTY MAY PASS  
13 FROM THE DECEDENT, SUCH INTEREST SHALL, FOR PURPOSES OF SUBPARAGRAPHS  
14 (A) AND (B) OF SUBSECTION (B)(1), BE CONSIDERED AS PASSING FROM THE  
15 DECEDENT TO A PERSON OTHER THAN THE SURVIVING SPOUSE.

16 S 2103. DEFINITION OF GROSS ESTATE. FOR THE PURPOSE OF THE TAX IMPOSED  
17 BY SECTION 2101, THE VALUE OF THE GROSS ESTATE OF EVERY DECEDENT NONRES-  
18 IDENT NOT A CITIZEN OF THE UNITED STATES SHALL BE THAT PART OF HIS GROSS  
19 ESTATE (DETERMINED AS PROVIDED IN SECTION 2031) WHICH AT THE TIME OF HIS  
20 DEATH IS SITUATED IN THE UNITED STATES.

21 S 2104. PROPERTY WITHIN THE UNITED STATES. (A) STOCK IN CORPORA-  
22 TION.--FOR PURPOSES OF THIS SUBCHAPTER SHARES OF STOCK OWNED AND HELD BY  
23 A NONRESIDENT NOT A CITIZEN OF THE UNITED STATES SHALL BE DEEMED PROPER-  
24 TY WITHIN THE UNITED STATES ONLY IF ISSUED BY A DOMESTIC CORPORATION.

25 (B) REVOCABLE TRANSFERS AND TRANSFERS WITHIN 3 YEARS OF DEATH.--FOR  
26 PURPOSES OF THIS SUBCHAPTER, ANY PROPERTY OF WHICH THE DECEDENT HAS MADE  
27 A TRANSFER, BY TRUST OR OTHERWISE, WITHIN THE MEANING OF SECTIONS 2035  
28 TO 2038, INCLUSIVE, SHALL BE DEEMED TO BE SITUATED IN THE UNITED STATES,  
29 IF SO SITUATED EITHER AT THE TIME OF THE TRANSFER OR AT THE TIME OF THE  
30 DECEDENT'S DEATH.

31 (C) DEBT OBLIGATIONS.--FOR PURPOSES OF THIS SUBCHAPTER, DEBT OBLI-  
32 GATIONS OF-

33 (1) A UNITED STATES PERSON, OR

34 (2) THE UNITED STATES, A STATE OR ANY POLITICAL SUBDIVISION THEREOF,  
35 OR THE DISTRICT OF COLUMBIA,

36 OWNED AND HELD BY A NONRESIDENT NOT A CITIZEN OF THE UNITED STATES  
37 SHALL BE DEEMED PROPERTY WITHIN THE UNITED STATES. WITH RESPECT TO  
38 ESTATES OF DECEDENTS DYING AFTER DECEMBER 31, 1969, DEPOSITS WITH A  
39 DOMESTIC BRANCH OF A FOREIGN CORPORATION, IF SUCH BRANCH IS ENGAGED IN  
40 THE COMMERCIAL BANKING BUSINESS, SHALL, FOR PURPOSES OF THIS SUBCHAPTER,  
41 BE DEEMED PROPERTY WITHIN THE UNITED STATES. THIS SUBSECTION SHALL NOT  
42 APPLY TO A DEBT OBLIGATION TO WHICH SECTION 2105(B) APPLIES.

43 S 2105. PROPERTY WITHOUT THE UNITED STATES. (A) PROCEEDS OF LIFE INSU-  
44 RANCE.--FOR PURPOSES OF THIS SUBCHAPTER, THE AMOUNT RECEIVABLE AS INSUR-  
45 ANCE ON THE LIFE OF A NONRESIDENT NOT A CITIZEN OF THE UNITED STATES  
46 SHALL NOT BE DEEMED PROPERTY WITHIN THE UNITED STATES.

47 (B) BANK DEPOSITS AND CERTAIN OTHER DEBT OBLIGATIONS.--FOR PURPOSES OF  
48 THIS SUBCHAPTER, THE FOLLOWING SHALL NOT BE DEEMED PROPERTY WITHIN THE  
49 UNITED STATES--

50 (1) AMOUNTS DESCRIBED IN SECTION 871(I)(3), IF ANY INTEREST THEREON  
51 WOULD NOT BE SUBJECT TO TAX BY REASON OF SECTION 871(I)(1) WERE SUCH  
52 INTEREST RECEIVED BY THE DECEDENT AT THE TIME OF HIS DEATH,

53 (2) DEPOSITS WITH A FOREIGN BRANCH OF A DOMESTIC CORPORATION OR DOMES-  
54 TIC PARTNERSHIP, IF SUCH BRANCH IS ENGAGED IN THE COMMERCIAL BANKING  
55 BUSINESS,

(3) DEBT OBLIGATIONS, IF, WITHOUT REGARD TO WHETHER A STATEMENT MEETING THE REQUIREMENTS OF SECTION 871(H)(5) HAS BEEN RECEIVED, ANY INTEREST THEREON WOULD BE ELIGIBLE FOR THE EXEMPTION FROM TAX UNDER SECTION 871(H)(1) WERE SUCH INTEREST RECEIVED BY THE DECEDENT AT THE TIME OF HIS DEATH, AND

(4) OBLIGATIONS WHICH WOULD BE ORIGINAL ISSUE DISCOUNT OBLIGATIONS AS DEFINED IN SECTION 871(G)(1) BUT FOR SUBPARAGRAPH (B)(I) THEREOF, IF ANY INTEREST THEREON (WERE SUCH INTEREST RECEIVED BY THE DECEDENT AT THE TIME OF HIS DEATH) WOULD NOT BE EFFECTIVELY CONNECTED WITH THE CONDUCT OF A TRADE OR BUSINESS WITHIN THE UNITED STATES.

NOTWITHSTANDING THE PRECEDING SENTENCE, IF ANY PORTION OF THE INTEREST ON AN OBLIGATION REFERRED TO IN PARAGRAPH (3) WOULD NOT BE ELIGIBLE FOR THE EXEMPTION REFERRED TO IN PARAGRAPH (3) BY REASON OF SECTION 871(H)(4) IF THE INTEREST WERE RECEIVED BY THE DECEDENT AT THE TIME OF HIS DEATH, THEN AN APPROPRIATE PORTION (AS DETERMINED IN A MANNER PRESCRIBED BY THE SECRETARY) OF THE VALUE (AS DETERMINED FOR PURPOSES OF THIS CHAPTER) OF SUCH DEBT OBLIGATION SHALL BE DEEMED PROPERTY WITHIN THE UNITED STATES.

(C) WORKS OF ART ON LOAN FOR EXHIBITION.--FOR PURPOSES OF THIS SUBCHAPTER, WORKS OF ART OWNED BY A NONRESIDENT NOT A CITIZEN OF THE UNITED STATES SHALL NOT BE DEEMED PROPERTY WITHIN THE UNITED STATES IF SUCH WORKS OF ART ARE--

(1) IMPORTED INTO THE UNITED STATES SOLELY FOR EXHIBITION PURPOSES,

(2) LOANED FOR SUCH PURPOSES, TO A PUBLIC GALLERY OR MUSEUM, NO PART OF THE NET EARNINGS OF WHICH INURES TO THE BENEFIT OF ANY PRIVATE STOCKHOLDER OR INDIVIDUAL, AND

(3) AT THE TIME OF THE DEATH OF THE OWNER, ON EXHIBITION, OR ENROUTE TO OR FROM EXHIBITION, IN SUCH A PUBLIC GALLERY OR MUSEUM.

S 2503. (A) GENERAL DEFINITION - THE TERM "TAXABLE GIFTS" MEANS THE TOTAL AMOUNT OF GIFTS MADE DURING THE CALENDAR YEAR, LESS DEDUCTIONS PROVIDED IN SUBCHAPTER C (SECTION 2522 AND FOLLOWING).

(B) EXCLUSIONS FROM GIFTS. (1) IN GENERAL.--IN THE CASE OF GIFTS (OTHER THAN GIFTS OF FUTURE INTERESTS IN PROPERTY) MADE TO ANY PERSON BY THE DONOR DURING THE CALENDAR YEAR, THE FIRST \$10,000 OF SUCH GIFTS TO SUCH PERSON SHALL NOT, FOR PURPOSES OF SUBSECTION (A), BE INCLUDED IN THE TOTAL AMOUNT OF GIFTS MADE DURING SUCH YEAR. WHERE THERE HAS BEEN A TRANSFER TO ANY PERSON OF A PRESENT INTEREST IN PROPERTY, THE POSSIBILITY THAT SUCH INTEREST MAY BE DIMINISHED BY THE EXERCISE OF A POWER SHALL BE DISREGARDED IN APPLYING THIS SUBSECTION, IF NO PART OF SUCH INTEREST WILL AT ANY TIME PASS TO ANY OTHER PERSON.

(2) INFLATION ADJUSTMENT.--IN THE CASE OF GIFTS MADE IN A CALENDAR YEAR AFTER 1998, THE \$10,000 AMOUNT CONTAINED IN PARAGRAPH (1) SHALL BE INCREASED BY AN AMOUNT EQUAL TO--

(A) \$10,000, MULTIPLIED BY

(B) THE COST-OF-LIVING ADJUSTMENT DETERMINED UNDER SECTION 1(F)(3) FOR SUCH CALENDAR YEAR BY SUBSTITUTING "CALENDAR YEAR 1997" FOR "CALENDAR YEAR 1992" IN SUBPARAGRAPH (B) THEREOF.

IF ANY AMOUNT AS ADJUSTED UNDER THE PRECEDING SENTENCE IS NOT A MULTIPLE OF \$1,000, SUCH AMOUNT SHALL BE ROUNDED TO THE NEXT LOWEST MULTIPLE OF \$1,000.

(C) TRANSFER FOR THE BENEFIT OF MINOR. -- NO PART OF A GIFT TO AN INDIVIDUAL WHO HAS NOT ATTAINED THE AGE OF 21 YEARS ON THE DATE OF SUCH TRANSFER SHALL BE CONSIDERED A GIFT OF A FUTURE INTEREST IN PROPERTY FOR PURPOSES OF SUBSECTION (B) IF THE PROPERTY AND THE INCOME THEREFROM--

(1) MAY BE EXPENDED BY, OR FOR THE BENEFIT OF, THE DONEE BEFORE HIS ATTAINING THE AGE OF 21 YEARS, AND

(2) WILL TO THE EXTENT NOT SO EXPENDED-

(A) PASS TO THE DONEE ON HIS ATTAINING THE AGE OF 21 YEARS, AND

(B) IN THE EVENT THE DONEE DIES BEFORE ATTAINING THE AGE OF 21 YEARS, BE PAYABLE TO THE ESTATE OF THE DONEE OR AS HE MAY APPOINT UNDER A GENERAL POWER OF APPOINTMENT AS DEFINED IN SECTION 2514(C).

{(D) REPEALED. PUB. L. 97-34, TITLE III, S 311(H)(5), AUG. 13, 1981, 95 STAT. 282}

(E) EXCLUSION FOR CERTAIN TRANSFERS FOR EDUCATIONAL EXPENSES OR MEDICAL EXPENSES. (1) IN GENERAL. ANY QUALIFIED TRANSFER SHALL NOT BE TREATED AS A TRANSFER OF PROPERTY BY GIFT FOR PURPOSES OF THIS CHAPTER.

(2) QUALIFIED TRANSFER. FOR PURPOSES OF THIS SUBSECTION, THE TERM "QUALIFIED TRANSFER" MEANS ANY AMOUNT PAID ON BEHALF OF AN INDIVIDUAL-

(A) AS TUITION TO AN EDUCATIONAL ORGANIZATION DESCRIBED IN SECTION 170(B)(1)(A)(II) FOR THE EDUCATION OR TRAINING OF SUCH INDIVIDUAL, OR

(B) TO ANY PERSON WHO PROVIDES MEDICAL CARE (AS DEFINED IN SECTION 213(D)) WITH RESPECT TO SUCH INDIVIDUAL AS PAYMENT FOR SUCH MEDICAL CARE.

(F) WAIVER OF CERTAIN PENSION RIGHTS. IF ANY INDIVIDUAL WAIVES, BEFORE THE DEATH OF A PARTICIPANT, ANY SURVIVOR BENEFIT, OR RIGHT TO SUCH BENEFIT, UNDER SECTION 401(A)(11) OR 417, SUCH WAIVER SHALL NOT BE TREATED AS A TRANSFER OF PROPERTY BY GIFT FOR PURPOSES OF THIS CHAPTER.

(G) TREATMENT OF CERTAIN LOANS OF ARTWORKS. (1) IN GENERAL. FOR PURPOSES OF THIS SUBTITLE, ANY LOAN OF A QUALIFIED WORK OF ART SHALL NOT BE TREATED AS A TRANSFER (AND THE VALUE OF SUCH QUALIFIED WORK OF ART SHALL BE DETERMINED AS IF SUCH LOAN HAD NOT BEEN MADE) IF-

(A) SUCH LOAN IS TO AN ORGANIZATION DESCRIBED IN SECTION 501(C)(3) AND EXEMPT FROM TAX UNDER SECTION 501(C) (OTHER THAN A PRIVATE FOUNDATION), AND

(B) THE USE OF SUCH WORK BY SUCH ORGANIZATION IS RELATED TO THE PURPOSE OR FUNCTION CONSTITUTING THE BASIS FOR ITS EXEMPTION UNDER SECTION 501.

(2) DEFINITIONS. FOR PURPOSES OF THIS SECTION-

(A) QUALIFIED WORK OF ART. THE TERM "QUALIFIED WORK OF ART" MEANS ANY ARCHAEOLOGICAL, HISTORIC, OR CREATIVE TANGIBLE PERSONAL PROPERTY.

(B) PRIVATE FOUNDATION. THE TERM "PRIVATE FOUNDATION" HAS THE MEANING GIVEN SUCH TERM BY SECTION 509, EXCEPT THAT SUCH TERM SHALL NOT INCLUDE ANY PRIVATE OPERATING FOUNDATION (AS DEFINED IN SECTION 4942(J)(3)).

S 2511. TRANSFERS IN GENERAL. (A) SCOPE. SUBJECT TO THE LIMITATIONS CONTAINED IN THIS CHAPTER, THE TAX IMPOSED BY SECTION 2501 SHALL APPLY WHETHER THE TRANSFER IS IN TRUST OR OTHERWISE, WHETHER THE GIFT IS DIRECT OR INDIRECT, AND WHETHER THE PROPERTY IS REAL OR PERSONAL, TANGIBLE OR INTANGIBLE; BUT IN THE CASE OF A NONRESIDENT NOT A CITIZEN OF THE UNITED STATES, SHALL APPLY TO A TRANSFER ONLY IF THE PROPERTY IS SITUATED WITHIN THE UNITED STATES.

(B) INTANGIBLE PROPERTY. FOR PURPOSES OF THIS CHAPTER, IN THE CASE OF A NONRESIDENT NOT A CITIZEN OF THE UNITED STATES WHO IS EXCEPTED FROM THE APPLICATION OF SECTION 2501(A)(2)-

(1) SHARES OF STOCK ISSUED BY A DOMESTIC CORPORATION, AND

(2) DEBT OBLIGATIONS OF-

--(A) A UNITED STATES PERSON, OR

--(B) THE UNITED STATES, A STATE OR ANY POLITICAL SUBDIVISION THEREOF, OR THE DISTRICT OF COLUMBIA,

--WHICH ARE OWNED AND HELD BY SUCH NONRESIDENT SHALL BE DEEMED TO BE PROPERTY SITUATED WITHIN THE UNITED STATES.

1 S 2512. VALUATION OF GIFTS. (A) IF THE GIFT IS MADE IN PROPERTY, THE  
2 VALUE THEREOF AT THE DATE OF THE GIFT SHALL BE CONSIDERED THE AMOUNT OF  
3 THE GIFT.

4 (B) WHERE PROPERTY IS TRANSFERRED FOR LESS THAN AN ADEQUATE AND FULL  
5 CONSIDERATION IN MONEY OR MONEY'S WORTH, THEN THE AMOUNT BY WHICH THE  
6 VALUE OF THE PROPERTY EXCEEDED THE VALUE OF THE CONSIDERATION SHALL BE  
7 DEEMED A GIFT, AND SHALL BE INCLUDED IN COMPUTING THE AMOUNT OF GIFTS  
8 MADE DURING THE CALENDAR YEAR.

9 S 2513. GIFT BY HUSBAND OR WIFE TO THIRD PARTY. (A) CONSIDERED AS MADE  
10 ONE-HALF BY EACH. (1) IN GENERAL. A GIFT MADE BY ONE SPOUSE TO ANY  
11 PERSON OTHER THAN HIS SPOUSE SHALL, FOR THE PURPOSES OF THIS CHAPTER, BE  
12 CONSIDERED AS MADE ONE-HALF BY HIM AND ONE-HALF BY HIS SPOUSE, BUT ONLY  
13 IF AT THE TIME OF THE GIFT EACH SPOUSE IS A CITIZEN OR RESIDENT OF THE  
14 UNITED STATES. THIS PARAGRAPH SHALL NOT APPLY WITH RESPECT TO A GIFT BY  
15 A SPOUSE OF AN INTEREST IN PROPERTY IF HE CREATES IN HIS SPOUSE A GENER-  
16 AL POWER OF APPOINTMENT, AS DEFINED IN SECTION 2514(C), OVER SUCH INTER-  
17 EST. FOR PURPOSES OF THIS SECTION, AN INDIVIDUAL SHALL BE CONSIDERED AS  
18 THE SPOUSE OF ANOTHER INDIVIDUAL ONLY IF HE IS MARRIED TO SUCH INDIVID-  
19 UAL AT THE TIME OF THE GIFT AND DOES NOT REMARRY DURING THE REMAINDER OF  
20 THE CALENDAR YEAR.

21 (2) CONSENT OF BOTH SPOUSES. PARAGRAPH (1) SHALL APPLY ONLY IF BOTH  
22 SPOUSES HAVE SIGNIFIED (UNDER THE REGULATIONS PROVIDED FOR IN SUBSECTION  
23 (B)) THEIR CONSENT TO THE APPLICATION OF PARAGRAPH (1) IN THE CASE OF  
24 ALL SUCH GIFTS MADE DURING THE CALENDAR YEAR BY EITHER WHILE MARRIED TO  
25 THE OTHER.

26 (B) MANNER AND TIME OF SIGNIFYING CONSENT. (1) MANNER. A CONSENT UNDER  
27 THIS SECTION SHALL BE SIGNIFIED IN SUCH MANNER AS IS PROVIDED UNDER  
28 REGULATIONS PRESCRIBED BY THE SECRETARY.

29 (2) TIME. SUCH CONSENT MAY BE SO SIGNIFIED AT ANY TIME AFTER THE CLOSE  
30 OF THE CALENDAR YEAR IN WHICH THE GIFT WAS MADE, SUBJECT TO THE FOLLOW-  
31 ING LIMITATIONS-

32 --(A) THE CONSENT MAY NOT BE SIGNIFIED AFTER THE 15TH DAY OF APRIL  
33 FOLLOWING THE CLOSE OF SUCH YEAR, UNLESS BEFORE SUCH 15TH DAY NO RETURN  
34 HAS BEEN FILED FOR SUCH YEAR BY EITHER SPOUSE, IN WHICH CASE THE CONSENT  
35 MAY NOT BE SIGNIFIED AFTER A RETURN FOR SUCH YEAR IS FILED BY EITHER  
36 SPOUSE.

37 --(B) THE CONSENT MAY NOT BE SIGNIFIED AFTER A NOTICE OF DEFICIENCY WITH  
38 RESPECT TO THE TAX FOR SUCH YEAR HAS BEEN SENT TO EITHER SPOUSE IN  
39 ACCORDANCE WITH SECTION 6212(A).

40 (C) REVOCATION OF CONSENT. REVOCATION OF A CONSENT PREVIOUSLY SIGNI-  
41 FIED SHALL BE MADE IN SUCH MANNER AS IN PROVIDED UNDER REGULATIONS  
42 PRESCRIBED BY THE SECRETARY, BUT THE RIGHT TO REVOKE A CONSENT PREVIOUS-  
43 LY SIGNIFIED WITH RESPECT TO A CALENDAR YEAR-

44 (1) SHALL NOT EXIST AFTER THE 15TH DAY OF APRIL FOLLOWING THE CLOSE OF  
45 SUCH YEAR IF THE CONSENT WAS SIGNIFIED ON OR BEFORE SUCH 15TH DAY; AND

46 (2) SHALL NOT EXIST IF THE CONSENT WAS NOT SIGNIFIED UNTIL AFTER SUCH  
47 15TH DAY.

48 (D) JOINT AND SEVERAL LIABILITY FOR TAX. IF THE CONSENT REQUIRED BY  
49 SUBSECTION (A)(2) IS SIGNIFIED WITH RESPECT TO A GIFT MADE IN ANY CALEN-  
50 DAR YEAR, THE LIABILITY WITH RESPECT TO THE ENTIRE TAX IMPOSED BY THIS  
51 CHAPTER OF EACH SPOUSE FOR SUCH YEAR SHALL BE JOINT AND SEVERAL.

52 S 2514. POWERS OF APPOINTMENT. (A) POWERS CREATED ON OR BEFORE OCTOBER  
53 21, 1942. AN EXERCISE OF A GENERAL POWER OF APPOINTMENT CREATED ON OR  
54 BEFORE OCTOBER 21, 1942, SHALL BE DEEMED A TRANSFER OF PROPERTY BY THE  
55 INDIVIDUAL POSSESSING SUCH POWER; BUT THE FAILURE TO EXERCISE SUCH A  
56 POWER OR THE COMPLETE RELEASE OF SUCH A POWER SHALL NOT BE DEEMED AN

EXERCISE THEREOF. IF A GENERAL POWER OF APPOINTMENT CREATED ON OR BEFORE OCTOBER 21, 1942, HAS BEEN PARTIALLY RELEASED SO THAT IT IS NO LONGER A GENERAL POWER OF APPOINTMENT, THE SUBSEQUENT EXERCISE OF SUCH POWER SHALL NOT BE DEEMED TO BE THE EXERCISE OF A GENERAL POWER OF APPOINTMENT IF-

(1) SUCH PARTIAL RELEASE OCCURRED BEFORE NOVEMBER 1, 1951, OR

(2) THE DONEE OF SUCH POWER WAS UNDER A LEGAL DISABILITY TO RELEASE SUCH POWER ON OCTOBER 21, 1942, AND SUCH PARTIAL RELEASE OCCURRED NOT LATER THAN SIX MONTHS AFTER THE TERMINATION OF SUCH LEGAL DISABILITY.

(B) POWERS CREATED AFTER OCTOBER 21, 1942. THE EXERCISE OR RELEASE OF A GENERAL POWER OF APPOINTMENT CREATED AFTER OCTOBER 21, 1942, SHALL BE DEEMED A TRANSFER OF PROPERTY BY THE INDIVIDUAL POSSESSING SUCH POWER.

(C) DEFINITION OF GENERAL POWER OF APPOINTMENT. FOR PURPOSES OF THIS SECTION, THE TERM "GENERAL POWER OF APPOINTMENT" MEANS A POWER WHICH IS EXERCISABLE IN FAVOR OF THE INDIVIDUAL POSSESSING THE POWER (HEREAFTER IN THIS SUBSECTION REFERRED TO AS THE "POSSESSOR"), HIS ESTATE, HIS CREDITORS, OR THE CREDITORS OF HIS ESTATE; EXCEPT THAT-

(1) A POWER TO CONSUME, INVADE, OR APPROPRIATE PROPERTY FOR THE BENEFIT OF THE POSSESSOR WHICH IS LIMITED BY AN ASCERTAINABLE STANDARD RELATING TO THE HEALTH, EDUCATION, SUPPORT, OR MAINTENANCE OF THE POSSESSOR SHALL NOT BE DEEMED A GENERAL POWER OF APPOINTMENT.

(2) A POWER OF APPOINTMENT CREATED ON OR BEFORE OCTOBER 21, 1942, WHICH IS EXERCISABLE BY THE POSSESSOR ONLY IN CONJUNCTION WITH ANOTHER PERSON SHALL NOT BE DEEMED A GENERAL POWER OF APPOINTMENT.

(3) IN THE CASE OF A POWER OF APPOINTMENT CREATED AFTER OCTOBER 21, 1942, WHICH IS EXERCISABLE BY THE POSSESSOR ONLY IN CONJUNCTION WITH ANOTHER PERSON-

--(A) IF THE POWER IS NOT EXERCISABLE BY THE POSSESSOR EXCEPT IN CONJUNCTION WITH THE CREATOR OF THE POWER-SUCH POWER SHALL NOT BE DEEMED A GENERAL POWER OF APPOINTMENT;

--(B) IF THE POWER IS NOT EXERCISABLE BY THE POSSESSOR EXCEPT IN CONJUNCTION WITH A PERSON HAVING A SUBSTANTIAL INTEREST, IN THE PROPERTY SUBJECT TO THE POWER, WHICH IS ADVERSE TO EXERCISE OF THE POWER IN FAVOR OF THE POSSESSOR-SUCH POWER SHALL NOT BE DEEMED A GENERAL POWER OF APPOINTMENT. FOR THE PURPOSES OF THIS SUBPARAGRAPH A PERSON WHO, AFTER THE DEATH OF THE POSSESSOR, MAY BE POSSESSED OF A POWER OF APPOINTMENT (WITH RESPECT TO THE PROPERTY SUBJECT TO THE POSSESSOR'S POWER) WHICH HE MAY EXERCISE IN HIS OWN FAVOR SHALL BE DEEMED AS HAVING AN INTEREST IN THE PROPERTY AND SUCH INTEREST SHALL BE DEEMED ADVERSE TO SUCH EXERCISE OF THE POSSESSOR'S POWER;

--(C) IF (AFTER THE APPLICATION OF SUBPARAGRAPHS (A) AND (B)) THE POWER IS A GENERAL POWER OF APPOINTMENT AND IS EXERCISABLE IN FAVOR OF SUCH OTHER PERSON-SUCH POWER SHALL BE DEEMED A GENERAL POWER OF APPOINTMENT ONLY IN RESPECT OF A FRACTIONAL PART OF THE PROPERTY SUBJECT TO SUCH POWER, SUCH PART TO BE DETERMINED BY DIVIDING THE VALUE OF SUCH PROPERTY BY THE NUMBER OF SUCH PERSONS (INCLUDING THE POSSESSOR) IN FAVOR OF WHOM SUCH POWER IS EXERCISABLE.

--FOR PURPOSES OF SUBPARAGRAPHS (B) AND (C), A POWER SHALL BE DEEMED TO BE EXERCISABLE IN FAVOR OF A PERSON IF IT IS EXERCISABLE IN FAVOR OF SUCH PERSON, HIS ESTATE, HIS CREDITORS, OR THE CREDITORS OF HIS ESTATE.

(D) CREATION OF ANOTHER POWER IN CERTAIN CASES. IF A POWER OF APPOINTMENT CREATED AFTER OCTOBER 21, 1942, IS EXERCISED BY CREATING ANOTHER POWER OF APPOINTMENT WHICH, UNDER THE APPLICABLE LOCAL LAW, CAN BE VALIDLY EXERCISED SO AS TO POSTPONE THE VESTING OF ANY ESTATE OR INTEREST IN THE PROPERTY WHICH WAS SUBJECT TO THE FIRST POWER, OR SUSPEND THE ABSOLUTE OWNERSHIP OR POWER OF ALIENATION OF SUCH PROPERTY, FOR A PERIOD



1 ASCERTAINABLE WITHOUT REGARD TO THE DATE OF THE CREATION OF THE FIRST  
2 POWER, SUCH EXERCISE OF THE FIRST POWER SHALL, TO THE EXTENT OF THE  
3 PROPERTY SUBJECT TO THE SECOND POWER, BE DEEMED A TRANSFER OF PROPERTY  
4 BY THE INDIVIDUAL POSSESSING SUCH POWER.

5 (E) LAPSE OF POWER. THE LAPSE OF A POWER OF APPOINTMENT CREATED AFTER  
6 OCTOBER 21, 1942, DURING THE LIFE OF THE INDIVIDUAL POSSESSING THE POWER  
7 SHALL BE CONSIDERED A RELEASE OF SUCH POWER. THE RULE OF THE PRECEDING  
8 SENTENCE SHALL APPLY WITH RESPECT TO THE LAPSE OF POWERS DURING ANY  
9 CALENDAR YEAR ONLY TO THE EXTENT THAT THE PROPERTY WHICH COULD HAVE BEEN  
10 APPOINTED BY EXERCISE OF SUCH LAPSED POWERS EXCEEDS IN VALUE THE GREATER  
11 OF THE FOLLOWING AMOUNTS:

12 (1) \$5,000, OR

13 (2) 5 PERCENT OF THE AGGREGATE VALUE OF THE ASSETS OUT OF WHICH, OR  
14 THE PROCEEDS OF WHICH, THE EXERCISE OF THE LAPSED POWERS COULD BE SATIS-  
15 FIED.

16 (F) DATE OF CREATION OF POWER. FOR PURPOSES OF THIS SECTION A POWER OF  
17 APPOINTMENT CREATED BY A WILL EXECUTED ON OR BEFORE OCTOBER 21, 1942,  
18 SHALL BE CONSIDERED A POWER CREATED ON OR BEFORE SUCH DATE IF THE PERSON  
19 EXECUTING SUCH WILL DIES BEFORE JULY 1, 1949, WITHOUT HAVING REPUBLISHED  
20 SUCH WILL, BY CODICIL OR OTHERWISE, AFTER OCTOBER 21, 1942.

21 S 2516. CERTAIN PROPERTY SETTLEMENTS. WHERE A HUSBAND AND WIFE ENTER  
22 INTO A WRITTEN AGREEMENT RELATIVE TO THEIR MARITAL AND PROPERTY RIGHTS  
23 AND DIVORCE OCCURS WITHIN THE 3-YEAR PERIOD BEGINNING ON THE DATE 1 YEAR  
24 BEFORE SUCH AGREEMENT IS ENTERED INTO (WHETHER OR NOT SUCH AGREEMENT IS  
25 APPROVED BY THE DIVORCE DECREE), ANY TRANSFERS OF PROPERTY OR INTERESTS  
26 IN PROPERTY MADE PURSUANT TO SUCH AGREEMENT-

27 (1) TO EITHER SPOUSE IN SETTLEMENT OF HIS OR HER MARITAL OR PROPERTY  
28 RIGHTS, OR

29 (2) TO PROVIDE A REASONABLE ALLOWANCE FOR THE SUPPORT OF ISSUE OF THE  
30 MARRIAGE DURING MINORITY,

31 --SHALL BE DEEMED TO BE TRANSFERS MADE FOR A FULL AND ADEQUATE CONSID-  
32 ERATION IN MONEY OR MONEY'S WORTH.

33 S 2518. DISCLAIMERS. (A) GENERAL RULE. - FOR PURPOSES OF THIS SUBTI-  
34 TLE, IF A PERSON MAKES A QUALIFIED DISCLAIMER WITH RESPECT TO ANY INTER-  
35 EST IN PROPERTY, THIS SUBTITLE SHALL APPLY WITH RESPECT TO SUCH INTEREST  
36 AS IF THE INTEREST HAD NEVER BEEN TRANSFERRED TO SUCH PERSON.

37 (B) QUALIFIED DISCLAIMER DEFINED. - FOR PURPOSES OF SUBSECTION (A),  
38 THE TERM "QUALIFIED DISCLAIMER" MEANS AN IRREVOCABLE AND UNQUALIFIED  
39 REFUSAL BY A PERSON TO ACCEPT AN INTEREST IN PROPERTY BUT ONLY IF -

40 (1) SUCH REFUSAL IS IN WRITING,

41 (2) SUCH WRITING IS RECEIVED BY THE TRANSFEROR OF THE INTEREST, HIS  
42 LEGAL REPRESENTATIVE, OR THE HOLDER OF THE LEGAL TITLE TO THE PROPERTY  
43 TO WHICH THE INTEREST RELATES NOT LATER THAN THE DATE WHICH IS 9 MONTHS  
44 AFTER THE LATER OF -

45 (A) THE DATE ON WHICH THE TRANSFER CREATING THE INTEREST IN SUCH  
46 PERSON IS MADE, OR

47 (B) THE DAY ON WHICH SUCH PERSON ATTAINS AGE 21,

48 (3) SUCH PERSON HAS NOT ACCEPTED THE INTEREST OR ANY OF ITS BENEFITS,  
49 AND

50 (4) AS A RESULT OF SUCH REFUSAL, THE INTEREST PASSES WITHOUT ANY  
51 DIRECTION ON THE PART OF THE PERSON MAKING THE DISCLAIMER AND PASSES  
52 EITHER -

53 (A) TO THE SPOUSE OF THE DECEDENT, OR

54 (B) TO A PERSON OTHER THAN THE PERSON MAKING THE DISCLAIMER.

55 (C) OTHER RULES. FOR PURPOSES OF SUBSECTION (A)-

(1) DISCLAIMER OF UNDIVIDED PORTION OF INTEREST. A DISCLAIMER WITH RESPECT TO AN UNDIVIDED PORTION OF AN INTEREST WHICH MEETS THE REQUIREMENTS OF THE PRECEDING SENTENCE SHALL BE TREATED AS A QUALIFIED DISCLAIMER OF SUCH PORTION OF THE INTEREST.

(2) POWERS. A POWER WITH RESPECT TO PROPERTY SHALL BE TREATED AS AN INTEREST IN SUCH PROPERTY.

(3) CERTAIN TRANSFERS TREATED AS DISCLAIMERS. A WRITTEN TRANSFER OF THE TRANSFEROR'S ENTIRE INTEREST IN THE PROPERTY-

(A) WHICH MEETS REQUIREMENTS SIMILAR TO THE REQUIREMENTS OF PARAGRAPHS (2) AND (3) OF SUBSECTION (B), AND

(B) WHICH IS TO A PERSON OR PERSONS WHO WOULD HAVE RECEIVED THE PROPERTY HAD THE TRANSFEROR MADE A QUALIFIED DISCLAIMER (WITHIN THE MEANING OF SUBSECTION (B)),

--SHALL BE TREATED AS A QUALIFIED DISCLAIMER.

S 2519. DISPOSITIONS OF CERTAIN LIFE ESTATES. (A) GENERAL RULE

--FOR PURPOSES OF THIS CHAPTER AND CHAPTER 11, ANY DISPOSITION OF ALL OR PART OF A QUALIFYING INCOME INTEREST FOR LIFE IN ANY PROPERTY TO WHICH THIS SECTION APPLIES SHALL BE TREATED AS A TRANSFER OF ALL INTERESTS IN SUCH PROPERTY OTHER THAN THE QUALIFYING INCOME INTEREST.

(B) PROPERTY TO WHICH THIS SUBSECTION APPLIES. THIS SECTION APPLIES TO ANY PROPERTY IF A DEDUCTION WAS ALLOWED WITH RESPECT TO THE TRANSFER OF SUCH PROPERTY TO THE DONOR-

(1) UNDER SECTION 2056 BY REASON OF SUBSECTION (B)(7) THEREOF, OR

(2) UNDER SECTION 2523 BY REASON OF SUBSECTION (F) THEREOF.

(C) CROSS REFERENCE

--FOR RIGHT OF RECOVERY FOR GIFT TAX IN THE CASE OF PROPERTY TREATED AS TRANSFERRED UNDER THIS SECTION, SEE SECTION 2207A(B).

S 2522. CHARITABLE AND SIMILAR GIFTS. (A) CITIZENS OR RESIDENTS. IN COMPUTING TAXABLE GIFTS FOR THE CALENDAR YEAR, THERE SHALL BE ALLOWED AS A DEDUCTION IN THE CASE OF A CITIZEN OR RESIDENT THE AMOUNT OF ALL GIFTS MADE DURING SUCH YEAR TO OR FOR THE USE OF-

(1) THE UNITED STATES, ANY STATE, OR ANY POLITICAL SUBDIVISION THEREOF, OR THE DISTRICT OF COLUMBIA, FOR EXCLUSIVELY PUBLIC PURPOSES;

(2) A CORPORATION, OR TRUST, OR COMMUNITY CHEST, FUND, OR FOUNDATION, ORGANIZED AND OPERATED EXCLUSIVELY FOR RELIGIOUS, CHARITABLE, SCIENTIFIC, LITERARY, OR EDUCATIONAL PURPOSES, OR TO FOSTER NATIONAL OR INTERNATIONAL AMATEUR SPORTS COMPETITION (BUT ONLY IF NO PART OF ITS ACTIVITIES INVOLVE THE PROVISION OF ATHLETIC FACILITIES OR EQUIPMENT), INCLUDING THE ENCOURAGEMENT OF ART AND THE PREVENTION OF CRUELTY TO CHILDREN OR ANIMALS, NO PART OF THE NET EARNINGS OF WHICH INURES TO THE BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL, WHICH IS NOT DISQUALIFIED FOR TAX EXEMPTION UNDER SECTION 501(C)(3) BY REASON OF ATTEMPTING TO INFLUENCE LEGISLATION, AND WHICH DOES NOT PARTICIPATE IN, OR INTERVENE IN (INCLUDING THE PUBLISHING OR DISTRIBUTING OF STATEMENTS), ANY POLITICAL CAMPAIGN ON BEHALF OF (OR IN OPPOSITION TO) ANY CANDIDATE FOR PUBLIC OFFICE;

(3) A FRATERNAL SOCIETY, ORDER, OR ASSOCIATION, OPERATING UNDER THE LODGE SYSTEM, BUT ONLY IF SUCH GIFTS ARE TO BE USED EXCLUSIVELY FOR RELIGIOUS, CHARITABLE, SCIENTIFIC, LITERARY, OR EDUCATIONAL PURPOSES, INCLUDING THE ENCOURAGEMENT OF ART AND THE PREVENTION OF CRUELTY TO CHILDREN OR ANIMALS;

(4) POSTS OR ORGANIZATIONS OF WAR VETERANS, OR AUXILIARY UNITS OR SOCIETIES OF ANY SUCH POSTS OR ORGANIZATIONS, IF SUCH POSTS, ORGANIZATIONS, UNITS, OR SOCIETIES ARE ORGANIZED IN THE UNITED STATES OR ANY OF ITS POSSESSIONS, AND IF NO PART OF THEIR NET EARNINGS INSURES TO THE BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL.

1 RULES SIMILAR TO THE RULES OF SECTION 501(J) SHALL APPLY FOR PURPOSES  
2 OF PARAGRAPH (2).

3 (B) NONRESIDENTS. IN THE CASE OF A NONRESIDENT NOT A CITIZEN OF THE  
4 UNITED STATES, THERE SHALL BE ALLOWED AS A DEDUCTION THE AMOUNT OF ALL  
5 GIFTS MADE DURING SUCH YEAR TO OR FOR THE USE OF-

6 (1) THE UNITED STATES, ANY STATE, OR ANY POLITICAL SUBDIVISION THERE-  
7 OF, OR THE DISTRICT OF COLUMBIA, FOR EXCLUSIVELY PUBLIC PURPOSES;

8 (2) A DOMESTIC CORPORATION ORGANIZED AND OPERATED EXCLUSIVELY FOR  
9 RELIGIOUS, CHARITABLE, SCIENTIFIC, LITERARY, OR EDUCATIONAL PURPOSES,  
10 INCLUDING THE ENCOURAGEMENT OF ART AND THE PREVENTION OF CRUELTY TO  
11 CHILDREN OR ANIMALS, NO PART OF THE NET EARNINGS OF WHICH INURES TO THE  
12 BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL, WHICH IS NOT DISQUALI-  
13 FIED FOR TAX EXEMPTION UNDER SECTION 501(C)(3) BY REASON OF ATTEMPTING  
14 TO INFLUENCE LEGISLATION, AND WHICH DOES NOT PARTICIPATE IN, OR INTER-  
15 VENE IN (INCLUDING THE PUBLISHING OR DISTRIBUTING OF STATEMENTS), ANY  
16 POLITICAL CAMPAIGN ON BEHALF OF (OR IN OPPOSITION TO) ANY CANDIDATE FOR  
17 PUBLIC OFFICE;

18 (3) A TRUST, OR COMMUNITY CHEST, FUND, OR FOUNDATION, ORGANIZED AND  
19 OPERATED EXCLUSIVELY FOR RELIGIOUS, CHARITABLE, SCIENTIFIC, LITERARY, OR  
20 EDUCATIONAL PURPOSES, INCLUDING THE ENCOURAGEMENT OF ART AND THE  
21 PREVENTION OF CRUELTY TO CHILDREN OR ANIMALS, NO SUBSTANTIAL PART OF THE  
22 ACTIVITIES OF WHICH IS CARRYING ON PROPAGANDA, OR OTHERWISE ATTEMPTING,  
23 TO INFLUENCE LEGISLATION, AND WHICH DOES NOT PARTICIPATE IN, OR INTER-  
24 VENE IN (INCLUDING THE PUBLISHING OR DISTRIBUTING OF STATEMENTS), ANY  
25 POLITICAL CAMPAIGN ON BEHALF OF (OR IN OPPOSITION TO) ANY CANDIDATE FOR  
26 PUBLIC OFFICE; BUT ONLY IF SUCH GIFTS ARE TO BE USED WITHIN THE UNITED  
27 STATES EXCLUSIVELY FOR SUCH PURPOSES;

28 (4) A FRATERNAL SOCIETY, ORDER, OR ASSOCIATION, OPERATING UNDER THE  
29 LODGE SYSTEM, BUT ONLY IF SUCH GIFTS ARE TO BE USED WITHIN THE UNITED  
30 STATES EXCLUSIVELY FOR RELIGIOUS, CHARITABLE, SCIENTIFIC, LITERARY, OR  
31 EDUCATIONAL PURPOSES, INCLUDING THE ENCOURAGEMENT OF ART AND THE  
32 PREVENTION OF CRUELTY TO CHILDREN OR ANIMALS;

33 (5) POSTS OR ORGANIZATIONS OF WAR VETERANS, OR AUXILIARY UNITS OR  
34 SOCIETIES OF ANY SUCH POSTS OR ORGANIZATIONS, IF SUCH POSTS, ORGANIZA-  
35 TIONS, UNITS, OR SOCIETIES ARE ORGANIZED IN THE UNITED STATES OR ANY OF  
36 ITS POSSESSIONS, AND IF NO PART OF THEIR NET EARNINGS INURES TO THE  
37 BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL.

38 (C) DISALLOWANCE OF DEDUCTIONS IN CERTAIN CASES. (1) NO DEDUCTION  
39 SHALL BE ALLOWED UNDER THIS SECTION FOR A GIFT TO OF 1 FOR THE USE OF AN  
40 ORGANIZATION OR TRUST DESCRIBED IN SECTION 508(D) OR 4948(C)(4) SUBJECT  
41 TO THE CONDITIONS SPECIFIED IN SUCH SECTIONS.

42 (2) WHERE A DONOR TRANSFERS AN INTEREST IN PROPERTY (OTHER THAN AN  
43 INTEREST DESCRIBED IN SECTION 170(F)(3)(B)) TO A PERSON, OR FOR A USE,  
44 DESCRIBED IN SUBSECTION (A) OR (B) AND AN INTEREST IN THE SAME PROPERTY  
45 IS RETAINED BY THE DONOR, OR IS TRANSFERRED OR HAS BEEN TRANSFERRED (FOR  
46 LESS THAN AN ADEQUATE AND FULL CONSIDERATION IN MONEY OR MONEY'S WORTH)  
47 FROM THE DONOR TO A PERSON, OR FOR A USE, NOT DESCRIBED IN SUBSECTION  
48 (A) OR (B), NO DEDUCTION SHALL BE ALLOWED UNDER THIS SECTION FOR THE  
49 INTEREST WHICH IS, OR HAS BEEN TRANSFERRED TO THE PERSON, OR FOR THE  
50 USE, DESCRIBED IN SUBSECTION (A) OR (B), UNLESS-

51 (A) IN THE CASE OF A REMAINDER INTEREST, SUCH INTEREST IS IN A TRUST  
52 WHICH IS A CHARITABLE REMAINDER ANNUITY TRUST OR A CHARITABLE REMAINDER  
53 UNITRUST (DESCRIBED IN SECTION 664) OR A POOLED INCOME FUND (DESCRIBED  
54 IN SECTION 642(C)(5)), OR

(B) IN THE CASE OF ANY OTHER INTEREST, SUCH INTEREST IS IN THE FORM OF A GUARANTEED ANNUITY OR IS A FIXED PERCENTAGE DISTRIBUTED YEARLY OF THE FAIR MARKET VALUE OF THE PROPERTY (TO BE DETERMINED YEARLY).

(3) RULES SIMILAR TO THE RULES OF SECTION 2055(E)(4) SHALL APPLY FOR PURPOSES OF PARAGRAPH (2).

(4) REFORMATIONS TO COMPLY WITH PARAGRAPH (2). (A) IN GENERAL -- A DEDUCTION SHALL BE ALLOWED UNDER SUBSECTION (A) IN RESPECT OF ANY QUALIFIED REFORMATION (WITHIN THE MEANING OF SECTION 2055(E)(3)(B)).

(B) RULES SIMILAR TO SECTION 2055(E)(3) TO APPLY -- FOR PURPOSES OF THIS PARAGRAPH, RULES SIMILAR TO THE RULES OF SECTION 2055(E)(3) SHALL APPLY.

(5) CONTRIBUTIONS TO DONOR ADVISED FUNDS. A DEDUCTION OTHERWISE ALLOWED UNDER SUBSECTION (A) FOR ANY CONTRIBUTION TO A DONOR ADVISED FUND (AS DEFINED IN SECTION 4966(D)(2)) SHALL ONLY BE ALLOWED IF--

--(A) THE SPONSORING ORGANIZATION (AS DEFINED IN SECTION 4966(D)(1)) WITH RESPECT TO SUCH DONOR ADVISED FUND IS NOT--

--(I) DESCRIBED IN PARAGRAPH (3) OR (4) OF SUBSECTION (A), OR

--(II) A TYPE III SUPPORTING ORGANIZATION (AS DEFINED IN SECTION 4943(F)(5)(A)) WHICH IS NOT A FUNCTIONALLY INTEGRATED TYPE III SUPPORTING ORGANIZATION (AS DEFINED IN SECTION 4943(F)(5)(B)), AND

--(B) THE TAXPAYER OBTAINS A CONTEMPORANEOUS WRITTEN ACKNOWLEDGMENT (DETERMINED UNDER RULES SIMILAR TO THE RULES OF SECTION 170(F)(8)(C)) FROM THE SPONSORING ORGANIZATION (AS SO DEFINED) OF SUCH DONOR ADVISED FUND THAT SUCH ORGANIZATION HAS EXCLUSIVE LEGAL CONTROL OVER THE ASSETS CONTRIBUTED.

(D) SPECIAL RULE FOR IRREVOCABLE TRANSFERS OF EASEMENTS IN REAL PROPERTY. A DEDUCTION SHALL BE ALLOWED UNDER SUBSECTION (A) IN RESPECT OF ANY TRANSFER OF A QUALIFIED REAL PROPERTY INTEREST (AS DEFINED IN SECTION 170(H)(2)(C)) WHICH MEETS THE REQUIREMENTS OF SECTION 170(H) (WITHOUT REGARD TO PARAGRAPH (4)(A) THEREOF).

(E) SPECIAL RULES FOR FRACTIONAL GIFTS

(1) DENIAL OF DEDUCTION IN CERTAIN CASES

(A) IN GENERAL

--NO DEDUCTION SHALL BE ALLOWED FOR A CONTRIBUTION OF AN UNDIVIDED PORTION OF A TAXPAYER'S ENTIRE INTEREST IN TANGIBLE PERSONAL PROPERTY UNLESS ALL INTERESTS IN THE PROPERTY ARE HELD IMMEDIATELY BEFORE SUCH CONTRIBUTION BY--

--(I) THE TAXPAYER, OR

--(II) THE TAXPAYER AND THE DONEE.

(B) EXCEPTIONS

--THE SECRETARY MAY, BY REGULATION, PROVIDE FOR EXCEPTIONS TO SUBPARAGRAPH (A) IN CASES WHERE ALL PERSONS WHO HOLD AN INTEREST IN THE PROPERTY MAKE PROPORTIONAL CONTRIBUTIONS OF AN UNDIVIDED PORTION OF THE ENTIRE INTEREST HELD BY SUCH PERSONS.

(2) RECAPTURE OF DEDUCTION IN CERTAIN CASES; ADDITION TO TAX

(A) IN GENERAL. THE SECRETARY SHALL PROVIDE FOR THE RECAPTURE OF AN AMOUNT EQUAL TO ANY DEDUCTION ALLOWED UNDER THIS SECTION (PLUS INTEREST) WITH RESPECT TO ANY CONTRIBUTION OF AN UNDIVIDED PORTION OF A TAXPAYER'S ENTIRE INTEREST IN TANGIBLE PERSONAL PROPERTY--

--(I) IN ANY CASE IN WHICH THE DONOR DOES NOT CONTRIBUTE ALL OF THE REMAINING INTERESTS IN SUCH PROPERTY TO THE DONEE (OR, IF SUCH DONEE IS NO LONGER IN EXISTENCE, TO ANY PERSON DESCRIBED IN SECTION 170(C)) ON OR BEFORE THE EARLIER OF--

--(I) THE DATE THAT IS 10 YEARS AFTER THE DATE OF THE INITIAL FRACTIONAL CONTRIBUTION, OR

--(II) THE DATE OF THE DEATH OF THE DONOR, AND

1 --(II) IN ANY CASE IN WHICH THE DONEE HAS NOT, DURING THE PERIOD BEGIN-  
2 NING ON THE DATE OF THE INITIAL FRACTIONAL CONTRIBUTION AND ENDING ON  
3 THE DATE DESCRIBED IN CLAUSE (I)-

4 --(I) HAD SUBSTANTIAL PHYSICAL POSSESSION OF THE PROPERTY, AND

5 --(II) USED THE PROPERTY IN A USE WHICH IS RELATED TO A PURPOSE OR FUNC-  
6 TION CONSTITUTING THE BASIS FOR THE ORGANIZATIONS' EXEMPTION UNDER  
7 SECTION 501.

8 (B) ADDITION TO TAX. THE TAX IMPOSED UNDER THIS CHAPTER FOR ANY TAXA-  
9 BLE YEAR FOR WHICH THERE IS A RECAPTURE UNDER SUBPARAGRAPH (A) SHALL BE  
10 INCREASED BY 10 PERCENT OF THE AMOUNT SO RECAPTURED.

11 (C) INITIAL FRACTIONAL CONTRIBUTION. FOR PURPOSES OF THIS PARAGRAPH,  
12 THE TERM "INITIAL FRACTIONAL CONTRIBUTION" MEANS, WITH RESPECT TO ANY  
13 DONOR, THE FIRST GIFT OF AN UNDIVIDED PORTION OF THE DONOR'S ENTIRE  
14 INTEREST IN ANY TANGIBLE PERSONAL PROPERTY FOR WHICH A DEDUCTION IS  
15 ALLOWED UNDER SUBSECTION (A) OR (B).

16 (F) CROSS REFERENCES

17 --(1) FOR TREATMENT OF CERTAIN ORGANIZATIONS PROVIDING CHILD CARE, SEE  
18 SECTION 501(K).

19 --(2) FOR EXEMPTION OF CERTAIN GIFTS TO OR FOR THE BENEFIT OF THE UNITED  
20 STATES AND FOR RULES OF CONSTRUCTION WITH RESPECT TO CERTAIN BEQUESTS,  
21 SEE SECTION 2055(F).

22 --(3) FOR TREATMENT OF GIFTS TO OR FOR THE USE OF INDIAN TRIBAL GOVERN-  
23 MENTS (OR THEIR SUBDIVISIONS), SEE SECTION 7871.

24 S 2523. GIFT TO SPOUSE (A) ALLOWANCE OF DEDUCTION. WHERE A DONOR  
25 TRANSFERS DURING THE CALENDAR YEAR BY GIFT AN INTEREST IN PROPERTY TO A  
26 DONEE WHO AT THE TIME OF THE GIFT IS THE DONOR'S SPOUSE, THERE SHALL BE  
27 ALLOWED AS A DEDUCTION IN COMPUTING TAXABLE GIFTS FOR THE CALENDAR YEAR  
28 AN AMOUNT WITH RESPECT TO SUCH INTEREST EQUAL TO ITS VALUE.

29 (B) LIFE ESTATE OR OTHER TERMINABLE INTEREST. WHERE, ON THE LAPSE OF  
30 TIME, ON THE OCCURRENCE OF AN EVENT OR CONTINGENCY, OR ON THE FAILURE OF  
31 AN EVENT OR CONTINGENCY TO OCCUR, SUCH INTEREST TRANSFERRED TO THE  
32 SPOUSE WILL TERMINATE OR FAIL, NO DEDUCTION SHALL BE ALLOWED WITH  
33 RESPECT TO SUCH INTEREST-

34 (1) IF THE DONOR RETAINS IN HIMSELF, OR TRANSFERS OR HAS TRANSFERRED  
35 (FOR LESS THAN AN ADEQUATE AND FULL CONSIDERATION IN MONEY OR MONEY'S  
36 WORTH) TO ANY PERSON OTHER THAN SUCH DONEE SPOUSE (OR THE ESTATE OF SUCH  
37 SPOUSE), AN INTEREST IN SUCH PROPERTY, AND IF BY REASON OF SUCH  
38 RETENTION OR TRANSFER THE DONOR (OR HIS HEIRS OR ASSIGNS) OR SUCH PERSON  
39 (OR HIS HEIRS OR ASSIGNS) MAY POSSESS OR ENJOY ANY PART OF SUCH PROPERTY  
40 AFTER SUCH TERMINATION OR FAILURE OF THE INTEREST TRANSFERRED TO THE  
41 DONEE SPOUSE; OR

42 (2) IF THE DONOR IMMEDIATELY AFTER THE TRANSFER TO THE DONEE SPOUSE  
43 HAS A POWER TO APPOINT AN INTEREST IN SUCH PROPERTY WHICH HE CAN EXER-  
44 CISE (EITHER ALONE OR IN CONJUNCTION WITH ANY PERSON) IN SUCH MANNER  
45 THAT THE APPOINTEE MAY POSSESS OR ENJOY ANY PART OF SUCH PROPERTY AFTER  
46 SUCH TERMINATION OR FAILURE OF THE INTEREST TRANSFERRED TO THE DONEE  
47 SPOUSE. FOR PURPOSES OF THIS PARAGRAPH, THE DONOR SHALL BE CONSIDERED AS  
48 HAVING IMMEDIATELY AFTER THE TRANSFER TO THE DONEE SPOUSE SUCH POWER TO  
49 APPOINT EVEN THOUGH SUCH POWER CANNOT BE EXERCISED UNTIL AFTER THE LAPSE  
50 OF TIME, UPON THE OCCURRENCE OF AN EVENT OR CONTINGENCY, OR ON THE FAIL-  
51 URE OF AN EVENT OR CONTINGENCY TO OCCUR.

52 AN EXERCISE OR RELEASE AT ANY TIME BY THE DONOR, EITHER ALONE OR IN  
53 CONJUNCTION WITH ANY PERSON, OF A POWER TO APPOINT AN INTEREST IN PROP-  
54 erty, EVEN THOUGH NOT OTHERWISE A TRANSFER, SHALL, FOR PURPOSES OF PARA-  
55 GRAPH (1), BE CONSIDERED AS A TRANSFER BY HIM. EXCEPT AS PROVIDED IN  
56 SUBSECTION (E), WHERE AT THE TIME OF THE TRANSFER IT IS IMPOSSIBLE TO

1 ASCERTAIN THE PARTICULAR PERSON OR PERSONS WHO MAY RECEIVE FROM THE  
2 DONOR AN INTEREST IN PROPERTY SO TRANSFERRED BY HIM, SUCH INTEREST  
3 SHALL, FOR PURPOSES OF PARAGRAPH (1), BE CONSIDERED AS TRANSFERRED TO A  
4 PERSON OTHER THAN THE DONEE SPOUSE.

5 (C) INTEREST IN UNIDENTIFIED ASSETS. WHERE THE ASSETS OUT OF WHICH, OR  
6 THE PROCEEDS OF WHICH, THE INTEREST TRANSFERRED TO THE DONEE SPOUSE MAY  
7 BE SATISFIED INCLUDE A PARTICULAR ASSET OR ASSETS WITH RESPECT TO WHICH  
8 NO DEDUCTION WOULD BE ALLOWED IF SUCH ASSET OR ASSETS WERE TRANSFERRED  
9 FROM THE DONOR TO SUCH SPOUSE, THEN THE VALUE OF THE INTEREST TRANS-  
10 FERRED TO SUCH SPOUSE SHALL, FOR PURPOSES OF SUBSECTION (A), BE REDUCED  
11 BY THE AGGREGATE VALUE OF SUCH PARTICULAR ASSETS.

12 (D) JOINT INTERESTS. IF THE INTEREST IS TRANSFERRED TO THE DONEE  
13 SPOUSE AS SOLE JOINT TENANT WITH THE DONOR OR AS TENANT BY THE ENTIRETY,  
14 THE INTEREST OF THE DONOR IN THE PROPERTY WHICH EXISTS SOLELY BY REASON  
15 OF THE POSSIBILITY THAT THE DONOR MAY SURVIVE THE DONEE SPOUSE, OR THAT  
16 THERE MAY OCCUR A SEVERANCE OF THE TENANCY, SHALL NOT BE CONSIDERED FOR  
17 PURPOSES OF SUBSECTION (B) AS AN INTEREST RETAINED BY THE DONOR IN  
18 HIMSELF.

19 (E) LIFE ESTATE WITH POWER OF APPOINTMENT IN DONEE SPOUSE. WHERE THE  
20 DONOR TRANSFERS AN INTEREST IN PROPERTY, IF BY SUCH TRANSFER HIS SPOUSE  
21 IS ENTITLED FOR LIFE TO ALL OF THE INCOME FROM THE ENTIRE INTEREST, OR  
22 ALL THE INCOME FROM A SPECIFIC PORTION THEREOF, PAYABLE ANNUALLY OR AT  
23 MORE FREQUENT INTERVALS, WITH POWER IN THE DONEE SPOUSE TO APPOINT THE  
24 ENTIRE INTEREST, OR SUCH SPECIFIC PORTION (EXERCISABLE IN FAVOR OF SUCH  
25 DONEE SPOUSE, OR OF THE ESTATE OF SUCH DONEE SPOUSE, OR IN FAVOR OF  
26 EITHER, WHETHER OR NOT IN EACH CASE THE POWER IS EXERCISABLE IN FAVOR OF  
27 OTHERS), AND WITH NO POWER IN ANY OTHER PERSON TO APPOINT ANY PART OF  
28 SUCH INTEREST, OR SUCH PORTION, TO ANY PERSON OTHER THAN THE DONEE  
29 SPOUSE-

30 (1) THE INTEREST, OR SUCH PORTION, SO TRANSFERRED SHALL, FOR PURPOSES  
31 OF SUBSECTION (A) BE CONSIDERED AS TRANSFERRED TO THE DONEE SPOUSE, AND

32 (2) NO PART OF THE INTEREST, OR SUCH PORTION, SO TRANSFERRED SHALL,  
33 FOR PURPOSES OF SUBSECTION (B)(1), BE CONSIDERED AS RETAINED IN THE  
34 DONOR OR TRANSFERRED TO ANY PERSON OTHER THAN THE DONEE SPOUSE.

35 THIS SUBSECTION SHALL APPLY ONLY IF, BY SUCH TRANSFER, SUCH POWER IN  
36 THE DONEE SPOUSE TO APPOINT THE INTEREST, OR SUCH PORTION, WHETHER EXER-  
37 CISIBLE BY WILL OR DURING LIFE, IS EXERCISABLE BY SUCH SPOUSE ALONE AND  
38 IN ALL EVENTS. FOR PURPOSES OF THIS SUBSECTION, THE TERM "SPECIFIC  
39 PORTION" ONLY INCLUDES A PORTION DETERMINED ON A FRACTIONAL OR PERCENT-  
40 AGE BASIS.

41 (F) ELECTION WITH RESPECT TO LIFE ESTATE FOR DONEE SPOUSE. (1) IN  
42 GENERAL

43 IN THE CASE OF QUALIFIED TERMINABLE INTEREST PROPERTY-

44 (A) FOR PURPOSES OF SUBSECTION (A), SUCH PROPERTY SHALL BE TREATED AS  
45 TRANSFERRED TO THE DONEE SPOUSE, AND

46 (B) FOR PURPOSES OF SUBSECTION (B)(1), NO PART OF SUCH PROPERTY SHALL  
47 BE CONSIDERED AS RETAINED IN THE DONOR OR TRANSFERRED TO ANY PERSON  
48 OTHER THAN THE DONEE SPOUSE.

49 (2) QUALIFIED TERMINABLE INTEREST PROPERTY. FOR PURPOSES OF THIS  
50 SUBSECTION, THE TERM "QUALIFIED TERMINABLE INTEREST PROPERTY" MEANS ANY  
51 PROPERTY-

52 (A) WHICH IS TRANSFERRED BY THE DONOR SPOUSE,

53 (B) IN WHICH THE DONEE SPOUSE HAS A QUALIFYING INCOME INTEREST FOR  
54 LIFE, AND

55 (C) TO WHICH AN ELECTION UNDER THIS SUBSECTION APPLIES.

(3) CERTAIN RULES MADE APPLICABLE. FOR PURPOSES OF THIS SUBSECTION, RULES SIMILAR TO THE RULES OF CLAUSES (II), (III), AND (IV) OF SECTION 2056(B)(7)(B) SHALL APPLY AND THE RULES OF SECTION 2056(B)(10) SHALL APPLY.

(4) ELECTION. (A) TIME AND MANNER. AN ELECTION UNDER THIS SUBSECTION WITH RESPECT TO ANY PROPERTY SHALL BE MADE ON OR BEFORE THE DATE PRESCRIBED BY SECTION 6075(B) FOR FILING A GIFT TAX RETURN WITH RESPECT TO THE TRANSFER (DETERMINED WITHOUT REGARD TO SECTION 6019(2)) AND SHALL BE MADE IN SUCH MANNER AS THE SECRETARY SHALL BY REGULATIONS PRESCRIBE.

(B) ELECTION IRREVOCABLE. AN ELECTION UNDER THIS SUBSECTION, ONCE MADE, SHALL BE IRREVOCABLE.

(5) TREATMENT OF INTEREST RETAINED BY DONOR SPOUSE. (A) IN GENERAL. IN THE CASE OF ANY QUALIFIED TERMINABLE INTEREST PROPERTY--

(I) SUCH PROPERTY SHALL NOT BE INCLUDIBLE IN THE GROSS ESTATE OF THE DONOR SPOUSE, AND

(II) ANY SUBSEQUENT TRANSFER BY THE DONOR SPOUSE OF AN INTEREST IN SUCH PROPERTY SHALL NOT BE TREATED AS A TRANSFER FOR PURPOSES OF THIS CHAPTER.

(B) SUBPARAGRAPH (A) NOT TO APPLY AFTER TRANSFER BY DONEE SPOUSE. SUBPARAGRAPH (A) SHALL NOT APPLY WITH RESPECT TO ANY PROPERTY AFTER THE DONEE SPOUSE IS TREATED AS HAVING TRANSFERRED SUCH PROPERTY UNDER SECTION 2519, OR SUCH PROPERTY IS INCLUDIBLE IN THE DONEE SPOUSE'S GROSS ESTATE UNDER SECTION 2044.

(6) TREATMENT OF JOINT AND SURVIVOR ANNUITIES. IN THE CASE OF A JOINT AND SURVIVOR ANNUITY WHERE ONLY THE DONOR SPOUSE AND DONEE SPOUSE HAVE THE RIGHT TO RECEIVE PAYMENTS BEFORE THE DEATH OF THE LAST SPOUSE TO DIE--

--(A) THE DONEE SPOUSE'S INTEREST SHALL BE TREATED AS A QUALIFYING INCOME INTEREST FOR LIFE,

--(B) THE DONOR SPOUSE SHALL BE TREATED AS HAVING MADE AN ELECTION UNDER THIS SUBSECTION WITH RESPECT TO SUCH ANNUITY UNLESS THE DONOR SPOUSE OTHERWISE ELECTS ON OR BEFORE THE DATE SPECIFIED IN PARAGRAPH (4)(A),

--(C) PARAGRAPH (5) AND SECTION 2519 SHALL NOT APPLY TO THE DONOR SPOUSE'S INTEREST IN THE ANNUITY, AND

--(D) IF THE DONEE SPOUSE DIES BEFORE THE DONOR SPOUSE, NO AMOUNT SHALL BE INCLUDIBLE IN THE GROSS ESTATE OF THE DONEE SPOUSE UNDER SECTION 2044 WITH RESPECT TO SUCH ANNUITY.

AN ELECTION UNDER SUBPARAGRAPH (B), ONCE MADE, SHALL BE IRREVOCABLE.

(G) SPECIAL RULE FOR CHARITABLE REMAINDER TRUSTS. (1) IN GENERAL. IF, AFTER THE TRANSFER, THE DONEE SPOUSE IS THE ONLY NONCHARITABLE BENEFICIARY (OTHER THAN THE DONOR) OF A QUALIFIED CHARITABLE REMAINDER TRUST, SUBSECTION (B) SHALL NOT APPLY TO THE INTEREST IN SUCH TRUST WHICH IS TRANSFERRED TO THE DONEE SPOUSE.

(2) DEFINITIONS. FOR PURPOSES OF PARAGRAPH (1), THE TERM "NONCHARITABLE BENEFICIARY" AND "QUALIFIED CHARITABLE REMAINDER TRUST" HAVE THE MEANINGS GIVEN TO SUCH TERMS BY SECTION 2056(B)(8)(B).

(H) DENIAL OF DOUBLE DEDUCTION. NOTHING IN THIS SECTION OR ANY OTHER PROVISION OF THIS CHAPTER SHALL ALLOW THE VALUE OF ANY INTEREST IN PROPERTY TO BE DEDUCTED UNDER THIS CHAPTER MORE THAN ONCE WITH RESPECT TO THE SAME DONOR.

S 2524. EXTENT OF DEDUCTIONS. THE DEDUCTIONS PROVIDED IN SECTIONS 2522 AND 2523 SHALL BE ALLOWED ONLY TO THE EXTENT THAT THE GIFTS THEREIN SPECIFIED ARE INCLUDED IN THE AMOUNT OF GIFTS AGAINST WHICH SUCH DEDUCTIONS ARE APPLIED.

S 2701. SPECIAL VALUATION RULES IN CASE OF TRANSFERS OF CERTAIN INTERESTS IN CORPORATIONS OR PARTNERSHIPS. (A) VALUATION RULES. (1) IN GENER-

1 AL. SOLELY FOR PURPOSES OF DETERMINING WHETHER A TRANSFER OF AN INTER-  
2 EST IN A CORPORATION OR PARTNERSHIP TO (OR FOR THE BENEFIT OF) A MEMBER  
3 OF THE TRANSFEROR'S FAMILY IS A GIFT (AND THE VALUE OF SUCH TRANSFER),  
4 THE VALUE OF ANY RIGHT-

5 --(A) WHICH IS DESCRIBED IN SUBPARAGRAPH (A) OR (B) OF SUBSECTION  
6 (B)(1), AND  
7 --(B) WHICH IS WITH RESPECT TO ANY APPLICABLE RETAINED INTEREST THAT IS  
8 HELD BY THE TRANSFEROR OR AN APPLICABLE FAMILY MEMBER IMMEDIATELY AFTER  
9 THE TRANSFER,

10 --SHALL BE DETERMINED UNDER PARAGRAPH (3). THIS PARAGRAPH SHALL NOT  
11 APPLY TO THE TRANSFER OF ANY INTEREST FOR WHICH MARKET QUOTATIONS ARE  
12 READILY AVAILABLE (AS OF THE DATE OF TRANSFER) ON AN ESTABLISHED SECURI-  
13 TIES MARKET.

14 (2) EXCEPTIONS FOR MARKETABLE RETAINED INTERESTS, ETC. PARAGRAPH (1)  
15 SHALL NOT APPLY TO ANY RIGHT WITH RESPECT TO AN APPLICABLE RETAINED  
16 INTEREST IF-

17 --(A) MARKET QUOTATIONS ARE READILY AVAILABLE (AS OF THE DATE OF THE  
18 TRANSFER) FOR SUCH INTEREST ON AN ESTABLISHED SECURITIES MARKET,  
19 --(B) SUCH INTEREST IS OF THE SAME CLASS AS THE TRANSFERRED INTEREST, OR  
20 --(C) SUCH INTEREST IS PROPORTIONALLY THE SAME AS THE TRANSFERRED INTER-  
21 EST, WITHOUT REGARD TO NONLAPSING DIFFERENCES IN VOTING POWER (OR, FOR A  
22 PARTNERSHIP, NONLAPSING DIFFERENCES WITH RESPECT TO MANAGEMENT AND LIMI-  
23 TATIONS ON LIABILITY).

24 --SUBPARAGRAPH (C) SHALL NOT APPLY TO ANY INTEREST IN A PARTNERSHIP IF  
25 THE TRANSFEROR OR AN APPLICABLE FAMILY MEMBER HAS THE RIGHT TO ALTER THE  
26 LIABILITY OF THE TRANSFEREE OF THE TRANSFERRED PROPERTY. EXCEPT AS  
27 PROVIDED BY THE SECRETARY, ANY DIFFERENCE DESCRIBED IN SUBPARAGRAPH (C)  
28 WHICH LAPSES BY REASON OF ANY FEDERAL OR STATE LAW SHALL BE TREATED AS A  
29 NONLAPSING DIFFERENCE FOR PURPOSES OF SUCH SUBPARAGRAPH.

30 (3) VALUATION OF RIGHTS TO WHICH PARAGRAPH (1) APPLIES. (A) IN GENER-  
31 AL. THE VALUE OF ANY RIGHT DESCRIBED IN PARAGRAPH (1), OTHER THAN A  
32 DISTRIBUTION RIGHT WHICH CONSISTS OF A RIGHT TO RECEIVE A QUALIFIED  
33 PAYMENT, SHALL BE TREATED AS BEING ZERO.

34 (B) VALUATION OF CERTAIN QUALIFIED PAYMENTS. IF-

35 --(I) ANY APPLICABLE RETAINED INTEREST CONFERS A DISTRIBUTION RIGHT  
36 WHICH CONSISTS OF THE RIGHT TO A QUALIFIED PAYMENT, AND  
37 --(II) THERE ARE 1 OR MORE LIQUIDATION, PUT, CALL, OR CONVERSION RIGHTS  
38 WITH RESPECT TO SUCH INTEREST, THE VALUE OF ALL SUCH RIGHTS SHALL BE  
39 DETERMINED AS IF EACH LIQUIDATION, PUT, CALL, OR CONVERSION RIGHT WERE  
40 EXERCISED IN THE MANNER RESULTING IN THE LOWEST VALUE BEING DETERMINED  
41 FOR ALL SUCH RIGHTS.

42 (C) VALUATION OF QUALIFIED PAYMENTS WHERE NO LIQUIDATION, ETC.  
43 RIGHTS. IN THE CASE OF AN APPLICABLE RETAINED INTEREST WHICH IS  
44 DESCRIBED IN SUBPARAGRAPH (B)(I) BUT NOT SUBPARAGRAPH (B)(II), THE VALUE  
45 OF THE DISTRIBUTION RIGHT SHALL BE DETERMINED WITHOUT REGARD TO THIS  
46 SECTION.

47 (4) MINIMUM VALUATION OF JUNIOR EQUITY. (A) IN GENERAL. IN THE CASE OF  
48 A TRANSFER DESCRIBED IN PARAGRAPH (1) OF A JUNIOR EQUITY INTEREST IN A  
49 CORPORATION OR PARTNERSHIP, SUCH INTEREST SHALL IN NO EVENT BE VALUED AT  
50 AN AMOUNT LESS THAN THE VALUE WHICH WOULD BE DETERMINED IF THE TOTAL  
51 VALUE OF ALL OF THE JUNIOR EQUITY INTERESTS IN THE ENTITY WERE EQUAL TO  
52 10 PERCENT OF THE SUM OF-

53 --(I) THE TOTAL VALUE OF ALL OF THE EQUITY INTERESTS IN SUCH ENTITY,  
54 PLUS  
55 --(II) THE TOTAL AMOUNT OF INDEBTEDNESS OF SUCH ENTITY TO THE TRANSFEROR  
56 (OR AN APPLICABLE FAMILY MEMBER).



1 (B) DEFINITIONS. FOR PURPOSES OF THIS PARAGRAPH-

2 (I) JUNIOR EQUITY INTEREST. THE TERM "JUNIOR EQUITY INTEREST" MEANS  
3 COMMON STOCK OR, IN THE CASE OF A PARTNERSHIP, ANY PARTNERSHIP INTEREST  
4 UNDER WHICH THE RIGHTS AS TO INCOME AND CAPITAL (OR, TO THE EXTENT  
5 PROVIDED IN REGULATIONS, THE RIGHTS AS TO EITHER INCOME OR CAPITAL) ARE  
6 JUNIOR TO THE RIGHTS OF ALL OTHER CLASSES OF EQUITY INTERESTS.

7 (II) EQUITY INTEREST. THE TERM "EQUITY INTEREST" MEANS STOCK OR ANY  
8 INTEREST AS A PARTNER, AS THE CASE MAY BE.

9 (B) APPLICABLE RETAINED INTERESTS. FOR PURPOSES OF THIS SECTION-

10 (1) IN GENERAL. THE TERM "APPLICABLE RETAINED INTEREST" MEANS ANY  
11 INTEREST IN AN ENTITY WITH RESPECT TO WHICH THERE IS-

12 --(A) A DISTRIBUTION RIGHT, BUT ONLY IF, IMMEDIATELY BEFORE THE TRANSFER  
13 DESCRIBED IN SUBSECTION (A)(1), THE TRANSFEROR AND APPLICABLE FAMILY  
14 MEMBERS HOLD (AFTER APPLICATION OF SUBSECTION (E)(3)) CONTROL OF THE  
15 ENTITY, OR

16 --(B) A LIQUIDATION, PUT, CALL, OR CONVERSION RIGHT.

17 (2) CONTROL. FOR PURPOSES OF PARAGRAPH (1)-

18 (A) CORPORATIONS. IN THE CASE OF A CORPORATION, THE TERM "CONTROL"  
19 MEANS THE HOLDING OF AT LEAST 50 PERCENT (BY VOTE OR VALUE) OF THE STOCK  
20 OF THE CORPORATION.

21 (B) PARTNERSHIPS. IN THE CASE OF A PARTNERSHIP, THE TERM "CONTROL"  
22 MEANS-

23 --(I) THE HOLDING OF AT LEAST 50 PERCENT OF THE CAPITAL OR PROFITS  
24 INTERESTS IN THE PARTNERSHIP, OR

25 --(II) IN THE CASE OF A LIMITED PARTNERSHIP, THE HOLDING OF ANY INTEREST  
26 AS A GENERAL PARTNER.

27 (C) APPLICABLE FAMILY MEMBER. FOR PURPOSES OF THIS SUBSECTION, THE  
28 TERM "APPLICABLE FAMILY MEMBER" INCLUDES ANY LINEAL DESCENDANT OF ANY  
29 PARENT OF THE TRANSFEROR OR THE TRANSFEROR'S SPOUSE.

30 (C) DISTRIBUTION AND OTHER RIGHTS; QUALIFIED PAYMENTS. FOR PURPOSES OF  
31 THIS SECTION-

32 (1) DISTRIBUTION RIGHT. (A) IN GENERAL. THE TERM "DISTRIBUTION RIGHT"  
33 MEANS-

34 --(I) A RIGHT TO DISTRIBUTIONS FROM A CORPORATION WITH RESPECT TO ITS  
35 STOCK, AND

36 --(II) A RIGHT TO DISTRIBUTIONS FROM A PARTNERSHIP WITH RESPECT TO A  
37 PARTNER'S INTEREST IN THE PARTNERSHIP.

38 (B) EXCEPTIONS. THE TERM "DISTRIBUTION RIGHT" DOES NOT INCLUDE-

39 --(I) A RIGHT TO DISTRIBUTIONS WITH RESPECT TO ANY INTEREST WHICH IS  
40 JUNIOR TO THE RIGHTS OF THE TRANSFERRED INTEREST,

41 --(II) ANY LIQUIDATION, PUT, CALL, OR CONVERSION RIGHT, OR

42 --(III) ANY RIGHT TO RECEIVE ANY GUARANTEED PAYMENT DESCRIBED IN SECTION  
43 707(C) OF A FIXED AMOUNT.

44 (2) LIQUIDATION, ETC. RIGHTS. (A) IN GENERAL. THE TERM "LIQUIDATION,  
45 PUT, CALL, OR CONVERSION RIGHT" MEANS ANY LIQUIDATION, PUT, CALL, OR  
46 CONVERSION RIGHT, OR ANY SIMILAR RIGHT, THE EXERCISE OR NONEXERCISE OF  
47 WHICH AFFECTS THE VALUE OF THE TRANSFERRED INTEREST.

48 (B) EXCEPTION FOR FIXED RIGHTS. (I) IN GENERAL. THE TERM "LIQUIDATION,  
49 PUT, CALL, OR CONVERSION RIGHT" DOES NOT INCLUDE ANY RIGHT WHICH MUST BE  
50 EXERCISED AT A SPECIFIC TIME AND AT A SPECIFIC AMOUNT.

51 (II) TREATMENT OF CERTAIN RIGHTS. IF A RIGHT IS ASSUMED TO BE EXER-  
52 CISED IN A PARTICULAR MANNER UNDER SUBSECTION (A)(3)(B), SUCH RIGHT  
53 SHALL BE TREATED AS SO EXERCISED FOR PURPOSES OF CLAUSE (I).

54 (C) EXCEPTION FOR CERTAIN RIGHTS TO CONVERT. THE TERM "LIQUIDATION,  
55 PUT, CALL, OR CONVERSION RIGHT" DOES NOT INCLUDE ANY RIGHT WHICH-

1 --(I) IS A RIGHT TO CONVERT INTO A FIXED NUMBER (OR A FIXED PERCENTAGE)  
2 OF SHARES OF THE SAME CLASS OF STOCK IN A CORPORATION AS THE TRANSFERRED  
3 STOCK IN SUCH CORPORATION UNDER SUBSECTION (A)(1) (OR STOCK WHICH WOULD  
4 BE OF THE SAME CLASS BUT FOR NONLAPSING DIFFERENCES IN VOTING POWER),  
5 --(II) IS NONLAPSING,  
6 --(III) IS SUBJECT TO PROPORTIONATE ADJUSTMENTS FOR SPLITS, COMBINA-  
7 TIONS, RECLASSIFICATIONS, AND SIMILAR CHANGES IN THE CAPITAL STOCK, AND  
8 --(IV) IS SUBJECT TO ADJUSTMENTS SIMILAR TO THE ADJUSTMENTS UNDER  
9 SUBSECTION (D) FOR ACCUMULATED BUT UNPAID DISTRIBUTIONS.  
10 --A RULE SIMILAR TO THE RULE OF THE PRECEDING SENTENCE SHALL APPLY FOR  
11 PARTNERSHIPS.

12 (3) QUALIFIED PAYMENT. (A) IN GENERAL. EXCEPT AS OTHERWISE PROVIDED IN  
13 THIS PARAGRAPH, THE TERM "QUALIFIED PAYMENT" MEANS ANY DIVIDEND PAYABLE  
14 ON A PERIODIC BASIS UNDER ANY CUMULATIVE PREFERRED STOCK (OR A COMPARA-  
15 BLE PAYMENT UNDER ANY PARTNERSHIP INTEREST) TO THE EXTENT THAT SUCH  
16 DIVIDEND (OR COMPARABLE PAYMENT) IS DETERMINED AT A FIXED RATE.

17 (B) TREATMENT OF VARIABLE RATE PAYMENTS. FOR PURPOSES OF SUBPARAGRAPH  
18 (A), A PAYMENT SHALL BE TREATED AS FIXED AS TO RATE IF SUCH PAYMENT IS  
19 DETERMINED AT A RATE WHICH BEARS A FIXED RELATIONSHIP TO A SPECIFIED  
20 MARKET INTEREST RATE.

21 (C) ELECTIONS. (I) IN GENERAL. PAYMENTS UNDER ANY INTEREST HELD BY A  
22 TRANSFEROR WHICH (WITHOUT REGARD TO THIS SUBPARAGRAPH) ARE QUALIFIED  
23 PAYMENTS SHALL BE TREATED AS QUALIFIED PAYMENTS UNLESS THE TRANSFEROR  
24 ELECTS NOT TO TREAT SUCH PAYMENTS AS QUALIFIED PAYMENTS. PAYMENTS  
25 DESCRIBED IN THE PRECEDING SENTENCE WHICH ARE HELD BY AN APPLICABLE  
26 FAMILY MEMBER SHALL BE TREATED AS QUALIFIED PAYMENTS ONLY IF SUCH MEMBER  
27 ELECTS TO TREAT SUCH PAYMENTS AS QUALIFIED PAYMENTS.

28 (II) ELECTION TO HAVE INTEREST TREATED AS QUALIFIED PAYMENT. A  
29 TRANSFEROR OR APPLICABLE FAMILY MEMBER HOLDING ANY DISTRIBUTION RIGHT  
30 WHICH (WITHOUT REGARD TO THIS SUBPARAGRAPH) IS NOT A QUALIFIED PAYMENT  
31 MAY ELECT TO TREAT SUCH RIGHT AS A QUALIFIED PAYMENT, TO BE PAID IN THE  
32 AMOUNTS AND AT THE TIMES SPECIFIED IN SUCH ELECTION. THE PRECEDING  
33 SENTENCE SHALL APPLY ONLY TO THE EXTENT THAT THE AMOUNTS AND TIMES SO  
34 SPECIFIED ARE NOT INCONSISTENT WITH THE UNDERLYING LEGAL INSTRUMENT  
35 GIVING RISE TO SUCH RIGHT.

36 (III) ELECTIONS IRREVOCABLE. ANY ELECTION UNDER THIS SUBPARAGRAPH WITH  
37 RESPECT TO AN INTEREST SHALL, ONCE MADE, BE IRREVOCABLE.

38 (D) TRANSFER TAX TREATMENT OF CUMULATIVE BUT UNPAID DISTRIBUTIONS. (1)  
39 IN GENERAL. IF A TAXABLE EVENT OCCURS WITH RESPECT TO ANY DISTRIBUTION  
40 RIGHT TO WHICH SUBSECTION (A)(3)(B) OR (C) APPLIED, THE FOLLOWING SHALL  
41 BE INCREASED BY THE AMOUNT DETERMINED UNDER PARAGRAPH (2):

42 --(A) THE TAXABLE ESTATE OF THE TRANSFEROR IN THE CASE OF A TAXABLE  
43 EVENT DESCRIBED IN PARAGRAPH (3)(A)(I).

44 --(B) THE TAXABLE GIFTS OF THE TRANSFEROR FOR THE CALENDAR YEAR IN WHICH  
45 THE TAXABLE EVENT OCCURS IN THE CASE OF A TAXABLE EVENT DESCRIBED IN  
46 PARAGRAPH (3)(A)(II) OR (III).

47 (2) AMOUNT OF INCREASE. (A) IN GENERAL. THE AMOUNT OF THE INCREASE  
48 DETERMINED UNDER THIS PARAGRAPH SHALL BE THE EXCESS (IF ANY) OF-

49 --(I) THE VALUE OF THE QUALIFIED PAYMENTS PAYABLE DURING THE PERIOD  
50 BEGINNING ON THE DATE OF THE TRANSFER UNDER SUBSECTION (A)(1) AND ENDING  
51 ON THE DATE OF THE TAXABLE EVENT DETERMINED AS IF-

52 --(I) ALL SUCH PAYMENTS WERE PAID ON THE DATE PAYMENT WAS DUE, AND

53 --(II) ALL SUCH PAYMENTS WERE REINVESTED BY THE TRANSFEROR AS OF THE  
54 DATE OF PAYMENT AT A YIELD EQUAL TO THE DISCOUNT RATE USED IN DETERMIN-  
55 ING THE VALUE OF THE APPLICABLE RETAINED INTEREST DESCRIBED IN  
56 SUBSECTION (A)(1), OVER

1 (II) THE VALUE OF SUCH PAYMENTS PAID DURING SUCH PERIOD COMPUTED UNDER  
2 CLAUSE (I) ON THE BASIS OF THE TIME WHEN SUCH PAYMENTS WERE ACTUALLY  
3 PAID.

4 (B) LIMITATION ON AMOUNT OF INCREASE. (I) IN GENERAL. THE AMOUNT OF  
5 THE INCREASE UNDER SUBPARAGRAPH (A) SHALL NOT EXCEED THE APPLICABLE  
6 PERCENTAGE OF THE EXCESS (IF ANY) OF-

7 --(I) THE VALUE (DETERMINED AS OF THE DATE OF THE TAXABLE EVENT) OF ALL  
8 EQUITY INTERESTS IN THE ENTITY WHICH ARE JUNIOR TO THE APPLICABLE  
9 RETAINED INTEREST, OVER

10 --(II) THE VALUE OF SUCH INTERESTS (DETERMINED AS OF THE DATE OF THE  
11 TRANSFER TO WHICH SUBSECTION (A)(1) APPLIED).

12 (II) APPLICABLE PERCENTAGE. FOR PURPOSES OF CLAUSE (I), THE APPLICABLE  
13 PERCENTAGE IS THE PERCENTAGE DETERMINED BY DIVIDING-

14 --(I) THE NUMBER OF SHARES IN THE CORPORATION HELD (AS OF THE DATE OF  
15 THE TAXABLE EVENT) BY THE TRANSFEROR WHICH ARE APPLICABLE RETAINED  
16 INTERESTS OF THE SAME CLASS, BY

17 --(II) THE TOTAL NUMBER OF SHARES IN SUCH CORPORATION (AS OF SUCH DATE)  
18 WHICH ARE OF THE SAME CLASS AS THE CLASS DESCRIBED IN SUBCLAUSE (I).

19 --A SIMILAR PERCENTAGE SHALL BE DETERMINED IN THE CASE OF INTERESTS IN A  
20 PARTNERSHIP.

21 (III) DEFINITION. FOR PURPOSES OF THIS SUBPARAGRAPH, THE TERM "EQUITY  
22 INTEREST" HAS THE MEANING GIVEN SUCH TERM BY SUBSECTION (A)(4)(B).

23 (C) GRACE PERIOD. FOR PURPOSES OF SUBPARAGRAPH (A), ANY PAYMENT OF ANY  
24 DISTRIBUTION DURING THE 4-YEAR PERIOD BEGINNING ON ITS DUE DATE SHALL BE  
25 TREATED AS HAVING BEEN MADE ON SUCH DUE DATE.

26 (3) TAXABLE EVENTS. FOR PURPOSES OF THIS SUBSECTION-

27 (A) IN GENERAL. THE TERM "TAXABLE EVENT" MEANS ANY OF THE FOLLOWING:

28 --(I) THE DEATH OF THE TRANSFEROR IF THE APPLICABLE RETAINED INTEREST  
29 CONFERRING THE DISTRIBUTION RIGHT IS INCLUDIBLE IN THE ESTATE OF THE  
30 TRANSFEROR.

31 --(II) THE TRANSFER OF SUCH APPLICABLE RETAINED INTEREST.

32 --(III) AT THE ELECTION OF THE TAXPAYER, THE PAYMENT OF ANY QUALIFIED  
33 PAYMENT AFTER THE PERIOD DESCRIBED IN PARAGRAPH (2)(C), BUT ONLY WITH  
34 RESPECT TO SUCH PAYMENT.

35 (B) EXCEPTION WHERE SPOUSE IS TRANSFEREE. (I) DEATHTIME TRANSFERS  
36 --SUBPARAGRAPH (A)(I) SHALL NOT APPLY TO ANY INTEREST INCLUDIBLE IN THE  
37 GROSS ESTATE OF THE TRANSFEROR IF A DEDUCTION WITH RESPECT TO SUCH  
38 INTEREST IS ALLOWABLE UNDER SECTION 2056 OR 2106(A)(3).

39 (II) LIFETIME TRANSFERS. A TRANSFER TO THE SPOUSE OF THE TRANSFEROR  
40 SHALL NOT BE TREATED AS A TAXABLE EVENT UNDER SUBPARAGRAPH (A)(II) IF  
41 SUCH TRANSFER DOES NOT RESULT IN A TAXABLE GIFT BY REASON OF-

42 --(I) ANY DEDUCTION ALLOWED UNDER SECTION 2523, OR THE EXCLUSION UNDER  
43 SECTION 2503(B), OR

44 --(II) CONSIDERATION FOR THE TRANSFER PROVIDED BY THE SPOUSE.

45 (III) SPOUSE SUCCEEDS TO TREATMENT OF TRANSFEROR. IF AN EVENT IS NOT  
46 TREATED AS A TAXABLE EVENT BY REASON OF THIS SUBPARAGRAPH, THE TRANSFER-  
47 EE SPOUSE OR SURVIVING SPOUSE (AS THE CASE MAY BE) SHALL BE TREATED IN  
48 THE SAME MANNER AS THE TRANSFEROR IN APPLYING THIS SUBSECTION WITH  
49 RESPECT TO THE INTEREST INVOLVED.

50 (4) SPECIAL RULES FOR APPLICABLE FAMILY MEMBERS. (A) FAMILY MEMBER  
51 TREATED IN SAME MANNER AS TRANSFEROR. FOR PURPOSES OF THIS SUBSECTION,  
52 AN APPLICABLE FAMILY MEMBER SHALL BE TREATED IN THE SAME MANNER AS THE  
53 TRANSFEROR WITH RESPECT TO ANY DISTRIBUTION RIGHT RETAINED BY SUCH FAMI-  
54 LY MEMBER TO WHICH SUBSECTION (A)(3)(B) OR (C) APPLIED.

55 (B) TRANSFER TO APPLICABLE FAMILY MEMBER. IN THE CASE OF A TAXABLE  
56 EVENT DESCRIBED IN PARAGRAPH (3)(A)(II) INVOLVING THE TRANSFER OF AN

1 APPLICABLE RETAINED INTEREST TO AN APPLICABLE FAMILY MEMBER (OTHER THAN  
2 THE SPOUSE OF THE TRANSFEROR), THE APPLICABLE FAMILY MEMBER SHALL BE  
3 TREATED IN THE SAME MANNER AS THE TRANSFEROR IN APPLYING THIS SUBSECTION  
4 TO DISTRIBUTIONS ACCUMULATING WITH RESPECT TO SUCH INTEREST AFTER SUCH  
5 TAXABLE EVENT.

6 (C) TRANSFER TO TRANSFERORS. IN THE CASE OF A TAXABLE EVENT DESCRIBED  
7 IN PARAGRAPH (3)(A)(II) INVOLVING A TRANSFER OF AN APPLICABLE RETAINED  
8 INTEREST FROM AN APPLICABLE FAMILY MEMBER TO A TRANSFEROR, THIS  
9 SUBSECTION SHALL CONTINUE TO APPLY TO THE TRANSFEROR DURING ANY PERIOD  
10 THE TRANSFEROR HOLDS SUCH INTEREST.

11 (5) TRANSFER TO INCLUDE TERMINATION. FOR PURPOSES OF THIS SUBSECTION,  
12 ANY TERMINATION OF AN INTEREST SHALL BE TREATED AS A TRANSFER.

13 (E) OTHER DEFINITIONS AND RULES. FOR PURPOSES OF THIS SECTION-

14 (1) MEMBER OF THE FAMILY. THE TERM "MEMBER OF THE FAMILY" MEANS, WITH  
15 RESPECT TO ANY TRANSFEROR-

16 --(A) THE TRANSFEROR'S SPOUSE,

17 --(B) A LINEAL DESCENDANT OF THE TRANSFEROR OR THE TRANSFEROR'S SPOUSE,  
18 AND

19 --(C) THE SPOUSE OF ANY SUCH DESCENDANT.

20 (2) APPLICABLE FAMILY MEMBER. THE TERM "APPLICABLE FAMILY MEMBER"  
21 MEANS, WITH RESPECT TO ANY TRANSFEROR-

22 --(A) THE TRANSFEROR'S SPOUSE,

23 --(B) AN ANCESTOR OF THE TRANSFEROR OR THE TRANSFEROR'S SPOUSE, AND

24 --(C) THE SPOUSE OF ANY SUCH ANCESTOR.

25 (3) ATTRIBUTION OF INDIRECT HOLDINGS AND TRANSFERS. AN INDIVIDUAL  
26 SHALL BE TREATED AS HOLDING ANY INTEREST TO THE EXTENT SUCH INTEREST IS  
27 HELD INDIRECTLY BY SUCH INDIVIDUAL THROUGH A CORPORATION, PARTNERSHIP,  
28 TRUST, OR OTHER ENTITY. IF ANY INDIVIDUAL IS TREATED AS HOLDING ANY  
29 INTEREST BY REASON OF THE PRECEDING SENTENCE, ANY TRANSFER WHICH RESULTS  
30 IN SUCH INTEREST BEING TREATED AS NO LONGER HELD BY SUCH INDIVIDUAL  
31 SHALL BE TREATED AS A TRANSFER OF SUCH INTEREST.

32 (4) EFFECT OF ADOPTION. A RELATIONSHIP BY LEGAL ADOPTION SHALL BE  
33 TREATED AS A RELATIONSHIP BY BLOOD.

34 (5) CERTAIN CHANGES TREATED AS TRANSFERS. EXCEPT AS PROVIDED IN REGU-  
35 LATIONS, A CONTRIBUTION TO CAPITAL OR A REDEMPTION, RECAPITALIZATION, OR  
36 OTHER CHANGE IN THE CAPITAL STRUCTURE OF A CORPORATION OR PARTNERSHIP  
37 SHALL BE TREATED AS A TRANSFER OF AN INTEREST IN SUCH ENTITY TO WHICH  
38 THIS SECTION APPLIES IF THE TAXPAYER OR AN APPLICABLE FAMILY MEMBER-

39 --(A) RECEIVES AN APPLICABLE RETAINED INTEREST IN SUCH ENTITY PURSUANT  
40 TO SUCH TRANSACTION, OR

41 --(B) UNDER REGULATIONS, OTHERWISE HOLDS, IMMEDIATELY AFTER SUCH TRANS-  
42 ACTION, AN APPLICABLE RETAINED INTEREST IN SUCH ENTITY.

43 --THIS PARAGRAPH SHALL NOT APPLY TO ANY TRANSACTION (OTHER THAN A  
44 CONTRIBUTION TO CAPITAL) IF THE INTERESTS IN THE ENTITY HELD BY THE  
45 TRANSFEROR, APPLICABLE FAMILY MEMBERS, AND MEMBERS OF THE TRANSFEROR'S  
46 FAMILY BEFORE AND AFTER THE TRANSACTION ARE SUBSTANTIALLY IDENTICAL.

47 (6) ADJUSTMENTS. UNDER REGULATIONS PRESCRIBED BY THE SECRETARY, IF  
48 THERE IS ANY SUBSEQUENT TRANSFER, OR INCLUSION IN THE GROSS ESTATE, OF  
49 ANY APPLICABLE RETAINED INTEREST WHICH WAS VALUED UNDER THE RULES OF  
50 SUBSECTION (A), APPROPRIATE ADJUSTMENTS SHALL BE MADE FOR PURPOSES OF  
51 CHAPTER 11, 12, OR 13 TO REFLECT THE INCREASE IN THE AMOUNT OF ANY PRIOR  
52 TAXABLE GIFT MADE BY THE TRANSFEROR OR DECEDENT BY REASON OF SUCH VALU-  
53 ATION OR TO REFLECT THE APPLICATION OF SUBSECTION (D).

54 (7) TREATMENT AS SEPARATE INTERESTS. THE SECRETARY MAY BY REGULATION  
55 PROVIDE THAT ANY APPLICABLE RETAINED INTEREST SHALL BE TREATED AS 2 OR  
56 MORE SEPARATE INTERESTS FOR PURPOSES OF THIS SECTION.

1 S 2702. SPECIAL VALUATION RULES IN CASE OF TRANSFERS OF INTERESTS IN  
2 TRUSTS. (A) VALUATION RULES. (1) IN GENERAL. SOLELY FOR PURPOSES OF  
3 DETERMINING WHETHER A TRANSFER OF AN INTEREST IN TRUST TO (OR FOR THE  
4 BENEFIT OF) A MEMBER OF THE TRANSFEROR'S FAMILY IS A GIFT (AND THE VALUE  
5 OF SUCH TRANSFER), THE VALUE OF ANY INTEREST IN SUCH TRUST RETAINED BY  
6 THE TRANSFEROR OR ANY APPLICABLE FAMILY MEMBER (AS DEFINED IN SECTION  
7 2701(E)(2)) SHALL BE DETERMINED AS PROVIDED IN PARAGRAPH (2).

8 (2) VALUATION OF RETAINED INTERESTS. (A) IN GENERAL. THE VALUE OF ANY  
9 RETAINED INTEREST WHICH IS NOT A QUALIFIED INTEREST SHALL BE TREATED AS  
10 BEING ZERO.

11 (B) VALUATION OF QUALIFIED INTEREST. THE VALUE OF ANY RETAINED INTER-  
12 EST WHICH IS A QUALIFIED INTEREST SHALL BE DETERMINED UNDER SECTION  
13 7520.

14 (3) EXCEPTIONS. (A) IN GENERAL. THIS SUBSECTION SHALL NOT APPLY TO ANY  
15 TRANSFER-

16 --(I) IF SUCH TRANSFER IS AN INCOMPLETE GIFT,

17 --(II) IF SUCH TRANSFER INVOLVES THE TRANSFER OF AN INTEREST IN TRUST  
18 ALL THE PROPERTY IN WHICH CONSISTS OF A RESIDENCE TO BE USED AS A  
19 PERSONAL RESIDENCE BY PERSONS HOLDING TERM INTERESTS IN SUCH TRUST, OR

20 --(III) TO THE EXTENT THAT REGULATIONS PROVIDE THAT SUCH TRANSFER IS NOT  
21 INCONSISTENT WITH THE PURPOSES OF THIS SECTION.

22 (B) INCOMPLETE GIFT. FOR PURPOSES OF SUBPARAGRAPH (A), THE TERM  
23 "INCOMPLETE GIFT" MEANS ANY TRANSFER WHICH WOULD NOT BE TREATED AS A  
24 GIFT WHETHER OR NOT CONSIDERATION WAS RECEIVED FOR SUCH TRANSFER.

25 (B) QUALIFIED INTEREST. FOR PURPOSES OF THIS SECTION, THE TERM "QUALI-  
26 FIED INTEREST" MEANS-

27 (1) ANY INTEREST WHICH CONSISTS OF THE RIGHT TO RECEIVE FIXED AMOUNTS  
28 PAYABLE NOT LESS FREQUENTLY THAN ANNUALLY,

29 (2) ANY INTEREST WHICH CONSISTS OF THE RIGHT TO RECEIVE AMOUNTS WHICH  
30 ARE PAYABLE NOT LESS FREQUENTLY THAN ANNUALLY AND ARE A FIXED PERCENTAGE  
31 OF THE FAIR MARKET VALUE OF THE PROPERTY IN THE TRUST (DETERMINED ANNU-  
32 ALLY), AND

33 (3) ANY NONCONTINGENT REMAINDER INTEREST IF ALL OF THE OTHER INTERESTS  
34 IN THE TRUST CONSIST OF INTERESTS DESCRIBED IN PARAGRAPH (1) OR (2).

35 (C) CERTAIN PROPERTY TREATED AS HELD IN TRUST. FOR PURPOSES OF THIS  
36 SECTION- (1) IN GENERAL. THE TRANSFER OF AN INTEREST IN PROPERTY WITH  
37 RESPECT TO WHICH THERE IS 1 OR MORE TERM INTERESTS SHALL BE TREATED AS A  
38 TRANSFER OF AN INTEREST IN A TRUST.

39 (2) JOINT PURCHASES. IF 2 OR MORE MEMBERS OF THE SAME FAMILY ACQUIRE  
40 INTERESTS IN ANY PROPERTY DESCRIBED IN PARAGRAPH (1) IN THE SAME TRANS-  
41 ACTION (OR A SERIES OF RELATED TRANSACTIONS), THE PERSON (OR PERSONS)  
42 ACQUIRING THE TERM INTERESTS IN SUCH PROPERTY SHALL BE TREATED AS HAVING  
43 ACQUIRED THE ENTIRE PROPERTY AND THEN TRANSFERRED TO THE OTHER PERSONS  
44 THE INTERESTS ACQUIRED BY SUCH OTHER PERSONS IN THE TRANSACTION (OR  
45 SERIES OF TRANSACTIONS). SUCH TRANSFER SHALL BE TREATED AS MADE IN  
46 EXCHANGE FOR THE CONSIDERATION (IF ANY) PROVIDED BY SUCH OTHER PERSONS  
47 FOR THE ACQUISITION OF THEIR INTERESTS IN SUCH PROPERTY.

48 (3) TERM INTEREST. THE TERM "TERM INTEREST" MEANS-

49 (A) A LIFE INTEREST IN PROPERTY, OR

50 (B) AN INTEREST IN PROPERTY FOR A TERM OF YEARS.

51 (4) VALUATION RULE FOR CERTAIN TERM INTERESTS. IF THE NONEXERCISE OF  
52 RIGHTS UNDER A TERM INTEREST IN TANGIBLE PROPERTY WOULD NOT HAVE A  
53 SUBSTANTIAL EFFECT ON THE VALUATION OF THE REMAINDER INTEREST IN SUCH  
54 PROPERTY-

55 (A) SUBPARAGRAPH (A) OF SUBSECTION (A)(2) SHALL NOT APPLY TO SUCH TERM  
56 INTEREST, AND

(B) THE VALUE OF SUCH TERM INTEREST FOR PURPOSES OF APPLYING SUBSECTION (A)(1) SHALL BE THE AMOUNT WHICH THE HOLDER OF THE TERM INTEREST ESTABLISHES AS THE AMOUNT FOR WHICH SUCH INTEREST COULD BE SOLD TO AN UNRELATED THIRD PARTY.

(D) TREATMENT OF TRANSFERS OF INTERESTS IN PORTION OF TRUST. IN THE CASE OF A TRANSFER OF AN INCOME OR REMAINDER INTEREST WITH RESPECT TO A SPECIFIED PORTION OF THE PROPERTY IN A TRUST, ONLY SUCH PORTION SHALL BE TAKEN INTO ACCOUNT IN APPLYING THIS SECTION TO SUCH TRANSFER.

(E) MEMBER OF THE FAMILY. FOR PURPOSES OF THIS SECTION, THE TERM "MEMBER OF THE FAMILY" SHALL HAVE THE MEANING GIVEN SUCH TERM BY SECTION 2704(C)(2).

S 2703. CERTAIN RIGHTS AND RESTRICTIONS DISREGARDED

(A) GENERAL RULE. FOR PURPOSES OF THIS SUBTITLE, THE VALUE OF ANY PROPERTY SHALL BE DETERMINED WITHOUT REGARD TO-

(1) ANY OPTION, AGREEMENT, OR OTHER RIGHT TO ACQUIRE OR USE THE PROPERTY AT A PRICE LESS THAN THE FAIR MARKET VALUE OF THE PROPERTY (WITHOUT REGARD TO SUCH OPTION, AGREEMENT, OR RIGHT), OR

(2) ANY RESTRICTION ON THE RIGHT TO SELL OR USE SUCH PROPERTY.

(B) EXCEPTIONS. SUBSECTION (A) SHALL NOT APPLY TO ANY OPTION, AGREEMENT, RIGHT, OR RESTRICTION WHICH MEETS EACH OF THE FOLLOWING REQUIREMENTS:

(1) IT IS A BONA FIDE BUSINESS ARRANGEMENT.

(2) IT IS NOT A DEVICE TO TRANSFER SUCH PROPERTY TO MEMBERS OF THE DECEDENT'S FAMILY FOR LESS THAN FULL AND ADEQUATE CONSIDERATION IN MONEY OR MONEY'S WORTH.

(3) ITS TERMS ARE COMPARABLE TO SIMILAR ARRANGEMENTS ENTERED INTO BY PERSONS IN AN ARMS' LENGTH TRANSACTION

S 2704. TREATMENT OF CERTAIN LAPSING RIGHTS AND RESTRICTIONS. (A) TREATMENT OF LAPSED VOTING OR LIQUIDATION RIGHTS. (1) IN GENERAL. FOR PURPOSES OF THIS SUBTITLE, IF-

--(A) THERE IS A LAPSE OF ANY VOTING OR LIQUIDATION RIGHT IN A CORPORATION OR PARTNERSHIP, AND

--(B) THE INDIVIDUAL HOLDING SUCH RIGHT IMMEDIATELY BEFORE THE LAPSE AND MEMBERS OF SUCH INDIVIDUAL'S FAMILY HOLD, BOTH BEFORE AND AFTER THE LAPSE, CONTROL OF THE ENTITY,

SUCH LAPSE SHALL BE TREATED AS A TRANSFER BY SUCH INDIVIDUAL BY GIFT, OR A TRANSFER WHICH IS INCLUDIBLE IN THE GROSS ESTATE OF THE DECEDENT, WHICHEVER IS APPLICABLE, IN THE AMOUNT DETERMINED UNDER PARAGRAPH (2).

(2) AMOUNT OF TRANSFER. FOR PURPOSES OF PARAGRAPH (1), THE AMOUNT DETERMINED UNDER THIS PARAGRAPH IS THE EXCESS (IF ANY) OF-

--(A) THE VALUE OF ALL INTERESTS IN THE ENTITY HELD BY THE INDIVIDUAL DESCRIBED IN PARAGRAPH (1) IMMEDIATELY BEFORE THE LAPSE (DETERMINED AS IF THE VOTING AND LIQUIDATION RIGHTS WERE NONLAPSING), OVER

--(B) THE VALUE OF SUCH INTERESTS IMMEDIATELY AFTER THE LAPSE.

(3) SIMILAR RIGHTS. THE SECRETARY MAY BY REGULATIONS APPLY THIS SUBSECTION TO RIGHTS SIMILAR TO VOTING AND LIQUIDATION RIGHTS.

(B) CERTAIN RESTRICTIONS ON LIQUIDATION DISREGARDED. (1) IN GENERAL. FOR PURPOSES OF THIS SUBTITLE, IF-

--(A) THERE IS A TRANSFER OF AN INTEREST IN A CORPORATION OR PARTNERSHIP TO (OR FOR THE BENEFIT OF) A MEMBER OF THE TRANSFEROR'S FAMILY, AND

--(B) THE TRANSFEROR AND MEMBERS OF THE TRANSFEROR'S FAMILY HOLD, IMMEDIATELY BEFORE THE TRANSFER, CONTROL OF THE ENTITY,

--ANY APPLICABLE RESTRICTION SHALL BE DISREGARDED IN DETERMINING THE VALUE OF THE TRANSFERRED INTEREST.

(2) APPLICABLE RESTRICTION. FOR PURPOSES OF THIS SUBSECTION, THE TERM "APPLICABLE RESTRICTION" MEANS ANY RESTRICTION-

1 (A) WHICH EFFECTIVELY LIMITS THE ABILITY OF THE CORPORATION OR PART-  
2 NERSHIP TO LIQUIDATE, AND

3 (B) WITH RESPECT TO WHICH EITHER OF THE FOLLOWING APPLIES:

4 --(I) THE RESTRICTION LAPSES, IN WHOLE OR IN PART, AFTER THE TRANSFER  
5 REFERRED TO IN PARAGRAPH (1).

6 --(II) THE TRANSFEROR OR ANY MEMBER OF THE TRANSFEROR'S FAMILY, EITHER  
7 ALONE OR COLLECTIVELY, HAS THE RIGHT AFTER SUCH TRANSFER TO REMOVE, IN  
8 WHOLE OR IN PART, THE RESTRICTION.

9 (3) EXCEPTIONS. THE TERM "APPLICABLE RESTRICTION" SHALL NOT INCLUDE-

10 --(A) ANY COMMERCIALY REASONABLE RESTRICTION WHICH ARISES AS PART OF  
11 ANY FINANCING BY THE CORPORATION OR PARTNERSHIP WITH A PERSON WHO IS NOT  
12 RELATED TO THE TRANSFEROR OR TRANSFEREE, OR A MEMBER OF THE FAMILY OF  
13 EITHER, OR

14 --(B) ANY RESTRICTION IMPOSED, OR REQUIRED TO BE IMPOSED, BY ANY FEDERAL  
15 OR STATE LAW.

16 (4) OTHER RESTRICTIONS. THE SECRETARY MAY BY REGULATIONS PROVIDE THAT  
17 OTHER RESTRICTIONS SHALL BE DISREGARDED IN DETERMINING THE VALUE OF THE  
18 TRANSFER OF ANY INTEREST IN A CORPORATION OR PARTNERSHIP TO A MEMBER OF  
19 THE TRANSFEROR'S FAMILY IF SUCH RESTRICTION HAS THE EFFECT OF REDUCING  
20 THE VALUE OF THE TRANSFERRED INTEREST FOR PURPOSES OF THIS SUBTITLE BUT  
21 DOES NOT ULTIMATELY REDUCE THE VALUE OF SUCH INTEREST TO THE TRANSFEREE.

22 (C) DEFINITIONS AND SPECIAL RULES. FOR PURPOSES OF THIS SECTION-

23 (1) CONTROL. THE TERM "CONTROL" HAS THE MEANING GIVEN SUCH TERM BY  
24 SECTION 2701(B)(2).

25 (2) MEMBER OF THE FAMILY. THE TERM "MEMBER OF THE FAMILY" MEANS, WITH  
26 RESPECT TO ANY INDIVIDUAL-

27 (A) SUCH INDIVIDUAL'S SPOUSE,

28 (B) ANY ANCESTOR OR LINEAL DESCENDANT OF SUCH INDIVIDUAL OR SUCH INDI-  
29 VIDUAL'S SPOUSE,

30 (C) ANY BROTHER OR SISTER OF THE INDIVIDUAL, AND

31 (D) ANY SPOUSE OF ANY INDIVIDUAL DESCRIBED IN SUBPARAGRAPH (B) OR

32 (C).

33 (3) ATTRIBUTION. THE RULE OF SECTION 2701(E)(3) SHALL APPLY FOR  
34 PURPOSES OF DETERMINING THE INTERESTS HELD BY ANY INDIVIDUAL.

35 S 7872. TREATMENT OF LOANS WITH BELOW-MARKET INTEREST RATES

36 (A) TREATMENT OF GIFT LOANS AND DEMAND LOANS. (1) IN GENERAL. FOR  
37 PURPOSES OF THIS TITLE, IN THE CASE OF ANY BELOW-MARKET LOAN TO WHICH  
38 THIS SECTION APPLIES AND WHICH IS A GIFT LOAN OR A DEMAND LOAN, THE  
39 FORGONE INTEREST SHALL BE TREATED AS-

40 --(A) TRANSFERRED FROM THE LENDER TO THE BORROWER, AND

41 --(B) RETRANSFERRED BY THE BORROWER TO THE LENDER AS INTEREST.

42 (2) TIME WHEN TRANSFERS MADE. EXCEPT AS OTHERWISE PROVIDED IN REGU-  
43 LATIONS PRESCRIBED BY THE SECRETARY, ANY FORGONE INTEREST ATTRIBUTABLE  
44 TO PERIODS DURING ANY CALENDAR YEAR SHALL BE TREATED AS TRANSFERRED (AND  
45 RETRANSFERRED) UNDER PARAGRAPH (1) ON THE LAST DAY OF SUCH CALENDAR  
46 YEAR.

47 (B) TREATMENT OF OTHER BELOW-MARKET LOANS. (1) IN GENERAL. FOR  
48 PURPOSES OF THIS TITLE, IN THE CASE OF ANY BELOW-MARKET LOAN TO WHICH  
49 THIS SECTION APPLIES AND TO WHICH SUBSECTION (A)(1) DOES NOT APPLY, THE  
50 LENDER SHALL BE TREATED AS HAVING TRANSFERRED ON THE DATE THE LOAN WAS  
51 MADE (OR, IF LATER, ON THE FIRST DAY ON WHICH THIS SECTION APPLIES TO  
52 SUCH LOAN), AND THE BORROWER SHALL BE TREATED AS HAVING RECEIVED ON SUCH  
53 DATE, CASH IN AN AMOUNT EQUAL TO THE EXCESS OF-

54 --(A) THE AMOUNT LOANED, OVER

55 --(B) THE PRESENT VALUE OF ALL PAYMENTS WHICH ARE REQUIRED TO BE MADE  
56 UNDER THE TERMS OF THE LOAN.

(2) OBLIGATION TREATED AS HAVING ORIGINAL ISSUE DISCOUNT. FOR PURPOSES OF THIS TITLE-

(A) IN GENERAL. ANY BELOW-MARKET LOAN TO WHICH PARAGRAPH (1) APPLIES SHALL BE TREATED AS HAVING ORIGINAL ISSUE DISCOUNT IN AN AMOUNT EQUAL TO THE EXCESS DESCRIBED IN PARAGRAPH (1).

(B) AMOUNT IN ADDITION TO OTHER ORIGINAL ISSUE DISCOUNT. ANY ORIGINAL ISSUE DISCOUNT WHICH A LOAN IS TREATED AS HAVING BY REASON OF SUBPARAGRAPH (A) SHALL BE IN ADDITION TO ANY OTHER ORIGINAL ISSUE DISCOUNT ON SUCH LOAN (DETERMINED WITHOUT REGARD TO SUBPARAGRAPH (A)).

(C) BELOW-MARKET LOANS TO WHICH SECTION APPLIES. (1) IN GENERAL. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION AND SUBSECTION (G), THIS SECTION SHALL APPLY TO-

(A) GIFTS. ANY BELOW-MARKET LOAN WHICH IS A GIFT LOAN.

(B) COMPENSATION-RELATED LOANS. ANY BELOW-MARKET LOAN DIRECTLY OR INDIRECTLY BETWEEN-

--(I) AN EMPLOYER AND AN EMPLOYEE, OR

--(II) AN INDEPENDENT CONTRACTOR AND A PERSON FOR WHOM SUCH INDEPENDENT CONTRACTOR PROVIDES SERVICES.

(C) CORPORATION-SHAREHOLDER LOANS. ANY BELOW-MARKET LOAN DIRECTLY OR INDIRECTLY BETWEEN A CORPORATION AND ANY SHAREHOLDER OF SUCH CORPORATION.

(D) TAX AVOIDANCE LOANS. ANY BELOW-MARKET LOAN 1 OF THE PRINCIPAL PURPOSES OF THE INTEREST ARRANGEMENTS OF WHICH IS THE AVOIDANCE OF ANY FEDERAL TAX.

(E) OTHER BELOW-MARKET LOANS. TO THE EXTENT PROVIDED IN REGULATIONS, ANY BELOW-MARKET LOAN WHICH IS NOT DESCRIBED IN SUBPARAGRAPH (A), (B), (C), OR (F) IF THE INTEREST ARRANGEMENTS OF SUCH LOAN HAVE A SIGNIFICANT EFFECT ON ANY FEDERAL TAX LIABILITY OF THE LENDER OR THE BORROWER.

(F) LOANS TO QUALIFIED CONTINUING CARE FACILITIES. ANY LOAN TO ANY QUALIFIED CONTINUING CARE FACILITY PURSUANT TO A CONTINUING CARE CONTRACT.

(2) \$10,000 DE MINIMIS EXCEPTION FOR GIFT LOANS BETWEEN INDIVIDUALS.

(A) IN GENERAL. IN THE CASE OF ANY GIFT LOAN DIRECTLY BETWEEN INDIVIDUALS, THIS SECTION SHALL NOT APPLY TO ANY DAY ON WHICH THE AGGREGATE OUTSTANDING AMOUNT OF LOANS BETWEEN SUCH INDIVIDUALS DOES NOT EXCEED \$10,000.

(B) DE MINIMIS EXCEPTION NOT TO APPLY TO LOANS ATTRIBUTABLE TO ACQUISITION OF INCOME-PRODUCING ASSETS.

--SUBPARAGRAPH (A) SHALL NOT APPLY TO ANY GIFT LOAN DIRECTLY ATTRIBUTABLE TO THE PURCHASE OR CARRYING OF INCOME-PRODUCING ASSETS.

(C) CROSS REFERENCE. FOR LIMITATION ON AMOUNT TREATED AS INTEREST WHERE LOANS DO NOT EXCEED \$100,000, SEE SUBSECTION (D)(1).

(3) \$10,000 DE MINIMIS EXCEPTION FOR COMPENSATION-RELATED AND CORPORATION-SHAREHOLDER LOANS. (A) IN GENERAL. IN THE CASE OF ANY LOAN DESCRIBED IN SUBPARAGRAPH (B) OR (C) OF PARAGRAPH (1), THIS SECTION SHALL NOT APPLY TO ANY DAY ON WHICH THE AGGREGATE OUTSTANDING AMOUNT OF LOANS BETWEEN THE BORROWER AND LENDER DOES NOT EXCEED \$10,000.

(B) EXCEPTION NOT TO APPLY WHERE 1 OF PRINCIPAL PURPOSES IS TAX AVOIDANCE. SUBPARAGRAPH (A) SHALL NOT APPLY TO ANY LOAN THE INTEREST ARRANGEMENTS OF WHICH HAVE AS 1 OF THEIR PRINCIPAL PURPOSES THE AVOIDANCE OF ANY FEDERAL TAX.

(D) SPECIAL RULES FOR GIFT LOANS. (1) LIMITATION ON INTEREST ACCRUAL FOR PURPOSES OF INCOME TAXES WHERE LOANS DO NOT EXCEED \$100,000. (A) IN GENERAL. FOR PURPOSES OF SUBTITLE A, IN THE CASE OF A GIFT LOAN DIRECTLY BETWEEN INDIVIDUALS, THE AMOUNT TREATED AS RETRANSFERRED BY THE BORROWER



TO THE LENDER AS OF THE CLOSE OF ANY YEAR SHALL NOT EXCEED THE BORROWER'S NET INVESTMENT INCOME FOR SUCH YEAR.

(B) LIMITATION NOT TO APPLY WHERE 1 OF PRINCIPAL PURPOSES IS TAX AVOIDANCE. SUBPARAGRAPH (A) SHALL NOT APPLY TO ANY LOAN THE INTEREST ARRANGEMENTS OF WHICH HAVE AS 1 OF THEIR PRINCIPAL PURPOSES THE AVOIDANCE OF ANY FEDERAL TAX.

(C) SPECIAL RULE WHERE MORE THAN 1 GIFT LOAN OUTSTANDING. FOR PURPOSES OF SUBPARAGRAPH (A), IN ANY CASE IN WHICH A BORROWER HAS OUTSTANDING MORE THAN 1 GIFT LOAN, THE NET INVESTMENT INCOME OF SUCH BORROWER SHALL BE ALLOCATED AMONG SUCH LOANS IN PROPORTION TO THE RESPECTIVE AMOUNTS WHICH WOULD BE TREATED AS RETRANSFERRED BY THE BORROWER WITHOUT REGARD TO THIS PARAGRAPH.

(D) LIMITATION NOT TO APPLY WHERE AGGREGATE AMOUNT OF LOANS EXCEED \$100,000. THIS PARAGRAPH SHALL NOT APPLY TO ANY LOAN MADE BY A LENDER TO A BORROWER FOR ANY DAY ON WHICH THE AGGREGATE OUTSTANDING AMOUNT OF LOANS BETWEEN THE BORROWER AND LENDER EXCEEDS \$100,000.

(E) NET INVESTMENT INCOME. FOR PURPOSES OF THIS PARAGRAPH-

(I) IN GENERAL. THE TERM "NET INVESTMENT INCOME" HAS THE MEANING GIVEN SUCH TERM BY SECTION 163(D)(4).

(II) DE MINIMIS RULE. IF THE NET INVESTMENT INCOME OF ANY BORROWER FOR ANY YEAR DOES NOT EXCEED \$1,000, THE NET INVESTMENT INCOME OF SUCH BORROWER FOR SUCH YEAR SHALL BE TREATED AS ZERO.

(III) ADDITIONAL AMOUNTS TREATED AS INTEREST. IN DETERMINING THE NET INVESTMENT INCOME OF A PERSON FOR ANY YEAR, ANY AMOUNT WHICH WOULD BE INCLUDED IN THE GROSS INCOME OF SUCH PERSON FOR SUCH YEAR BY REASON OF SECTION 1272 IF SUCH SECTION APPLIED TO ALL DEFERRED PAYMENT OBLIGATIONS SHALL BE TREATED AS INTEREST RECEIVED BY SUCH PERSON FOR SUCH YEAR.

(IV) DEFERRED PAYMENT OBLIGATIONS. THE TERM "DEFERRED PAYMENT OBLIGATION" INCLUDES ANY MARKET DISCOUNT BOND, SHORT-TERM OBLIGATION, UNITED STATES SAVINGS BOND, ANNUITY, OR SIMILAR OBLIGATION.

(2) SPECIAL RULE FOR GIFT TAX. IN THE CASE OF ANY GIFT LOAN WHICH IS A TERM LOAN, SUBSECTION (B)(1) (AND NOT SUBSECTION (A)) SHALL APPLY FOR PURPOSES OF CHAPTER 12.

(E) DEFINITIONS OF BELOW-MARKET LOAN AND FORGONE INTEREST. FOR PURPOSES OF THIS SECTION-

(1) BELOW-MARKET LOAN. THE TERM "BELOW-MARKET LOAN" MEANS ANY LOAN IF--(A) IN THE CASE OF A DEMAND LOAN, INTEREST IS PAYABLE ON THE LOAN AT A RATE LESS THAN THE APPLICABLE FEDERAL RATE, OR

--(B) IN THE CASE OF A TERM LOAN, THE AMOUNT LOANED EXCEEDS THE PRESENT VALUE OF ALL PAYMENTS DUE UNDER THE LOAN.

(2) FORGONE INTEREST. THE TERM "FORGONE INTEREST" MEANS, WITH RESPECT TO ANY PERIOD DURING WHICH THE LOAN IS OUTSTANDING, THE EXCESS OF-

--(A) THE AMOUNT OF INTEREST WHICH WOULD HAVE BEEN PAYABLE ON THE LOAN FOR THE PERIOD IF INTEREST ACCRUED ON THE LOAN AT THE APPLICABLE FEDERAL RATE AND WERE PAYABLE ANNUALLY ON THE DAY REFERRED TO IN SUBSECTION

(A)(2), OVER

--(B) ANY INTEREST PAYABLE ON THE LOAN PROPERLY ALLOCABLE TO SUCH PERIOD.

(F) OTHER DEFINITIONS AND SPECIAL RULES. FOR PURPOSES OF THIS SECTION-

(1) PRESENT VALUE. THE PRESENT VALUE OF ANY PAYMENT SHALL BE DETERMINED IN THE MANNER PROVIDED BY REGULATIONS PRESCRIBED BY THE SECRETARY-

--(A) AS OF THE DATE OF THE LOAN, AND

--(B) BY USING A DISCOUNT RATE EQUAL TO THE APPLICABLE FEDERAL RATE.

(2) APPLICABLE FEDERAL RATE. (A) TERM LOANS. IN THE CASE OF ANY TERM LOAN, THE APPLICABLE FEDERAL RATE SHALL BE THE APPLICABLE FEDERAL RATE

1 IN EFFECT UNDER SECTION 1274(D) (AS OF THE DAY ON WHICH THE LOAN WAS  
2 MADE), COMPOUNDED SEMIANNUALLY.

3 (B) DEMAND LOANS. IN THE CASE OF A DEMAND LOAN, THE APPLICABLE FEDERAL  
4 RATE SHALL BE THE FEDERAL SHORT-TERM RATE IN EFFECT UNDER SECTION  
5 1274(D) FOR THE PERIOD FOR WHICH THE AMOUNT OF FORGONE INTEREST IS BEING  
6 DETERMINED, COMPOUNDED SEMIANNUALLY.

7 (3) GIFT LOAN. THE TERM "GIFT LOAN" MEANS ANY BELOW-MARKET LOAN WHERE  
8 THE FORGOING OF INTEREST IS IN THE NATURE OF A GIFT.

9 (4) AMOUNT LOANED. THE TERM "AMOUNT LOANED" MEANS THE AMOUNT RECEIVED  
10 BY THE BORROWER.

11 (5) DEMAND LOAN. THE TERM "DEMAND LOAN" MEANS ANY LOAN WHICH IS PAYA-  
12 BLE IN FULL AT ANY TIME ON THE DEMAND OF THE LENDER. SUCH TERM ALSO  
13 INCLUDES (FOR PURPOSES OTHER THAN DETERMINING THE APPLICABLE FEDERAL  
14 RATE UNDER PARAGRAPH (2)) ANY LOAN IF THE BENEFITS OF THE INTEREST  
15 ARRANGEMENTS OF SUCH LOAN ARE NOT TRANSFERABLE AND ARE CONDITIONED ON  
16 THE FUTURE PERFORMANCE OF SUBSTANTIAL SERVICES BY AN INDIVIDUAL. TO THE  
17 EXTENT PROVIDED IN REGULATIONS, SUCH TERM ALSO INCLUDES ANY LOAN WITH AN  
18 INDEFINITE MATURITY.

19 (6) TERM LOAN. THE TERM "TERM LOAN" MEANS ANY LOAN WHICH IS NOT A  
20 DEMAND LOAN.

21 (7) HUSBAND AND WIFE TREATED AS 1 PERSON. A HUSBAND AND WIFE SHALL BE  
22 TREATED AS 1 PERSON.

23 (8) LOANS TO WHICH SECTION 483, 643(I), OR 1274 APPLIES. THIS SECTION  
24 SHALL NOT APPLY TO ANY LOAN TO WHICH SECTION 483, 643(I), OR 1274  
25 APPLIES.

26 (9) NO WITHHOLDING. NO AMOUNT SHALL BE WITHHELD UNDER CHAPTER 24 WITH  
27 RESPECT TO-

28 --(A) ANY AMOUNT TREATED AS TRANSFERRED OR RETRANSFERRED UNDER  
29 SUBSECTION (A), AND

30 --(B) ANY AMOUNT TREATED AS RECEIVED UNDER SUBSECTION (B).

31 (10) SPECIAL RULE FOR TERM LOANS. IF THIS SECTION APPLIES TO ANY TERM  
32 LOAN ON ANY DAY, THIS SECTION SHALL CONTINUE TO APPLY TO SUCH LOAN  
33 NOTWITHSTANDING PARAGRAPHS (2) AND (3) OF SUBSECTION (C). IN THE CASE OF  
34 A GIFT LOAN, THE PRECEDING SENTENCE SHALL ONLY APPLY FOR PURPOSES OF  
35 CHAPTER 12.

36 (11) TIME FOR DETERMINING RATE APPLICABLE TO EMPLOYEE RELOCATION  
37 LOANS. (A) IN GENERAL. IN THE CASE OF ANY TERM LOAN MADE BY AN EMPLOYER  
38 TO AN EMPLOYEE THE PROCEEDS OF WHICH ARE USED BY THE EMPLOYEE TO  
39 PURCHASE A PRINCIPAL RESIDENCE (WITHIN THE MEANING OF SECTION 121), THE  
40 DETERMINATION OF THE APPLICABLE FEDERAL RATE SHALL BE MADE AS OF THE  
41 DATE THE WRITTEN CONTRACT TO PURCHASE SUCH RESIDENCE WAS ENTERED INTO.

42 (B) PARAGRAPH ONLY TO APPLY TO CASES TO WHICH SECTION 217 APPLIES.  
43 SUBPARAGRAPH (A) SHALL ONLY APPLY TO THE PURCHASE OF A PRINCIPAL RESI-  
44 DENCE IN CONNECTION WITH THE COMMENCEMENT OF WORK BY AN EMPLOYEE OR A  
45 CHANGE IN THE PRINCIPAL PLACE OF WORK OF AN EMPLOYEE TO WHICH SECTION  
46 217 APPLIES.

47 (G) EXCEPTION FOR CERTAIN LOANS TO QUALIFIED CONTINUING CARE FACILI-  
48 TIES. (1) IN GENERAL. THIS SECTION SHALL NOT APPLY FOR ANY CALENDAR  
49 YEAR TO ANY BELOW-MARKET LOAN MADE BY A LENDER TO A QUALIFIED CONTINUING  
50 CARE FACILITY PURSUANT TO A CONTINUING CARE CONTRACT IF THE LENDER (OR  
51 THE LENDER'S SPOUSE) ATTAINS AGE 65 BEFORE THE CLOSE OF SUCH YEAR.

52 (2) \$90,000 LIMIT. PARAGRAPH (1) SHALL APPLY ONLY TO THE EXTENT THAT  
53 THE AGGREGATE OUTSTANDING AMOUNT OF ANY LOAN TO WHICH SUCH PARAGRAPH  
54 APPLIES (DETERMINED WITHOUT REGARD TO THIS PARAGRAPH), WHEN ADDED TO THE  
55 AGGREGATE OUTSTANDING AMOUNT OF ALL OTHER PREVIOUS LOANS BETWEEN THE

LENDER (OR THE LENDER'S SPOUSE) AND ANY QUALIFIED CONTINUING CARE FACILITY TO WHICH PARAGRAPH (1) APPLIES, DOES NOT EXCEED \$90,000.

(3) CONTINUING CARE CONTRACT. FOR PURPOSES OF THIS SECTION, THE TERM "CONTINUING CARE CONTRACT" MEANS A WRITTEN CONTRACT BETWEEN AN INDIVIDUAL AND A QUALIFIED CONTINUING CARE FACILITY UNDER WHICH-

--(A) THE INDIVIDUAL OR INDIVIDUAL'S SPOUSE MAY USE A QUALIFIED CONTINUING CARE FACILITY FOR THEIR LIFE OR LIVES,

--(B) THE INDIVIDUAL OR INDIVIDUAL'S SPOUSE-

--(I) WILL FIRST-

--(I) RESIDE IN A SEPARATE, INDEPENDENT LIVING UNIT WITH ADDITIONAL FACILITIES OUTSIDE SUCH UNIT FOR THE PROVIDING OF MEALS AND OTHER PERSONAL CARE, AND

--(II) NOT REQUIRE LONG-TERM NURSING CARE, AND

--(II) THEN WILL BE PROVIDED LONG-TERM AND SKILLED NURSING CARE AS THE HEALTH OF SUCH INDIVIDUAL OR INDIVIDUAL'S SPOUSE REQUIRES, AND

--(C) NO ADDITIONAL SUBSTANTIAL PAYMENT IS REQUIRED IF SUCH INDIVIDUAL OR INDIVIDUAL'S SPOUSE REQUIRES INCREASED PERSONAL CARE SERVICES OR LONG-TERM AND SKILLED NURSING CARE.

(4) QUALIFIED CONTINUING CARE FACILITY. (A) IN GENERAL. FOR PURPOSES OF THIS SECTION, THE TERM "QUALIFIED CONTINUING CARE FACILITY" MEANS 1 OR MORE FACILITIES-

--(I) WHICH ARE DESIGNED TO PROVIDE SERVICES UNDER CONTINUING CARE CONTRACTS, AND

--(II) SUBSTANTIALLY ALL OF THE RESIDENTS OF WHICH ARE COVERED BY CONTINUING CARE CONTRACTS.

(B) SUBSTANTIALLY ALL FACILITIES MUST BE OWNED OR OPERATED BY BORROWER. A FACILITY SHALL NOT BE TREATED AS A QUALIFIED CONTINUING CARE FACILITY UNLESS SUBSTANTIALLY ALL FACILITIES WHICH ARE USED TO PROVIDE SERVICES WHICH ARE REQUIRED TO BE PROVIDED UNDER A CONTINUING CARE CONTRACT ARE OWNED OR OPERATED BY THE BORROWER.

(C) NURSING HOMES EXCLUDED. THE TERM "QUALIFIED CONTINUING CARE FACILITY" SHALL NOT INCLUDE ANY FACILITY WHICH IS OF A TYPE WHICH IS TRADITIONALLY CONSIDERED A NURSING HOME.

(5) ADJUSTMENT OF LIMIT FOR INFLATION. (A) IN GENERAL. IN THE CASE OF ANY LOAN MADE DURING ANY CALENDAR YEAR AFTER 1986 TO WHICH PARAGRAPH (1) APPLIES, THE DOLLAR AMOUNT IN PARAGRAPH (2) SHALL BE INCREASED BY THE INFLATION ADJUSTMENT FOR SUCH CALENDAR YEAR. ANY INCREASE UNDER THE PRECEDING SENTENCE SHALL BE ROUNDED TO THE NEAREST MULTIPLE OF \$100 (OR, IF SUCH INCREASE IS A MULTIPLE OF \$50, SUCH INCREASE SHALL BE INCREASED TO THE NEAREST MULTIPLE OF \$100).

(B) INFLATION ADJUSTMENT. FOR PURPOSES OF SUBPARAGRAPH (A), THE INFLATION ADJUSTMENT FOR ANY CALENDAR YEAR IS THE PERCENTAGE (IF ANY) BY WHICH-

--(I) THE CPI FOR THE PRECEDING CALENDAR YEAR EXCEEDS

--(II) THE CPI FOR CALENDAR YEAR 1985.

1. FOR PURPOSES OF THE PRECEDING SENTENCE, THE CPI FOR ANY CALENDAR YEAR IS THE AVERAGE OF THE CONSUMER PRICE INDEX AS OF THE CLOSE OF THE 12-MONTH PERIOD ENDING ON SEPTEMBER 30 OF SUCH CALENDAR YEAR.

(6) SUSPENSION OF APPLICATION. PARAGRAPH (1) SHALL NOT APPLY FOR ANY CALENDAR YEAR TO WHICH SUBSECTION (H) APPLIES.

(H) EXCEPTION FOR LOANS TO QUALIFIED CONTINUING CARE FACILITIES. (1) IN GENERAL. THIS SECTION SHALL NOT APPLY FOR ANY CALENDAR YEAR TO ANY BELOW-MARKET LOAN OWED BY A FACILITY WHICH ON THE LAST DAY OF SUCH YEAR IS A QUALIFIED CONTINUING CARE FACILITY, IF SUCH LOAN WAS MADE PURSUANT TO A CONTINUING CARE CONTRACT AND IF THE LENDER (OR THE LENDER'S SPOUSE) ATTAINS AGE 62 BEFORE THE CLOSE OF SUCH YEAR.

(2) CONTINUING CARE CONTRACT. FOR PURPOSES OF THIS SECTION, THE TERM "CONTINUING CARE CONTRACT" MEANS A WRITTEN CONTRACT BETWEEN AN INDIVIDUAL AND A QUALIFIED CONTINUING CARE FACILITY UNDER WHICH-

--(A) THE INDIVIDUAL OR INDIVIDUAL'S SPOUSE MAY USE A QUALIFIED CONTINUING CARE FACILITY FOR THEIR LIFE OR LIVES,

--(B) THE INDIVIDUAL OR INDIVIDUAL'S SPOUSE WILL BE PROVIDED WITH HOUSING, AS APPROPRIATE FOR THE HEALTH OF SUCH INDIVIDUAL OR INDIVIDUAL'S SPOUSE-

--(I) IN AN INDEPENDENT LIVING UNIT (WHICH HAS ADDITIONAL AVAILABLE FACILITIES OUTSIDE SUCH UNIT FOR THE PROVISION OF MEALS AND OTHER PERSONAL CARE), AND

--(II) IN AN ASSISTED LIVING FACILITY OR A NURSING FACILITY, AS IS AVAILABLE IN THE CONTINUING CARE FACILITY, AND

--(C) THE INDIVIDUAL OR INDIVIDUAL'S SPOUSE WILL BE PROVIDED ASSISTED LIVING OR NURSING CARE AS THE HEALTH OF SUCH INDIVIDUAL OR INDIVIDUAL'S SPOUSE REQUIRES, AND AS IS AVAILABLE IN THE CONTINUING CARE FACILITY.

--THE SECRETARY SHALL ISSUE GUIDANCE WHICH LIMITS SUCH TERM TO CONTRACTS WHICH PROVIDE ONLY FACILITIES, CARE, AND SERVICES DESCRIBED IN THIS PARAGRAPH.

(3) QUALIFIED CONTINUING CARE FACILITY. (A) IN GENERAL. FOR PURPOSES OF THIS SECTION, THE TERM "QUALIFIED CONTINUING CARE FACILITY" MEANS 1 OR MORE FACILITIES-

--(I) WHICH ARE DESIGNED TO PROVIDE SERVICES UNDER CONTINUING CARE CONTRACTS,

--(II) WHICH INCLUDE AN INDEPENDENT LIVING UNIT, PLUS AN ASSISTED LIVING OR NURSING FACILITY, OR BOTH, AND

--(III) SUBSTANTIALLY ALL OF THE INDEPENDENT LIVING UNIT RESIDENTS OF WHICH ARE COVERED BY CONTINUING CARE CONTRACTS.

(B) NURSING HOMES EXCLUDED. THE TERM "QUALIFIED CONTINUING CARE FACILITY" SHALL NOT INCLUDE ANY FACILITY WHICH IS OF A TYPE WHICH IS TRADITIONALLY CONSIDERED A NURSING HOME.

(I) REGULATIONS. (1) IN GENERAL. THE SECRETARY SHALL PRESCRIBE SUCH REGULATIONS AS MAY BE NECESSARY OR APPROPRIATE TO CARRY OUT THE PURPOSES OF THIS SECTION, INCLUDING-

--(A) REGULATIONS PROVIDING THAT WHERE, BY REASON OF VARYING RATES OF INTEREST, CONDITIONAL INTEREST PAYMENTS, WAIVERS OF INTEREST, DISPOSITION OF THE LENDER'S OR BORROWER'S INTEREST IN THE LOAN, OR OTHER CIRCUMSTANCES, THE PROVISIONS OF THIS SECTION DO NOT CARRY OUT THE PURPOSES OF THIS SECTION, ADJUSTMENTS TO THE PROVISIONS OF THIS SECTION WILL BE MADE TO THE EXTENT NECESSARY TO CARRY OUT THE PURPOSES OF THIS SECTION,

--(B) REGULATIONS FOR THE PURPOSE OF ASSURING THAT THE POSITIONS OF THE BORROWER AND LENDER ARE CONSISTENT AS TO THE APPLICATION (OR NONAPPLICATION) OF THIS SECTION, AND

--(C) REGULATIONS EXEMPTING FROM THE APPLICATION OF THIS SECTION ANY CLASS OF TRANSACTIONS THE INTEREST ARRANGEMENTS OF WHICH HAVE NO SIGNIFICANT EFFECT ON ANY FEDERAL TAX LIABILITY OF THE LENDER OR THE BORROWER.

(2) ESTATE TAX COORDINATION. UNDER REGULATIONS PRESCRIBED BY THE SECRETARY, ANY LOAN WHICH IS MADE WITH DONATIVE INTENT AND WHICH IS A TERM LOAN SHALL BE TAKEN INTO ACCOUNT FOR PURPOSES OF CHAPTER 11 IN A MANNER CONSISTENT WITH THE PROVISIONS OF SUBSECTION (B).

S 6166. EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX WHERE ESTATE CONSISTS LARGELY OF INTEREST IN CLOSELY HELD BUSINESS. (A) 5-YEAR DEFERRAL; 10-YEAR INSTALLMENT PAYMENT.--

(1) IN GENERAL.--IF THE VALUE OF AN INTEREST IN A CLOSELY HELD BUSINESS WHICH IS INCLUDED IN DETERMINING THE GROSS ESTATE OF A DECEDENT WHO

1 WAS (AT THE DATE OF HIS DEATH) A CITIZEN OR RESIDENT OF THE UNITED  
2 STATES EXCEEDS 35 PERCENT OF THE ADJUSTED GROSS ESTATE, THE EXECUTOR MAY  
3 ELECT TO PAY PART OR ALL OF THE TAX IMPOSED BY SECTION 2001 IN 2 OR MORE  
4 (BUT NOT EXCEEDING 10) EQUAL INSTALLMENTS.

5 (2) LIMITATION.--THE MAXIMUM AMOUNT OF TAX WHICH MAY BE PAID IN  
6 INSTALLMENTS UNDER THIS SUBSECTION SHALL BE AN AMOUNT WHICH BEARS THE  
7 SAME RATIO TO THE TAX IMPOSED BY SECTION 2001 (REDUCED BY THE CREDITS  
8 AGAINST SUCH TAX) AS--

9 (A) THE CLOSELY HELD BUSINESS AMOUNT, BEARS TO

10 (B) THE AMOUNT OF THE ADJUSTED GROSS ESTATE.

11 (3) DATE FOR PAYMENT OF INSTALLMENTS.--IF AN ELECTION IS MADE UNDER  
12 PARAGRAPH (1), THE FIRST INSTALLMENT SHALL BE PAID ON OR BEFORE THE DATE  
13 SELECTED BY THE EXECUTOR WHICH IS NOT MORE THAN 5 YEARS AFTER THE DATE  
14 PRESCRIBED BY SECTION 6151(A) FOR PAYMENT OF THE TAX, AND EACH SUCCEED-  
15 ING INSTALLMENT SHALL BE PAID ON OR BEFORE THE DATE WHICH IS 1 YEAR  
16 AFTER THE DATE PRESCRIBED BY THIS PARAGRAPH FOR PAYMENT OF THE PRECEDING  
17 INSTALLMENT.

18 (B) DEFINITIONS AND SPECIAL RULES.--

19 (1) INTEREST IN CLOSELY HELD BUSINESS.--FOR PURPOSES OF THIS SECTION,  
20 THE TERM "INTEREST IN A CLOSELY HELD BUSINESS" MEANS--

21 (A) AN INTEREST AS A PROPRIETOR IN A TRADE OR BUSINESS CARRIED ON AS A  
22 PROPRIETORSHIP;

23 (B) AN INTEREST AS A PARTNER IN A PARTNERSHIP CARRYING ON A TRADE OR  
24 BUSINESS, IF--

25 (I) 20 PERCENT OR MORE OF THE TOTAL CAPITAL INTEREST IN SUCH PARTNER-  
26 SHIP IS INCLUDED IN DETERMINING THE GROSS ESTATE OF THE DECEDENT, OR

27 (II) SUCH PARTNERSHIP HAD 45 OR FEWER PARTNERS; OR

28 (C) STOCK IN A CORPORATION CARRYING ON A TRADE OR BUSINESS IF--

29 (I) 20 PERCENT OR MORE IN VALUE OF THE VOTING STOCK OF SUCH CORPO-  
30 RATION IS INCLUDED IN DETERMINING THE GROSS ESTATE OF THE DECEDENT, OR

31 (II) SUCH CORPORATION HAD 45 OR FEWER SHAREHOLDERS.

32 (2) RULES FOR APPLYING PARAGRAPH (1).--FOR PURPOSES OF PARAGRAPH (1)--

33 (A) TIME FOR TESTING.--DETERMINATIONS SHALL BE MADE AS OF THE TIME  
34 IMMEDIATELY BEFORE THE DECEDENT'S DEATH.

35 (B) CERTAIN INTERESTS HELD BY HUSBAND AND WIFE.--STOCK OR A PARTNER-  
36 SHIP INTEREST WHICH--

37 (I) IS COMMUNITY PROPERTY OF A HUSBAND AND WIFE (OR THE INCOME FROM  
38 WHICH IS COMMUNITY INCOME) UNDER THE APPLICABLE COMMUNITY PROPERTY LAW  
39 OF A STATE, OR

40 (II) IS HELD BY A HUSBAND AND WIFE AS JOINT TENANTS, TENANTS BY THE  
41 ENTIRETY, OR TENANTS IN COMMON, SHALL BE TREATED AS OWNED BY ONE SHARE-  
42 HOLDER OR ONE PARTNER, AS THE CASE MAY BE.

43 (C) INDIRECT OWNERSHIP.--PROPERTY OWNED, DIRECTLY OR INDIRECTLY, BY OR  
44 FOR A CORPORATION, PARTNERSHIP, ESTATE, OR TRUST SHALL BE CONSIDERED AS  
45 BEING OWNED PROPORTIONATELY BY OR FOR ITS SHAREHOLDERS, PARTNERS, OR  
46 BENEFICIARIES. FOR PURPOSES OF THE PRECEDING SENTENCE, A PERSON SHALL BE  
47 TREATED AS A BENEFICIARY OF ANY TRUST ONLY IF SUCH PERSON HAS A PRESENT  
48 INTEREST IN THE TRUST.

49 (D) CERTAIN INTERESTS HELD BY MEMBERS OF DECEDENT'S FAMILY.--ALL STOCK  
50 AND ALL PARTNERSHIP INTERESTS HELD BY THE DECEDENT OR BY ANY MEMBER OF  
51 HIS FAMILY (WITHIN THE MEANING OF SECTION 267(C)(4)) SHALL BE TREATED AS  
52 OWNED BY THE DECEDENT.

53 (3) FARMHOUSES AND CERTAIN OTHER STRUCTURES TAKEN INTO ACCOUNT.--FOR  
54 PURPOSES OF THE 35-PERCENT REQUIREMENT OF SUBSECTION (A)(1), AN INTEREST  
55 IN A CLOSELY HELD BUSINESS WHICH IS THE BUSINESS OF FARMING INCLUDES AN  
56 INTEREST IN RESIDENTIAL BUILDINGS AND RELATED IMPROVEMENTS ON THE FARM

1 WHICH ARE OCCUPIED ON A REGULAR BASIS BY THE OWNER OR LESSEE OF THE FARM  
2 OR BY PERSONS EMPLOYED BY SUCH OWNER OR LESSEE FOR PURPOSES OF OPERATING  
3 OR MAINTAINING THE FARM.

4 (4) VALUE.--FOR PURPOSES OF THIS SECTION, VALUE SHALL BE VALUE DETER-  
5 MINED FOR PURPOSES OF CHAPTER 11 (RELATING TO ESTATE TAX).

6 (5) CLOSELY HELD BUSINESS AMOUNT.--FOR PURPOSES OF THIS SECTION, THE  
7 TERM "CLOSELY HELD BUSINESS AMOUNT" MEANS THE VALUE OF THE INTEREST IN A  
8 CLOSELY HELD BUSINESS WHICH QUALIFIES UNDER SUBSECTION (A)(1).

9 (6) ADJUSTED GROSS ESTATE.--FOR PURPOSES OF THIS SECTION, THE TERM,  
10 "ADJUSTED GROSS ESTATE" MEANS THE VALUE OF THE GROSS ESTATE REDUCED BY  
11 THE SUM OF THE AMOUNTS ALLOWABLE AS A DEDUCTION UNDER SECTION 2053 OR  
12 2054. SUCH SUM SHALL BE DETERMINED ON THE BASIS OF THE FACTS AND CIRCUM-  
13 STANCES IN EXISTENCE ON THE DATE (INCLUDING EXTENSIONS) FOR FILING THE  
14 RETURN OF TAX IMPOSED BY SECTION 2001 (OR, IF EARLIER, THE DATE ON WHICH  
15 SUCH RETURN IS FILED).

16 (7) PARTNERSHIP INTERESTS AND STOCK WHICH IS NOT READILY TRADABLE.--

17 (A) IN GENERAL.--IF THE EXECUTOR ELECTS THE BENEFITS OF THIS PARAGRAPH  
18 (AT SUCH TIME AND IN SUCH MANNER AS THE SECRETARY SHALL BY REGULATIONS  
19 PRESCRIBE), THEN--

20 (I) FOR PURPOSES OF PARAGRAPH (1)(B)(I) OR (1)(C)(I) (WHICHEVER IS  
21 APPROPRIATE) AND FOR PURPOSES OF SUBSECTION (C), ANY CAPITAL INTEREST IN  
22 A PARTNERSHIP AND ANY NON-READILY-TRADABLE STOCK WHICH (AFTER THE APPLI-  
23 CATION OF PARAGRAPH (2)) IS TREATED AS OWNED BY THE DECEDENT SHALL BE  
24 TREATED AS INCLUDED IN DETERMINING THE VALUE OF THE DECEDENT'S GROSS  
25 ESTATE,

26 (II) THE EXECUTOR SHALL BE TREATED AS HAVING SELECTED UNDER SUBSECTION  
27 (A)(3) THE DATE PRESCRIBED BY SECTION 6151(A), AND

28 (III) FOR PURPOSES OF APPLYING SECTION 6601(J), THE 2-PERCENT PORTION  
29 (AS DEFINED IN SUCH SECTION) SHALL BE TREATED AS BEING ZERO.

30 (B) NON-READILY-TRADABLE STOCK DEFINED.--FOR PURPOSES OF THIS PARA-  
31 GRAPH, THE TERM "NON-READILY-TRADABLE STOCK" MEANS STOCK FOR WHICH, AT  
32 THE TIME OF THE DECEDENT'S DEATH, THERE WAS NO MARKET ON A STOCK  
33 EXCHANGE OR IN AN OVER-THE-COUNTER MARKET.

34 (8) STOCK IN HOLDING COMPANY TREATED AS BUSINESS COMPANY STOCK IN  
35 CERTAIN CASES.--

36 (A) IN GENERAL.--IF THE EXECUTOR ELECTS THE BENEFITS OF THIS PARA-  
37 GRAPH, THEN--

38 (I) HOLDING COMPANY STOCK TREATED AS BUSINESS COMPANY STOCK.--FOR  
39 PURPOSES OF THIS SECTION, THE PORTION OF THE STOCK OF ANY HOLDING COMPA-  
40 NY WHICH REPRESENTS DIRECT OWNERSHIP (OR INDIRECT OWNERSHIP THROUGH 1 OR  
41 MORE OTHER HOLDING COMPANIES) BY SUCH COMPANY IN A BUSINESS COMPANY  
42 SHALL BE DEEMED TO BE STOCK IN SUCH BUSINESS COMPANY.

43 (II) 5-YEAR DEFERRAL FOR PRINCIPAL NOT TO APPLY.--THE EXECUTOR SHALL  
44 BE TREATED AS HAVING SELECTED UNDER SUBSECTION (A)(3) THE DATE  
45 PRESCRIBED BY SECTION 6151(A).

46 (III) 2-PERCENT INTEREST RATE NOT TO APPLY.--FOR PURPOSES OF APPLYING  
47 SECTION 6601(J), THE 2-PERCENT PORTION (AS DEFINED IN SUCH SECTION)  
48 SHALL BE TREATED AS BEING ZERO.

49 (B) ALL STOCK MUST BE NON-READILY-TRADABLE STOCK.--

50 (I) IN GENERAL.--NO STOCK SHALL BE TAKEN INTO ACCOUNT FOR PURPOSES OF  
51 APPLYING THIS PARAGRAPH UNLESS IT IS NON-READILY-TRADABLE STOCK

52 (WITHIN THE MEANING OF PARAGRAPH (7)(B)).

53 (II) SPECIAL APPLICATION WHERE ONLY HOLDING COMPANY STOCK IS NON-READ-  
54 ILY-TRADABLE STOCK.--IF THE REQUIREMENTS OF CLAUSE (I) ARE NOT MET, BUT  
55 ALL OF THE STOCK OF EACH HOLDING COMPANY TAKEN INTO ACCOUNT IS NON-READ-

1 ILY-TRADABLE, THEN THIS PARAGRAPH SHALL APPLY, BUT SUBSECTION (A)(1)  
2 SHALL BE APPLIED BY SUBSTITUTING "5" FOR "10".

3 (C) APPLICATION OF VOTING STOCK REQUIREMENT OF PARAGRAPH  
4 (1)(C)(I).--FOR PURPOSES OF CLAUSE (I) OF PARAGRAPH (1)(C), THE DEEMED  
5 STOCK RESULTING FROM THE APPLICATION OF SUBPARAGRAPH (A) SHALL BE TREAT-  
6 ED AS VOTING STOCK TO THE EXTENT THAT VOTING STOCK IN THE HOLDING COMPA-  
7 NY OWNS DIRECTLY (OR THROUGH THE VOTING STOCK OF 1 OR MORE OTHER HOLDING  
8 COMPANIES) VOTING STOCK IN THE BUSINESS COMPANY.

9 (D) DEFINITIONS.--FOR PURPOSES OF THIS PARAGRAPH--

10 (I) HOLDING COMPANY.--THE TERM "HOLDING COMPANY" MEANS ANY CORPORATION  
11 HOLDING STOCK IN ANOTHER CORPORATION.

12 (II) BUSINESS COMPANY.--THE TERM "BUSINESS COMPANY" MEANS ANY CORPO-  
13 RATION CARRYING ON A TRADE OR BUSINESS.

14 (9) DEFERRAL NOT AVAILABLE FOR PASSIVE ASSETS.--

15 (A) IN GENERAL.--FOR PURPOSES OF SUBSECTION (A)(1) AND DETERMINING THE  
16 CLOSELY HELD BUSINESS AMOUNT (BUT NOT FOR PURPOSES OF SUBSECTION (G)),  
17 THE VALUE OF ANY INTEREST IN A CLOSELY HELD BUSINESS SHALL NOT INCLUDE  
18 THE VALUE OF THAT PORTION OF SUCH INTEREST WHICH IS ATTRIBUTABLE TO  
19 PASSIVE ASSETS HELD BY THE BUSINESS.

20 (B) PASSIVE ASSET DEFINED.--FOR PURPOSES OF THIS PARAGRAPH--

21 (I) IN GENERAL.--THE TERM "PASSIVE ASSET" MEANS ANY ASSET OTHER THAN  
22 AN ASSET USED IN CARRYING ON A TRADE OR BUSINESS.

23 (II) STOCK TREATED AS PASSIVE ASSET.--THE TERM "PASSIVE ASSET"  
24 INCLUDES ANY STOCK IN ANOTHER CORPORATION UNLESS--

25 (I) SUCH STOCK IS TREATED AS HELD BY THE DECEDENT BY REASON OF AN  
26 ELECTION UNDER PARAGRAPH (8), AND

27 (II) SUCH STOCK QUALIFIED UNDER SUBSECTION (A)(1).

28 (III) EXCEPTION FOR ACTIVE CORPORATIONS.--IF--

29 (I) A CORPORATION OWNS 20 PERCENT OR MORE IN VALUE OF THE VOTING STOCK  
30 OF ANOTHER CORPORATION, OR SUCH OTHER CORPORATION HAS 45 OR FEWER SHARE-  
31 HOLDERS, AND

32 (II) 80 PERCENT OR MORE OF THE VALUE OF THE ASSETS OF EACH SUCH CORPO-  
33 RATION IS ATTRIBUTABLE TO ASSETS USED IN CARRYING ON A TRADE OR BUSI-  
34 NESS, THEN SUCH CORPORATIONS SHALL BE TREATED AS 1 CORPORATION FOR  
35 PURPOSES OF CLAUSE (II). FOR PURPOSES OF APPLYING SUBCLAUSE (II) TO THE  
36 CORPORATION HOLDING THE STOCK OF THE OTHER CORPORATION, SUCH STOCK SHALL  
37 NOT BE TAKEN INTO ACCOUNT.

38 (10) STOCK IN QUALIFYING LENDING AND FINANCE BUSINESS TREATED AS STOCK  
39 IN AN ACTIVE TRADE OR BUSINESS COMPANY.--

40 (A) IN GENERAL.--IF THE EXECUTOR ELECTS THE BENEFITS OF THIS PARA-  
41 GRAPH, THEN--

42 (I) STOCK IN QUALIFYING LENDING AND FINANCE BUSINESS TREATED AS STOCK  
43 IN AN ACTIVE TRADE OR BUSINESS COMPANY.--FOR PURPOSES OF THIS SECTION,  
44 ANY ASSET USED IN A QUALIFYING LENDING AND FINANCE BUSINESS SHALL BE  
45 TREATED AS AN ASSET WHICH IS USED IN CARRYING ON A TRADE OR BUSINESS.

46 (II) 5-YEAR DEFERRAL FOR PRINCIPAL NOT TO APPLY.--THE EXECUTOR SHALL  
47 BE TREATED AS HAVING SELECTED UNDER SUBSECTION (A)(3) THE DATE  
48 PRESCRIBED BY SECTION 6151(A).

49 (III) 5 EQUAL INSTALLMENTS ALLOWED.--FOR PURPOSES OF APPLYING  
50 SUBSECTION

51 (A)(1), "5" SHALL BE SUBSTITUTED FOR "10".

52 (B) DEFINITIONS.--FOR PURPOSES OF THIS PARAGRAPH--

53 (I) QUALIFYING LENDING AND FINANCE BUSINESS.--THE TERM "QUALIFYING  
54 LENDING AND FINANCE BUSINESS" MEANS A LENDING AND FINANCE BUSINESS, IF--

1 (I) BASED ON ALL THE FACTS AND CIRCUMSTANCES IMMEDIATELY BEFORE THE  
2 DATE OF THE DECEDENT'S DEATH, THERE WAS SUBSTANTIAL ACTIVITY WITH  
3 RESPECT TO THE LENDING AND FINANCE BUSINESS, OR

4 (II) DURING AT LEAST 3 OF THE 5 TAXABLE YEARS ENDING BEFORE THE DATE  
5 OF THE DECEDENT'S DEATH, SUCH BUSINESS HAD AT LEAST 1 FULL-TIME EMPLOYEE  
6 SUBSTANTIALLY ALL OF WHOSE SERVICES WERE THE ACTIVE MANAGEMENT OF SUCH  
7 BUSINESS, 10 FULL-TIME, NONOWNER EMPLOYEES SUBSTANTIALLY ALL OF WHOSE  
8 SERVICES WERE DIRECTLY RELATED TO SUCH BUSINESS, AND \$5,000,000 IN GROSS  
9 RECEIPTS FROM ACTIVITIES DESCRIBED IN CLAUSE (II).

10 (II) LENDING AND FINANCE BUSINESS.--THE TERM "LENDING AND FINANCE  
11 BUSINESS" MEANS A TRADE OR BUSINESS OF--

12 (I) MAKING LOANS,

13 (II) PURCHASING OR DISCOUNTING ACCOUNTS RECEIVABLE, NOTES, OR INSTALL-  
14 MENT OBLIGATIONS,

15 (III) ENGAGING IN RENTAL AND LEASING OF REAL AND TANGIBLE PERSONAL  
16 PROPERTY, INCLUDING ENTERING INTO LEASES AND PURCHASING, SERVICING, AND  
17 DISPOSING OF LEASES AND LEASED ASSETS,

18 (IV) RENDERING SERVICES OR MAKING FACILITIES AVAILABLE IN THE ORDINARY  
19 COURSE OF A LENDING OR FINANCE BUSINESS, AND

20 (V) RENDERING SERVICES OR MAKING FACILITIES AVAILABLE IN CONNECTION  
21 WITH ACTIVITIES DESCRIBED IN SUBCLAUSES (I) THROUGH (IV) CARRIED ON BY  
22 THE CORPORATION RENDERING SERVICES OR MAKING FACILITIES AVAILABLE, OR  
23 ANOTHER CORPORATION WHICH IS A MEMBER OF THE SAME AFFILIATED GROUP (AS  
24 DEFINED IN SECTION 1504 WITHOUT REGARD TO SECTION 1504(B)(3)).

25 (III) LIMITATION.--THE TERM "QUALIFYING LENDING AND FINANCE BUSINESS"  
26 SHALL NOT INCLUDE ANY INTEREST IN AN ENTITY, IF THE STOCK OR DEBT OF  
27 SUCH ENTITY OR A CONTROLLED GROUP (AS DEFINED IN SECTION 267(F)(1)) OF  
28 WHICH SUCH ENTITY WAS A MEMBER WAS READILY TRADABLE ON AN ESTABLISHED  
29 SECURITIES MARKET OR SECONDARY MARKET (AS DEFINED BY THE SECRETARY) AT  
30 ANY TIME WITHIN 3 YEARS BEFORE THE DATE OF THE DECEDENT'S DEATH.

31 (C) SPECIAL RULE FOR INTEREST IN 2 OR MORE CLOSELY HELD BUSINESS-  
32 ES.--FOR PURPOSES OF THIS SECTION, INTEREST IN 2 OR MORE CLOSELY HELD  
33 BUSINESSES, WITH RESPECT TO EACH OF WHICH THERE IS INCLUDED IN DETERMIN-  
34 ING THE VALUE OF THE DECEDENT'S GROSS ESTATE 20 PERCENT OR MORE OF THE  
35 TOTAL VALUE OF EACH SUCH BUSINESS, SHALL BE TREATED AS AN INTEREST IN A  
36 SINGLE CLOSELY HELD BUSINESS. FOR PURPOSES OF THE 20-PERCENT REQUIREMENT  
37 OF THE PRECEDING SENTENCE, AN INTEREST IN A CLOSELY HELD BUSINESS WHICH  
38 REPRESENTS THE SURVIVING SPOUSE'S INTEREST IN PROPERTY HELD BY THE DECE-  
39 DENT AND THE SURVIVING SPOUSE AS COMMUNITY PROPERTY OR AS JOINT TENANTS,  
40 TENANTS BY THE ENTIRETY, OR TENANTS IN COMMON SHALL BE TREATED AS HAVING  
41 BEEN INCLUDED IN DETERMINING THE VALUE OF THE DECEDENT'S GROSS ESTATE.

42 (D) ELECTION.--ANY ELECTION UNDER SUBSECTION (A) SHALL BE MADE NOT  
43 LATER THAN THE TIME PRESCRIBED BY SECTION 6075(A) FOR FILING THE RETURN  
44 OF TAX IMPOSED BY SECTION 2001 (INCLUDING EXTENSIONS THEREOF), AND SHALL  
45 BE MADE IN SUCH MANNER AS THE SECRETARY SHALL BY REGULATIONS PRESCRIBE.  
46 IF AN ELECTION UNDER SUBSECTION (A) IS MADE, THE PROVISIONS OF THIS  
47 SUBTITLE SHALL APPLY AS THOUGH THE SECRETARY WERE EXTENDING THE TIME FOR  
48 PAYMENT OF THE TAX.

49 (E) PRORATION OF DEFICIENCY TO INSTALLMENTS.--IF AN ELECTION IS MADE  
50 UNDER SUBSECTION (A) TO PAY ANY PART OF THE TAX IMPOSED BY SECTION 2001  
51 IN INSTALLMENTS AND A DEFICIENCY HAS BEEN ASSESSED, THE DEFICIENCY SHALL  
52 (SUBJECT TO THE LIMITATION PROVIDED BY SUBSECTION (A)(2)) BE PRORATED TO  
53 THE INSTALLMENTS PAYABLE UNDER SUBSECTION (A). THE PART OF THE DEFICIEN-  
54 CY SO PRORATED TO ANY INSTALLMENT THE DATE FOR PAYMENT OF WHICH HAS NOT  
55 ARRIVED SHALL BE COLLECTED AT THE SAME TIME AS, AND AS A PART OF, SUCH  
56 INSTALLMENT. THE PART OF THE DEFICIENCY SO PRORATED TO ANY INSTALLMENT



1 THE DATE FOR PAYMENT OF WHICH HAS ARRIVED SHALL BE PAID UPON NOTICE AND  
2 DEMAND FROM THE SECRETARY. THIS SUBSECTION SHALL NOT APPLY IF THE DEFICI-  
3 CIENCY IS DUE TO NEGLIGENCE, TO INTENTIONAL DISREGARD OF RULES AND REGU-  
4 LATIONS, OR TO FRAUD WITH INTENT TO EVADE TAX.

5 (F) TIME FOR PAYMENT OF INTEREST.--IF THE TIME FOR PAYMENT OF ANY  
6 AMOUNT OF TAX HAS BEEN EXTENDED UNDER THIS SECTION--

7 (1) INTEREST FOR FIRST 5 YEARS.--INTEREST PAYABLE UNDER SECTION 6601  
8 OF ANY UNPAID PORTION OF SUCH AMOUNT ATTRIBUTABLE TO THE FIRST 5 YEARS  
9 AFTER THE DATE PRESCRIBED BY SECTION 6151(A) FOR PAYMENT OF THE TAX  
10 SHALL BE PAID ANNUALLY.

11 (2) INTEREST FOR PERIODS AFTER FIRST 5 YEARS.--INTEREST PAYABLE UNDER  
12 SECTION 6601 ON ANY UNPAID PORTION OF SUCH AMOUNT ATTRIBUTABLE TO ANY  
13 PERIOD AFTER THE 5-YEAR PERIOD REFERRED TO IN PARAGRAPH (1) SHALL BE  
14 PAID ANNUALLY AT THE SAME TIME AS, AND AS A PART OF, EACH INSTALLMENT  
15 PAYMENT OF THE TAX.

16 (3) INTEREST IN THE CASE OF CERTAIN DEFICIENCIES.--IN THE CASE OF A  
17 DEFICIENCY TO WHICH SUBSECTION (E) APPLIES WHICH IS ASSESSED AFTER THE  
18 CLOSE OF THE 5-YEAR PERIOD REFERRED TO IN PARAGRAPH (1), INTEREST  
19 ATTRIBUTABLE TO SUCH 5-YEAR PERIOD, AND INTEREST ASSIGNED UNDER PARA-  
20 GRAPH (2) TO ANY INSTALLMENT THE DATE FOR PAYMENT OF WHICH HAS ARRIVED  
21 ON OR BEFORE THE DATE OF THE ASSESSMENT OF THE DEFICIENCY, SHALL BE PAID  
22 UPON NOTICE AND DEMAND FROM THE SECRETARY.

23 (4) SELECTION OF SHORTER PERIOD.--IF THE EXECUTOR HAS SELECTED A PERI-  
24 OD SHORTER THAN 5 YEARS UNDER SUBSECTION (A)(3), SUCH SHORTER PERIOD  
25 SHALL BE SUBSTITUTED FOR 5 YEARS IN PARAGRAPHS (1), (2), AND (3) OF THIS  
26 SUBSECTION.

27 (G) ACCELERATION OF PAYMENT.--

28 (1) DISPOSITION OF INTEREST; WITHDRAWAL OF FUNDS FROM BUSINESS.--

29 (A) IF--

30 (I)(I) ANY PORTION OF AN INTEREST IN A CLOSELY HELD BUSINESS WHICH  
31 QUALIFIES UNDER SUBSECTION (A)(1) IS DISTRIBUTED, SOLD, EXCHANGED, OR  
32 OTHERWISE DISPOSED OF, OR

33 (II) MONEY AND OTHER PROPERTY ATTRIBUTABLE TO SUCH AN INTEREST IS  
34 WITHDRAWN FROM SUCH TRADE OR BUSINESS, AND

35 (II) THE AGGREGATE OF SUCH DISTRIBUTIONS, SALES, EXCHANGES, OR OTHER  
36 DISPOSITIONS AND WITHDRAWALS EQUALS OR EXCEEDS 50 PERCENT OF THE VALUE  
37 OF SUCH INTEREST, THEN THE EXTENSION OF TIME FOR PAYMENT OF TAX PROVIDED  
38 IN SUBSECTION (A) SHALL CEASE TO APPLY, AND THE UNPAID PORTION OF THE  
39 TAX PAYABLE IN INSTALLMENTS SHALL BE PAID UPON NOTICE AND DEMAND FROM  
40 THE SECRETARY.

41 (B) IN THE CASE OF A DISTRIBUTION IN REDEMPTION OF STOCK TO WHICH  
42 SECTION 303 (OR SO MUCH OF SECTION 304 AS RELATES TO SECTION 303)  
43 APPLIES--

44 (I) THE REDEMPTION OF SUCH STOCK, AND THE WITHDRAWAL OF MONEY AND  
45 OTHER PROPERTY DISTRIBUTED IN SUCH REDEMPTION, SHALL NOT BE TREATED AS A  
46 DISTRIBUTION OR WITHDRAWAL FOR PURPOSES OF SUBPARAGRAPH (A), AND

47 (II) FOR PURPOSES OF SUBPARAGRAPH (A), THE VALUE OF THE INTEREST IN  
48 THE CLOSELY HELD BUSINESS SHALL BE CONSIDERED TO BE SUCH VALUE REDUCED  
49 BY THE VALUE OF THE STOCK REDEEMED.

50 THIS SUBPARAGRAPH SHALL APPLY ONLY IF, ON OR BEFORE THE DATE  
51 PRESCRIBED BY SUBSECTION (A)(3) FOR THE PAYMENT OF THE FIRST INSTALLMENT  
52 WHICH BECOMES DUE AFTER THE DATE OF THE DISTRIBUTION (OR, IF EARLIER, ON  
53 OR BEFORE THE DAY WHICH IS 1 YEAR AFTER THE DATE OF THE DISTRIBUTION),  
54 THERE IS PAID AN AMOUNT OF THE TAX IMPOSED BY SECTION 2001 NOT LESS THAN  
55 THE AMOUNT OF MONEY AND OTHER PROPERTY DISTRIBUTED.

(C) SUBPARAGRAPH (A)(I) DOES NOT APPLY TO AN EXCHANGE OF STOCK PURSUANT TO A PLAN OF REORGANIZATION DESCRIBED IN SUBPARAGRAPH (D), (E), OR (F) OF SECTION 368(A)(1) NOR TO AN EXCHANGE TO WHICH SECTION 355 (OR SO MUCH OF SECTION 356 AS RELATES TO SECTION 355) APPLIES; BUT ANY STOCK RECEIVED IN SUCH AN EXCHANGE SHALL BE TREATED FOR PURPOSES OF SUBPARAGRAPH (A)(I) AS AN INTEREST QUALIFYING UNDER SUBSECTION (A)(1).

(D) SUBPARAGRAPH (A)(I) DOES NOT APPLY TO A TRANSFER OF PROPERTY OF THE DECEDENT TO A PERSON ENTITLED BY REASON OF THE DECEDENT'S DEATH TO RECEIVE SUCH PROPERTY UNDER THE DECEDENT'S WILL, THE APPLICABLE LAW OF DESCENT AND DISTRIBUTION, OR A TRUST CREATED BY THE DECEDENT. A SIMILAR RULE SHALL APPLY IN THE CASE OF A SERIES OF SUBSEQUENT TRANSFERS OF THE PROPERTY BY REASON OF DEATH SO LONG AS EACH TRANSFER IS TO A MEMBER OF THE FAMILY (WITHIN THE MEANING OF SECTION 267(C)(4)) OF THE TRANSFEROR IN SUCH TRANSFER.

(E) CHANGES IN INTEREST IN HOLDING COMPANY.--IF ANY STOCK IN A HOLDING COMPANY IS TREATED AS STOCK IN A BUSINESS COMPANY BY REASON OF SUBSECTION (B)(8)(A)--

(I) ANY DISPOSITION OF ANY INTEREST IN SUCH STOCK IN SUCH HOLDING COMPANY WHICH WAS INCLUDED IN DETERMINING THE GROSS ESTATE OF THE DECEDENT, OR

(II) ANY WITHDRAWAL OF ANY MONEY OR OTHER PROPERTY FROM SUCH HOLDING COMPANY ATTRIBUTABLE TO ANY INTEREST INCLUDED IN DETERMINING THE GROSS ESTATE OF THE DECEDENT,

SHALL BE TREATED FOR PURPOSES OF SUBPARAGRAPH (A) AS A DISPOSITION OF (OR A WITHDRAWAL WITH RESPECT TO) THE STOCK QUALIFYING UNDER SUBSECTION (A)(1).

(F) CHANGES IN INTEREST IN BUSINESS COMPANY.--IF ANY STOCK IN A HOLDING COMPANY IS TREATED AS STOCK IN A BUSINESS COMPANY BY REASON OF SUBSECTION (B)(8)(A)--

(I) ANY DISPOSITION OF ANY INTEREST IN SUCH STOCK IN THE BUSINESS COMPANY BY SUCH HOLDING COMPANY, OR

(II) ANY WITHDRAWAL OF ANY MONEY OR OTHER PROPERTY FROM SUCH BUSINESS COMPANY ATTRIBUTABLE TO SUCH STOCK BY SUCH HOLDING COMPANY OWNING SUCH STOCK,

SHALL BE TREATED FOR PURPOSES OF SUBPARAGRAPH (A) AS A DISPOSITION OF (OR A WITHDRAWAL WITH RESPECT TO) THE STOCK QUALIFYING UNDER SUBSECTION (A)(1).

(2) UNDISTRIBUTED INCOME OF ESTATE.--

(A) IF AN ELECTION IS MADE UNDER THIS SECTION AND THE ESTATE HAS UNDISTRIBUTED NET INCOME FOR ANY TAXABLE YEAR ENDING ON OR AFTER THE DUE DATE FOR THE FIRST INSTALLMENT, THE EXECUTOR SHALL, ON OR BEFORE THE DATE PRESCRIBED BY LAW FOR FILING THE INCOME TAX RETURN FOR SUCH TAXABLE YEAR (INCLUDING EXTENSIONS THEREOF), PAY AN AMOUNT EQUAL TO SUCH UNDISTRIBUTED NET INCOME IN LIQUIDATION OF THE UNPAID PORTION OF THE TAX PAYABLE IN INSTALLMENTS.

(B) FOR PURPOSES OF SUBPARAGRAPH (A), THE UNDISTRIBUTED NET INCOME OF THE ESTATE FOR ANY TAXABLE YEAR IS THE AMOUNT BY WHICH THE DISTRIBUTABLE NET INCOME OF THE ESTATE FOR SUCH TAXABLE YEAR (AS DEFINED IN SECTION 643) EXCEEDS THE SUM OF--

(I) THE AMOUNTS FOR SUCH TAXABLE YEAR SPECIFIED IN PARAGRAPHS (1) AND (2) OF SECTION 661(A) (RELATING TO DEDUCTIONS FOR DISTRIBUTIONS, ETC.);

(II) THE AMOUNT OF TAX IMPOSED FOR THE TAXABLE YEAR ON THE ESTATE UNDER CHAPTER 1; AND

(III) THE AMOUNT OF THE TAX IMPOSED BY SECTION 2001 (INCLUDING INTEREST) PAID BY THE EXECUTOR DURING THE TAXABLE YEAR (OTHER THAN ANY AMOUNT PAID PURSUANT TO THIS PARAGRAPH).

(C) FOR PURPOSES OF THIS PARAGRAPH, IF ANY STOCK IN A CORPORATION IS TREATED AS STOCK IN ANOTHER CORPORATION BY REASON OF SUBSECTION (B)(8)(A), ANY DIVIDENDS PAID BY SUCH OTHER CORPORATION TO THE CORPORATION SHALL BE TREATED AS PAID TO THE ESTATE OF THE DECEDENT TO THE EXTENT ATTRIBUTABLE TO THE STOCK QUALIFYING UNDER SUBSECTION (A)(1).

(3) FAILURE TO MAKE PAYMENT OF PRINCIPAL OR INTEREST.--

(A) IN GENERAL.--EXCEPT AS PROVIDED IN SUBPARAGRAPH (B), IF ANY PAYMENT OF PRINCIPAL OR INTEREST UNDER THIS SECTION IS NOT PAID ON OR BEFORE THE DATE FIXED FOR ITS PAYMENT BY THIS SECTION (INCLUDING ANY EXTENSION OF TIME), THE UNPAID PORTION OF THE TAX PAYABLE IN INSTALLMENTS SHALL BE PAID UPON NOTICE AND DEMAND FROM THE SECRETARY.

(B) PAYMENT WITHIN 6 MONTHS.--IF ANY PAYMENT OF PRINCIPAL OR INTEREST UNDER THIS SECTION IS NOT PAID ON OR BEFORE THE DATE DETERMINED UNDER SUBPARAGRAPH (A) BUT IS PAID WITHIN 6 MONTHS OF SUCH DATE--

(I) THE PROVISIONS OF SUBPARAGRAPH (A) SHALL NOT APPLY WITH RESPECT TO SUCH PAYMENT,

(II) THE PROVISIONS OF SECTION 6601(J) SHALL NOT APPLY WITH RESPECT TO THE DETERMINATION OF INTEREST ON SUCH PAYMENT, AND

(III) THERE IS IMPOSED A PENALTY IN AN AMOUNT EQUAL TO THE PRODUCT OF--

(I) 5 PERCENT OF THE AMOUNT OF SUCH PAYMENT, MULTIPLIED BY

(II) THE NUMBER OF MONTHS (OR FRACTIONS THEREOF) AFTER SUCH DATE AND BEFORE PAYMENT IS MADE. THE PENALTY IMPOSED UNDER CLAUSE (III) SHALL BE TREATED IN THE SAME MANNER AS A PENALTY IMPOSED UNDER SUBCHAPTER B OF CHAPTER 68.

(H) ELECTION IN CASE OF CERTAIN DEFICIENCIES.--

(1) IN GENERAL.--IF--

(A) A DEFICIENCY IN THE TAX IMPOSED BY SECTION 2001 IS ASSESSED,

(B) THE ESTATE QUALIFIES UNDER SUBSECTION (A)(1), AND

(C) THE EXECUTOR HAS NOT MADE AN ELECTION UNDER SUBSECTION (A), THE EXECUTOR MAY ELECT TO PAY THE DEFICIENCY IN INSTALLMENTS. THIS SUBSECTION SHALL NOT APPLY IF THE DEFICIENCY IS DUE TO NEGLIGENCE, TO INTENTIONAL DISREGARD OF RULES AND REGULATIONS, OR TO FRAUD WITH INTENT TO EVADE TAX.

(2) TIME OF ELECTION.--AN ELECTION UNDER THIS SUBSECTION SHALL BE MADE NOT LATER THAN 60 DAYS AFTER ISSUANCE OF NOTICE AND DEMAND BY THE SECRETARY FOR THE PAYMENT OF THE DEFICIENCY, AND SHALL BE MADE IN SUCH MANNER AS THE SECRETARY SHALL BY REGULATIONS PRESCRIBE.

(3) EFFECT OF ELECTION ON PAYMENT.--IF AN ELECTION IS MADE UNDER THIS SUBSECTION, THE DEFICIENCY SHALL (SUBJECT TO THE LIMITATION PROVIDED BY SUBSECTION (A)(2)) BE PRORATED TO THE INSTALLMENTS WHICH WOULD HAVE BEEN DUE IF AN ELECTION HAD BEEN TIMELY MADE UNDER SUBSECTION (A) AT THE TIME THE ESTATE TAX RETURN WAS FILED. THE PART OF THE DEFICIENCY SO PRORATED TO ANY INSTALLMENT THE DATE FOR PAYMENT OF WHICH WOULD HAVE ARRIVED SHALL BE PAID AT THE TIME OF THE MAKING OF THE ELECTION UNDER THIS SUBSECTION. THE PORTION OF THE DEFICIENCY SO PRORATED TO INSTALLMENTS THE DATE FOR PAYMENT OF WHICH WOULD NOT HAVE SO ARRIVED SHALL BE PAID AT THE TIME SUCH INSTALLMENTS WOULD HAVE BEEN DUE IF SUCH AN ELECTION HAD BEEN MADE.

(I) SPECIAL RULE FOR CERTAIN DIRECT SKIPS.--TO THE EXTENT THAT AN INTEREST IN A CLOSELY HELD BUSINESS IS THE SUBJECT OF A DIRECT SKIP (WITHIN THE MEANING OF SECTION 2612(C)) OCCURRING AT THE SAME TIME AS AND AS A RESULT OF THE DECEDENT'S DEATH, THEN FOR PURPOSES OF THIS SECTION ANY TAX IMPOSED BY SECTION 2601 ON THE TRANSFER OF SUCH INTEREST SHALL BE TREATED AS IF IT WERE ADDITIONAL TAX IMPOSED BY SECTION 2001.

(J) REGULATIONS.--THE SECRETARY SHALL PRESCRIBE SUCH REGULATIONS AS MAY BE NECESSARY TO THE APPLICATION OF THIS SECTION.

(K) CROSS REFERENCES.--

(1) SECURITY.-- FOR AUTHORITY OF THE SECRETARY TO REQUIRE SECURITY IN THE CASE OF AN EXTENSION UNDER THIS SECTION, SEE SECTION 6165.

(2) LIEN.--FOR SPECIAL LIEN (IN LIEU OF BOND) IN THE CASE OF AN EXTENSION UNDER THIS SECTION, SEE SECTION 6324A.

(3) PERIOD OF LIMITATION.--FOR EXTENSION OF THE PERIOD OF LIMITATION IN THE CASE OF AN EXTENSION UNDER THIS SECTION, SEE SECTION 6503(D).

(4) INTEREST.--FOR PROVISIONS RELATING TO INTEREST ON TAX PAYABLE IN INSTALLMENTS UNDER THIS SECTION, SEE SUBSECTION (J) OF SECTION 6601.

(5) TRANSFERS WITHIN 3 YEARS OF DEATH.--FOR SPECIAL RULE FOR QUALIFYING AN ESTATE UNDER THIS SECTION WHERE PROPERTY HAS BEEN TRANSFERRED WITHIN 3 YEARS OF DECEDENT'S DEATH, SEE SECTION 2035(C)(2).

S 11. This act shall take effect April 1, 2014 and shall apply to estates of decedents dying on and after that date; provided, however, that the amendments to subsection (c) of section 951 of the tax law made by section one of this act shall not affect the repeal of such subsection and shall be deemed repealed therewith.

#### PART Y

Intentionally Omitted

#### PART Z

Section 1. Clause (F) of subparagraph (ii) of paragraph 1 of subdivision b of section 1612 of the tax law, as amended by chapter 174 of the laws of 2013, is amended to read as follows:

(F) notwithstanding clauses (A), (B), (C), (D) and (E) of this subparagraph, when a vendor track, is located in Sullivan county and within sixty miles from any gaming facility in a contiguous state such vendor fee shall, for a period of [six] SEVEN years commencing April first, two thousand eight, be at a rate of forty-one percent of the total revenue wagered at the vendor track after payout for prizes pursuant to this chapter, after which time such rate shall be as for all tracks in clause (C) of this subparagraph.

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2014.

#### PART AA

Section 1. Paragraph (a) of subdivision 1 of section 1003 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 174 of the laws of 2013, is amended to read as follows:

(a) Any racing association or corporation or regional off-track betting corporation, authorized to conduct pari-mutuel wagering under this chapter, desiring to display the simulcast of horse races on which pari-mutuel betting shall be permitted in the manner and subject to the conditions provided for in this article may apply to the commission for a license so to do. Applications for licenses shall be in such form as may be prescribed by the commission and shall contain such information or other material or evidence as the commission may require. No license shall be issued by the commission authorizing the simulcast transmission of thoroughbred races from a track located in Suffolk county. The fee

1 for such licenses shall be five hundred dollars per simulcast facility  
2 and for account wagering licensees that do not operate either a simul-  
3 cast facility that is open to the public within the state of New York or  
4 a licensed racetrack within the state, twenty thousand dollars per year  
5 payable by the licensee to the commission for deposit into the general  
6 fund. Except as provided in this section, the commission shall not  
7 approve any application to conduct simulcasting into individual or group  
8 residences, homes or other areas for the purposes of or in connection  
9 with pari-mutuel wagering. The [board] COMMISSION may approve simulcast-  
10 ing into residences, homes or other areas to be conducted jointly by one  
11 or more regional off-track betting corporations and one or more of the  
12 following: a franchised corporation, thoroughbred racing corporation or  
13 a harness racing corporation or association; provided (i) the simulcast-  
14 ing consists only of those races on which pari-mutuel betting is author-  
15 ized by this chapter at one or more simulcast facilities for each of the  
16 contracting off-track betting corporations which shall include wagers  
17 made in accordance with section one thousand fifteen, one thousand  
18 sixteen and one thousand seventeen of this article; provided further  
19 that the contract provisions or other simulcast arrangements for such  
20 simulcast facility shall be no less favorable than those in effect on  
21 January first, two thousand five; (ii) that each off-track betting  
22 corporation having within its geographic boundaries such residences,  
23 homes or other areas technically capable of receiving the simulcast  
24 signal shall be a contracting party; (iii) the distribution of revenues  
25 shall be subject to contractual agreement of the parties except that  
26 statutory payments to non-contracting parties, if any, may not be  
27 reduced; provided, however, that nothing herein to the contrary shall  
28 prevent a track from televising its races on an irregular basis primari-  
29 ly for promotional or marketing purposes as found by the [board] COMMIS-  
30 SION. For purposes of this paragraph, the provisions of section one  
31 thousand thirteen of this article shall not apply. Any agreement author-  
32 izing an in-home simulcasting experiment commencing prior to May  
33 fifteenth, nineteen hundred ninety-five, may, and all its terms, be  
34 extended until June thirtieth, two thousand [fourteen] FIFTEEN;  
35 provided, however, that any party to such agreement may elect to termi-  
36 nate such agreement upon conveying written notice to all other parties  
37 of such agreement at least forty-five days prior to the effective date  
38 of the termination, via registered mail. Any party to an agreement  
39 receiving such notice of an intent to terminate, may request the [board]  
40 COMMISSION to mediate between the parties new terms and conditions in a  
41 replacement agreement between the parties as will permit continuation of  
42 an in-home experiment until June thirtieth, two thousand [fourteen]  
43 FIFTEEN; and (iv) no in-home simulcasting in the thoroughbred special  
44 betting district shall occur without the approval of the regional  
45 thoroughbred track.

46 S 2. Subparagraph (iii) of paragraph d of subdivision 3 of section  
47 1007 of the racing, pari-mutuel wagering and breeding law, as amended by  
48 section 2 of part U of chapter 59 of the laws of 2013, is amended to  
49 read as follows:

50 (iii) Of the sums retained by a receiving track located in Westchester  
51 county on races received from a franchised corporation, for the period  
52 commencing January first, two thousand eight and continuing through June  
53 thirtieth, two thousand [fourteen] FIFTEEN, the amount used exclusively  
54 for purses to be awarded at races conducted by such receiving track  
55 shall be computed as follows: of the sums so retained, two and one-half  
56 percent of the total pools. Such amount shall be increased or decreased

1 in the amount of fifty percent of the difference in total commissions  
2 determined by comparing the total commissions available after July twen-  
3 ty-first, nineteen hundred ninety-five to the total commissions that  
4 would have been available to such track prior to July twenty-first,  
5 nineteen hundred ninety-five.

6 S 3. The opening paragraph of subdivision 1 of section 1014 of the  
7 racing, pari-mutuel wagering and breeding law, as amended by section 3  
8 of part U of chapter 59 of the laws of 2013, is amended to read as  
9 follows:

10 The provisions of this section shall govern the simulcasting of races  
11 conducted at thoroughbred tracks located in another state or country on  
12 any day during which a franchised corporation is conducting a race meet-  
13 ing in Saratoga county at Saratoga thoroughbred racetrack until June  
14 thirtieth, two thousand [fourteen] FIFTEEN and on any day regardless of  
15 whether or not a franchised corporation is conducting a race meeting in  
16 Saratoga county at Saratoga thoroughbred racetrack after June thirtieth,  
17 two thousand [fourteen] FIFTEEN. On any day on which a franchised  
18 corporation has not scheduled a racing program but a thoroughbred racing  
19 corporation located within the state is conducting racing, every off-  
20 track betting corporation branch office and every simulcasting facility  
21 licensed in accordance with section one thousand seven (that have  
22 entered into a written agreement with such facility's representative  
23 horsemen's organization, as approved by the [board] COMMISSION), one  
24 thousand eight, or one thousand nine of this article shall be authorized  
25 to accept wagers and display the live simulcast signal from thoroughbred  
26 tracks located in another state or foreign country subject to the  
27 following provisions:

28 S 4. Subdivision 1 of section 1015 of the racing, pari-mutuel wagering  
29 and breeding law, as amended by section 4 of part U of chapter 59 of the  
30 laws of 2013, is amended to read as follows:

31 1. The provisions of this section shall govern the simulcasting of  
32 races conducted at harness tracks located in another state or country  
33 during the period July first, nineteen hundred ninety-four through June  
34 thirtieth, two thousand [fourteen] FIFTEEN. This section shall super-  
35 sede all inconsistent provisions of this chapter.

36 S 5. The opening paragraph of subdivision 1 of section 1016 of the  
37 racing, pari-mutuel wagering and breeding law, as amended by section 5  
38 of part U of chapter 59 of the laws of 2013, is amended to read as  
39 follows:

40 The provisions of this section shall govern the simulcasting of races  
41 conducted at thoroughbred tracks located in another state or country on  
42 any day during which a franchised corporation is not conducting a race  
43 meeting in Saratoga county at Saratoga thoroughbred racetrack until June  
44 thirtieth, two thousand [fourteen] FIFTEEN. Every off-track betting  
45 corporation branch office and every simulcasting facility licensed in  
46 accordance with section one thousand seven that have entered into a  
47 written agreement with such facility's representative horsemen's organ-  
48 ization as approved by the [board] COMMISSION, one thousand eight or one  
49 thousand nine of this article shall be authorized to accept wagers and  
50 display the live full-card simulcast signal of thoroughbred tracks  
51 (which may include quarter horse or mixed meetings provided that all  
52 such wagering on such races shall be construed to be thoroughbred races)  
53 located in another state or foreign country, subject to the following  
54 provisions; provided, however, no such written agreement shall be  
55 required of a franchised corporation licensed in accordance with section  
56 one thousand seven of this article:

1 S 6. The opening paragraph of section 1018 of the racing, pari-mutuel  
2 wagering and breeding law, as amended by section 6 of part U of chapter  
3 59 of the laws of 2013, is amended to read as follows:

4 Notwithstanding any other provision of this chapter, for the period  
5 July twenty-fifth, two thousand one through September eighth, two thou-  
6 sand [thirteen] FOURTEEN, when a franchised corporation is conducting a  
7 race meeting within the state at Saratoga Race Course, every off-track  
8 betting corporation branch office and every simulcasting facility  
9 licensed in accordance with section one thousand seven (that has entered  
10 into a written agreement with such facility's representative horsemen's  
11 organization as approved by the [board] COMMISSION), one thousand eight  
12 or one thousand nine of this article shall be authorized to accept  
13 wagers and display the live simulcast signal from thoroughbred tracks  
14 located in another state, provided that such facility shall accept  
15 wagers on races run at all in-state thoroughbred tracks which are  
16 conducting racing programs subject to the following provisions;  
17 provided, however, no such written agreement shall be required of a  
18 franchised corporation licensed in accordance with section one thousand  
19 seven of this article.

20 S 7. Section 32 of chapter 281 of the laws of 1994, amending the  
21 racing, pari-mutuel wagering and breeding law and other laws relating  
22 to simulcasting, as amended by section 7 of part U of chapter 59 of the  
23 laws of 2013, is amended to read as follows:

24 S 32. This act shall take effect immediately and the pari-mutuel tax  
25 reductions in section six of this act shall expire and be deemed  
26 repealed on July 1, [2014] 2015; provided, however, that nothing  
27 contained herein shall be deemed to affect the application, qualifica-  
28 tion, expiration, or repeal of any provision of law amended by any  
29 section of this act, and such provisions shall be applied or qualified  
30 or shall expire or be deemed repealed in the same manner, to the same  
31 extent and on the same date as the case may be as otherwise provided by  
32 law; provided further, however, that sections twenty-three and twenty-  
33 five of this act shall remain in full force and effect only until May 1,  
34 1997 and at such time shall be deemed to be repealed.

35 S 8. Section 54 of chapter 346 of the laws of 1990, amending the  
36 racing, pari-mutuel wagering and breeding law and other laws relating to  
37 simulcasting and the imposition of certain taxes, as amended by section  
38 8 of part U of chapter 59 of the laws of 2013, is amended to read as  
39 follows:

40 S 54. This act shall take effect immediately; provided, however,  
41 sections three through twelve of this act shall take effect on January  
42 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breed-  
43 ing law, as added by section thirty-eight of this act, shall expire and  
44 be deemed repealed on July 1, [2014] 2015; and section eighteen of this  
45 act shall take effect on July 1, 2008 and sections fifty-one and fifty-  
46 two of this act shall take effect as of the same date as chapter 772 of  
47 the laws of 1989 took effect.

48 S 9. Paragraph (a) of subdivision 1 of section 238 of the racing,  
49 pari-mutuel wagering and breeding law, as amended by section 9 of part U  
50 of chapter 59 of the laws of 2013, is amended to read as follows:

51 (a) The franchised corporation authorized under this chapter to  
52 conduct pari-mutuel betting at a race meeting or races run thereat shall  
53 distribute all sums deposited in any pari-mutuel pool to the holders of  
54 winning tickets therein, provided such tickets be presented for payment  
55 before April first of the year following the year of their purchase,  
56 less an amount which shall be established and retained by such fran-

1 chised corporation of between twelve to seventeen per centum of the  
2 total deposits in pools resulting from on-track regular bets, and four-  
3 teen to twenty-one per centum of the total deposits in pools resulting  
4 from on-track multiple bets and fifteen to twenty-five per centum of the  
5 total deposits in pools resulting from on-track exotic bets and fifteen  
6 to thirty-six per centum of the total deposits in pools resulting from  
7 on-track super exotic bets, plus the breaks. The retention rate to be  
8 established is subject to the prior approval of the [racing and wagering  
9 board] GAMING COMMISSION. Such rate may not be changed more than once  
10 per calendar quarter to be effective on the first day of the calendar  
11 quarter. "Exotic bets" and "multiple bets" shall have the meanings set  
12 forth in section five hundred nineteen of this chapter. "Super exotic  
13 bets" shall have the meaning set forth in section three hundred one of  
14 this chapter. For purposes of this section, a "pick six bet" shall mean  
15 a single bet or wager on the outcomes of six races. The breaks are here-  
16 by defined as the odd cents over any multiple of five for payoffs great-  
17 er than one dollar five cents but less than five dollars, over any  
18 multiple of ten for payoffs greater than five dollars but less than  
19 twenty-five dollars, over any multiple of twenty-five for payoffs great-  
20 er than twenty-five dollars but less than two hundred fifty dollars, or  
21 over any multiple of fifty for payoffs over two hundred fifty dollars.  
22 Out of the amount so retained there shall be paid by such franchised  
23 corporation to the commissioner of taxation and finance, as a reasonable  
24 tax by the state for the privilege of conducting pari-mutuel betting on  
25 the races run at the race meetings held by such franchised corporation,  
26 the following percentages of the total pool for regular and multiple  
27 bets five per centum of regular bets and four per centum of multiple  
28 bets plus twenty per centum of the breaks; for exotic wagers seven and  
29 one-half per centum plus twenty per centum of the breaks, and for super  
30 exotic bets seven and one-half per centum plus fifty per centum of the  
31 breaks. For the period June first, nineteen hundred ninety-five through  
32 September ninth, nineteen hundred ninety-nine, such tax on regular  
33 wagers shall be three per centum and such tax on multiple wagers shall  
34 be two and one-half per centum, plus twenty per centum of the breaks.  
35 For the period September tenth, nineteen hundred ninety-nine through  
36 March thirty-first, two thousand one, such tax on all wagers shall be  
37 two and six-tenths per centum and for the period April first, two thou-  
38 sand one through December thirty-first, two thousand [fourteen] FIFTEEN,  
39 such tax on all wagers shall be one and six-tenths per centum, plus, in  
40 each such period, twenty per centum of the breaks. Payment to the New  
41 York state thoroughbred breeding and development fund by such franchised  
42 corporation shall be one-half of one per centum of total daily on-track  
43 pari-mutuel pools resulting from regular, multiple and exotic bets and  
44 three per centum of super exotic bets provided, however, that for the  
45 period September tenth, nineteen hundred ninety-nine through March thir-  
46 ty-first, two thousand one, such payment shall be six-tenths of one per  
47 centum of regular, multiple and exotic pools and for the period April  
48 first, two thousand one through December thirty-first, two thousand  
49 [fourteen] FIFTEEN, such payment shall be seven-tenths of one per centum  
50 of such pools.

51 S 10. This act shall take effect immediately.



1 Section 1. Clause (H) of subparagraph (ii) of paragraph 1 of subdivi-  
2 sion b of section 1612 of the tax law, as separately amended by chapters  
3 174 and 175 of the laws of 2013, is amended to read as follows:

4 (H) notwithstanding clauses (A), (B), (C), (D), (E), (F) and (G) of  
5 this subparagraph, the track operator of a vendor track shall be eligi-  
6 ble for a vendor's capital award of up to four percent of the total  
7 revenue wagered at the vendor track after payout for prizes pursuant to  
8 this chapter, which shall be used exclusively for capital project  
9 investments to improve the facilities of the vendor track which promote  
10 or encourage increased attendance at the video lottery gaming facility  
11 including, but not limited to hotels, other lodging facilities, enter-  
12 tainment facilities, retail facilities, dining facilities, events  
13 arenas, parking garages and other improvements that enhance facility  
14 amenities; provided that such capital investments shall be approved by  
15 the division, in consultation with the state racing and wagering board,  
16 and that such vendor track demonstrates that such capital expenditures  
17 will increase patronage at such vendor track's facilities and increase  
18 the amount of revenue generated to support state education programs. The  
19 annual amount of such vendor's capital awards that a vendor track shall  
20 be eligible to receive shall be limited to two million five hundred  
21 thousand dollars, except for Aqueduct racetrack, for which there shall  
22 be no vendor's capital awards. Except for tracks having less than one  
23 thousand one hundred video gaming machines, and except for a vendor  
24 track located west of State Route 14 from Sodus Point to the Pennsylv-  
25 ania border within New York, each track operator shall be required to  
26 co-invest an amount of capital expenditure equal to its cumulative  
27 vendor's capital award. For all tracks, except for Aqueduct racetrack,  
28 the amount of any vendor's capital award that is not used during any one  
29 year period may be carried over into subsequent years ending before  
30 April first, two thousand [fourteen] FIFTEEN. Any amount attributable  
31 to a capital expenditure approved prior to April first, two thousand  
32 [fourteen] FIFTEEN and completed before April first, two thousand  
33 [sixteen] SEVENTEEN; or approved prior to April first, two thousand  
34 [eighteen] NINETEEN and completed before April first, two thousand  
35 [twenty] TWENTY-ONE for a vendor track located west of State Route 14  
36 from Sodus Point to the Pennsylvania border within New York, shall be  
37 eligible to receive the vendor's capital award. In the event that a  
38 vendor track's capital expenditures, approved by the division prior to  
39 April first, two thousand [fourteen] FIFTEEN and completed prior to  
40 April first, two thousand [sixteen] SEVENTEEN, exceed the vendor track's  
41 cumulative capital award during the five year period ending April first,  
42 two thousand [fourteen] FIFTEEN, the vendor shall continue to receive  
43 the capital award after April first, two thousand [fourteen] FIFTEEN  
44 until such approved capital expenditures are paid to the vendor track  
45 subject to any required co-investment. In no event shall any vendor  
46 track that receives a vendor fee pursuant to clause (F) or (G) of this  
47 subparagraph be eligible for a vendor's capital award under this  
48 section. Any operator of a vendor track which has received a vendor's  
49 capital award, choosing to divest the capital improvement toward which  
50 the award was applied, prior to the full depreciation of the capital  
51 improvement in accordance with generally accepted accounting principles,  
52 shall reimburse the state in amounts equal to the total of any such  
53 awards. Any capital award not approved for a capital expenditure at a  
54 video lottery gaming facility by April first, two thousand [fourteen]  
55 FIFTEEN shall be deposited into the state lottery fund for education  
56 aid; and

S 2. This act shall take effect immediately.

PART CC

Intentionally Omitted

PART DD

Section 1. Subsection (b) of section 804 of the tax law, as added by section 1 of part C of chapter 25 of the laws of 2009, is amended to read as follows:

(b) Individuals with net earnings from self-employment. Individuals with earnings from self-employment must make estimated tax payments of the tax imposed by this article for the taxable year on the same dates specified in [subsection (a) of this section for the quarterly payments of the tax imposed on the payroll expense of employers] PARAGRAPH ONE OF SUBSECTION (C) OF SECTION SIX HUNDRED EIGHTY-FIVE OF THIS CHAPTER. In addition, these self-employed individuals must file a return for the taxable year by the [thirtieth] FIFTEENTH day of the fourth month following the close of the taxable year. Paragraph one of subsection (d) of section six hundred eighty-five of this chapter shall not apply to the estimated tax payments required by this subsection.

S 2. Section 806 of the tax law, as added by section 1 of part C of chapter 25 of the laws of 2009, is amended to read as follows:

S 806. Procedural provisions. (A) GENERAL. All provisions of article twenty-two of this chapter will apply to the provisions of this article in the same manner and with the same force and effect as if the language of article twenty-two of this chapter had been incorporated in full into this article and had been specifically adjusted for and expressly referred to the tax imposed by this article, except to the extent that any provision is either inconsistent with a provision of this article or is not relevant to this article. Notwithstanding the preceding sentence, no credit against tax in article twenty-two of this chapter can be used to offset the tax due under this article.

(B) COMBINED FILINGS. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ARTICLE:

(1) THE COMMISSIONER MAY REQUIRE THE FILING OF A COMBINED RETURN WHICH, IN ADDITION TO THE RETURN PROVIDED FOR IN SUBSECTION (B) OF SECTION EIGHT HUNDRED FOUR OF THIS ARTICLE, MAY ALSO INCLUDE ANY OF THE RETURNS REQUIRED TO BE FILED BY A RESIDENT INDIVIDUAL OF NEW YORK STATE PURSUANT TO THE PROVISIONS OF SECTION SIX HUNDRED FIFTY-ONE OF THIS CHAPTER AND WHICH MAY BE REQUIRED TO BE FILED BY SUCH INDIVIDUAL PURSUANT TO ANY LOCAL LAW ENACTED PURSUANT TO THE AUTHORITY OF ARTICLE THIRTY, THIRTY-A OR THIRTY-B OF THIS CHAPTER.

(2) WHERE A COMBINED RETURN IS REQUIRED, AND WITH RESPECT TO THE PAYMENT OF ESTIMATED TAX, THE COMMISSIONER MAY ALSO REQUIRE THE PAYMENT TO IT OF A SINGLE AMOUNT WHICH SHALL EQUAL THE TOTAL OF THE AMOUNTS (TOTAL TAXES LESS ANY CREDITS OR REFUNDS) WHICH WOULD HAVE BEEN REQUIRED TO BE PAID WITH THE RETURNS OR IN PAYMENT OF ESTIMATED TAX PURSUANT TO THE PROVISIONS OF THIS ARTICLE, THE PROVISIONS OF ARTICLE TWENTY-TWO OF THIS CHAPTER, AND THE PROVISIONS OF LOCAL LAWS ENACTED UNDER THE AUTHORITY OF ARTICLE THIRTY, THIRTY-A OR THIRTY-B OF THIS CHAPTER.

(3) Notwithstanding any other law to the contrary, the commissioner may require that all filings of forms or returns under this article must

be filed electronically and all payments of tax must be paid electronically.

S 3. The tax law is amended by adding a new section 807 to read as follows:

S 807. ENFORCEMENT WITH OTHER TAXES. (A) JOINT ASSESSMENT. IF THERE IS ASSESSED A TAX UNDER THIS ARTICLE AND THERE IS ALSO ASSESSED A TAX AGAINST THE SAME TAXPAYER PURSUANT TO ARTICLE TWENTY-TWO OF THIS CHAPTER OR UNDER A LOCAL LAW ENACTED PURSUANT TO THE AUTHORITY OF ARTICLE THIRTY, ARTICLE THIRTY-A, OR ARTICLE THIRTY-B OF THIS CHAPTER, AND PAYMENT OF A SINGLE AMOUNT IS REQUIRED UNDER THE PROVISIONS OF THIS ARTICLE, SUCH PAYMENT SHALL BE DEEMED TO HAVE BEEN MADE WITH RESPECT TO THE TAXES SO ASSESSED IN PROPORTION TO THE AMOUNTS OF SUCH TAXES DUE, INCLUDING TAX, PENALTIES, INTEREST AND ADDITIONS TO TAX.

(B) JOINT ACTION. IF THE COMMISSIONER TAKES ACTION UNDER SUCH ARTICLE TWENTY-TWO OR UNDER A LOCAL LAW ENACTED PURSUANT TO THE AUTHORITY OF ARTICLE THIRTY, THIRTY-A, OR THIRTY-B OF THIS CHAPTER WITH RESPECT TO THE ENFORCEMENT AND COLLECTION OF THE TAX OR TAXES ASSESSED UNDER SUCH ARTICLES, THE COMMISSIONER SHALL, WHENEVER POSSIBLE AND NECESSARY, ACCOMPANY SUCH ACTION WITH A SIMILAR ACTION UNDER SIMILAR ENFORCEMENT AND COLLECTION PROVISIONS OF THE TAX IMPOSED BY THIS ARTICLE.

(C) APPORTIONMENT OF MONEYS COLLECTED BY JOINT ACTION. ANY MONEYS COLLECTED AS A RESULT OF SUCH JOINT ACTION SHALL BE DEEMED TO HAVE BEEN COLLECTED IN PROPORTION TO THE AMOUNTS DUE, INCLUDING TAX, PENALTIES, INTEREST AND ADDITIONS TO TAX, UNDER ARTICLE TWENTY-TWO OF THIS CHAPTER OR UNDER A LOCAL LAW ENACTED PURSUANT TO THE AUTHORITY OF ARTICLE THIRTY, THIRTY-A, OR THIRTY-B OF THIS CHAPTER AND THE TAX IMPOSED BY THIS ARTICLE.

(D) JOINT DEFICIENCY ACTION. WHENEVER THE COMMISSIONER TAKES ANY ACTION WITH RESPECT TO A DEFICIENCY OF INCOME TAX UNDER ARTICLE TWENTY-TWO OF THIS CHAPTER OR UNDER A LOCAL LAW ENACTED PURSUANT TO THE AUTHORITY OF ARTICLE THIRTY, THIRTY-A, OR THIRTY-B OF THIS CHAPTER, OTHER THAN THE ACTION SET FORTH IN SUBSECTION (A) OF THIS SECTION, THE COMMISSIONER MAY IN HIS OR HER DISCRETION ACCOMPANY SUCH ACTION WITH A SIMILAR ACTION UNDER THIS ARTICLE.

S 4. This act shall take effect immediately and apply to taxable years beginning on or after January 1, 2015.

#### PART EE

Section 1. Subdivision 4 of section 97-nnnn of the state finance law, as added by chapter 174 of the laws of 2013, is amended to read as follows:

4. a. As used in this section, the term "base year gaming revenue" shall mean the sum of all revenue generated to support education from video lottery gaming as defined by section sixteen hundred seventeen-a of the tax law in the twelve months preceding the operation of any gaming facility pursuant to either article thirteen of the racing, pari-mutuel wagering and breeding law or pursuant to paragraph four of SUBDIVISION A OF section [one thousand six] SIXTEEN hundred seventeen-a of the tax law.

b. Amounts APPROPRIATED OR transferred in any year to support elementary and secondary education shall be calculated as follows:

(i) an amount equal to the positive difference, if any, between the base year gaming revenue amount and the sum of all revenue generated to support education from video lottery gaming as defined by section sixteen hundred seventeen-a of the tax law in the current fiscal year

1 provided that such positive amount, if any, shall be transferred to the  
2 state lottery fund[;]. FOR THE PURPOSES OF THIS PARAGRAPH, THE CALCU-  
3 LATION OF THIS POSITIVE DIFFERENCE SHALL BE ESTIMATED AND TRANSFERRED  
4 MONTHLY BASED ON THE CUMULATIVE POSITIVE DIFFERENCE, IF ANY, IN THE SAME  
5 CUMULATIVE MONTHS OF THE BASE YEAR AND THE CUMULATIVE MONTHS OF THE  
6 CURRENT FISCAL YEAR TO DATE, LESS AMOUNTS PREVIOUSLY TRANSFERRED IN THE  
7 CURRENT FISCAL YEAR. PROVIDED, HOWEVER, IF THE AMOUNT PREVIOUSLY TRANS-  
8 FERRED IN THE CURRENT FISCAL YEAR EXCEEDS THE CUMULATIVE POSITIVE  
9 DIFFERENCE, AN AMOUNT EQUAL TO THE EXCESS TRANSFERRED MAY BE TRANSFERRED  
10 BACK FROM THE STATE LOTTERY FUND; and

11 (ii) the amount of revenue collected [in the prior state fiscal year,]  
12 to be distributed pursuant to paragraph a of subdivision three of this  
13 section, and in excess of any amounts transferred pursuant to subpara-  
14 graph (i) of this paragraph [in such prior fiscal year], if any.

15 c. Notwithstanding any provision of law to the contrary, amounts  
16 appropriated or transferred from the commercial gaming revenue fund  
17 pursuant to subparagraph (ii) of this paragraph shall not be included  
18 in: (i) the allowable growth amount computed pursuant to paragraph dd of  
19 subdivision one of section thirty-six hundred two of the education law,  
20 (ii) the preliminary growth amount computed pursuant to paragraph ff of  
21 subdivision one of section thirty-six hundred two of the education law,  
22 and (iii) the allocable growth amount computed pursuant to paragraph gg  
23 of subdivision one of section thirty-six hundred two of the education  
24 law.

25 S 2. Subdivision 5 of section 97-nnnn of the state finance law, as  
26 added by chapter 174 of the laws of 2013, is amended to read as follows:

27 5. Notwithstanding the foregoing, monies received pursuant to:

28 a. sections one thousand three hundred forty-five and one thousand  
29 three hundred forty-eight of [this article] THE RACING, PARI-MUTUEL  
30 WAGERING AND BREEDING LAW shall be exclusively appropriated to the  
31 office of alcoholism and substance abuse services to be used for problem  
32 gambling education and treatment purposes.

33 b. section one thousand three hundred forty-nine of [this article] THE  
34 RACING, PARI-MUTUEL WAGERING AND BREEDING LAW shall be exclusively  
35 appropriated to the commission for regulatory investigations.

36 c. section one thousand three hundred fifty of [this article] THE  
37 RACING, PARI-MUTUEL WAGERING AND BREEDING LAW shall be exclusively  
38 appropriated to the commission for costs regulation.

39 S 3. Subdivisions (b) and (c) of section 52 of chapter 174 of the laws  
40 of 2013 enacting the upstate New York gaming economic development act of  
41 2013, are amended to read as follows:

42 (b) sections six, seven, fourteen and sixteen of this act shall take  
43 effect on the same date as the agreement between the Oneida Nation of  
44 New York and the state of New York entered into on the sixteenth day of  
45 May, 2013 takes effect; provided, further, that the amendments to subdi-  
46 vision 2 of section 99-h of the state finance law made by section six of  
47 this act shall take effect on the same date as the reversion of such  
48 section as provided in section 2 of chapter 747 of the laws of 2006, as  
49 amended; provided, further, that the amendments to subdivision 3 of  
50 section 99-h of the state finance law made by section seven of this act  
51 shall be subject to the expiration and reversion of such subdivision as  
52 provided in section 3 of part W of chapter 60 of the laws of 2011, as  
53 amended when upon such date the provisions of section seven-a of this  
54 act shall take effect; provided, further, that the amendments to subdi-  
55 vision 3 of section 99-h of the state finance law made by section  
56 seven-a of this act shall be subject to the the expiration and reversion

1 of such section as provided in section 2 of chapter 747 of the laws of  
2 2006, as amended when upon such date the provisions of section eight of  
3 this act shall take effect; [provided, further, however, that the amend-  
4 ment to section 99-h of the state finance law made by section nine of  
5 this act shall not affect the expiration of such section and shall be  
6 deemed repealed therewith;] provided, further, that the state gaming  
7 commission shall notify the legislative bill drafting commission upon  
8 the occurrence of such agreement between the Oneida Nation and the state  
9 of New York becoming effective in order that the commission may maintain  
10 an accurate and timely effective data base of the official text of the  
11 laws of the state of New York in furtherance of effecting the provisions  
12 of section 44 of the legislative law and section 70-b of the public  
13 officers law;

14 (c) section [1368] 1367 of the racing, pari-mutuel wagering and breed-  
15 ing law, as added by section two of this act, shall take effect upon a  
16 change in federal law authorizing the activity permitted by such section  
17 or upon a ruling by a court of competent jurisdiction that such activity  
18 is lawful. The state gaming commission shall notify the legislative bill  
19 drafting commission upon the occurrence of the change in federal law or  
20 upon the ruling of a court of competent jurisdiction in order that the  
21 commission may maintain an accurate and timely effective data base of  
22 the official text of the laws of the state of New York in furtherance of  
23 effecting the provisions of section 44 of the legislative law and  
24 section 70-b of the public officers law;

25 S 4. Subdivision 3-a of section 99-h of the state finance law, as  
26 added by chapter 174 of the laws of 2013, is amended to read as follows:

27 3-a. Ten percent of any of the funds actually received by the state  
28 pursuant to the tribal-state compacts and agreements described in subdi-  
29 vision two of this section [that are retained in the fund after the  
30 distributions required by subdivision three of this section, but] prior  
31 to the transfer of unsegregated moneys to the general fund required by  
32 such subdivision, shall be distributed to counties in each respective  
33 exclusivity zone provided they do not otherwise receive a share of said  
34 revenues pursuant to this section. Such distribution shall be made among  
35 such counties on a per capita basis, excluding the population of any  
36 municipality that receives a distribution pursuant to subdivision three  
37 of this section.

38 S 5. Subdivision g of section 1617-a of the tax law, as added by chap-  
39 ter 174 of the laws of 2013, is amended to read as follows:

40 g. Every video lottery gaming license, and every renewal license,  
41 shall be valid for a period of five years, except that video gaming  
42 licenses issued before the effective date of this subdivision shall be  
43 for a term expiring on THE APPLICANT'S NEXT BIRTHDAY FOLLOWING June  
44 thirtieth, two thousand fourteen.

45 The gaming commission may decline to renew any license after notice  
46 and an opportunity for hearing if it determines that:

47 (1) the licensee has violated section one thousand six hundred seven  
48 of this article;

49 (2) the licensee has violated any rule, regulation or order of the  
50 gaming commission;

51 (3) the applicant or its officers, directors or significant stockhold-  
52 ers, as determined by the gaming commission, have been convicted of a  
53 crime involving moral turpitude; or

54 (4) that the character or fitness of the licensee and its officers,  
55 directors, and significant stockholders, as determined by the gaming  
56 commission is such that the participation of the applicant in video

1 lottery gaming or related activities would be inconsistent with the  
2 public interest, convenience or necessity or with the best interests of  
3 video gaming generally.

4 S 6. This act shall take effect immediately; provided, that section  
5 one of this act shall take effect April 1, 2015; provided, further, that  
6 the amendments made to section three of this act shall be deemed to have  
7 taken effect on the same date and in the same manner as chapter 174 of  
8 the laws of 2013.

9

PART FF

10 Section 1. Subsections (yy) and (zz) of section 606 of the tax law, as  
11 relettered by section 5 of part H of chapter 1 of the laws of 2003, are  
12 relettered (yyy) and (zzz) and a new subsection (bbb) is added to read  
13 as follows:

14 (BBB) REAL PROPERTY TAX FREEZE CREDIT. (1) AS USED IN THIS SUBSECTION:

15 (A) THE TERM "FREEZE-COMPLIANT BUDGET" MEANS A BUDGET OF A TAXING  
16 JURISDICTION THAT HAS MET THE REQUIREMENTS OF SECTION TWO THOUSAND TWEN-  
17 TY-THREE-B OF THE EDUCATION LAW OR SECTION THREE-D OF THE GENERAL MUNIC-  
18 IPAL LAW, WHICHEVER IS APPLICABLE.

19 (B) THE TERMS "INDEPENDENT SPECIAL DISTRICT" AND "DEPENDENT SCHOOL  
20 DISTRICT" HAVE THE SAME MEANING AS SET FORTH IN SECTION THREE-D OF THE  
21 GENERAL MUNICIPAL LAW.

22 (C) THE TERM "STAR EXEMPTION" MEANS THE SCHOOL TAX RELIEF EXEMPTION  
23 AUTHORIZED BY SECTION FOUR HUNDRED TWENTY-FIVE OF THE REAL PROPERTY TAX  
24 LAW.

25 (D) THE TERM "TAXING JURISDICTION" MEANS A COUNTY, CITY, TOWN,  
26 VILLAGE, SCHOOL DISTRICT OR AN INDEPENDENT SPECIAL DISTRICT, EXCEPT THAT  
27 SUCH TERM SHALL NOT INCLUDE A CITY WITH A POPULATION OF ONE MILLION OR  
28 MORE, NOR SHALL IT INCLUDE A COUNTY WHOLLY LOCATED WITHIN SUCH A CITY.

29 (E) THE TERM "LEVY CREDIT FACTOR" MEANS THE ALLOWABLE LEVY GROWTH  
30 FACTOR FOR A TAXING JURISDICTION, AS DETERMINED PURSUANT TO SECTION  
31 THREE-C OF THE GENERAL MUNICIPAL LAW OR SECTION TWO THOUSAND  
32 TWENTY-THREE-A OF THE EDUCATION LAW, MINUS ONE.

33 (2) AN INDIVIDUAL TAXPAYER WHO MEETS THE ELIGIBILITY STANDARDS SET  
34 FORTH IN PARAGRAPH THREE OF THIS SUBSECTION AND WHOSE PRIMARY RESIDENCE  
35 IS LOCATED IN A TAXING JURISDICTION THAT HAS A FREEZE-COMPLIANT BUDGET  
36 FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN, TWO THOUSAND  
37 FIFTEEN OR TWO THOUSAND SIXTEEN, WHICHEVER IS APPLICABLE, SHALL BE  
38 ALLOWED A CREDIT AGAINST THE TAXES IMPOSED BY THIS ARTICLE. SUBJECT TO  
39 THE PROVISIONS OF PARAGRAPH SIX OF THIS SUBSECTION, SUCH CREDIT SHALL BE  
40 DETERMINED AS FOLLOWS:

41 (A) IF A SCHOOL DISTRICT OTHER THAN A DEPENDENT SCHOOL DISTRICT HAS A  
42 FREEZE-COMPLIANT BUDGET FOR ITS FISCAL YEAR STARTING IN TWO THOUSAND  
43 FOURTEEN, A CREDIT SHALL BE ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO  
44 THOUSAND FOURTEEN TAXABLE YEAR IN THE AMOUNT THAT IS THE GREATER OF (I)  
45 THE AMOUNT BY WHICH THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE  
46 BY OR ON BEHALF OF THAT SCHOOL DISTRICT FOR THE FISCAL YEAR STARTING IN  
47 TWO THOUSAND FOURTEEN EXCEEDS THE REAL PROPERTY TAXES SO IMPOSED FOR THE  
48 FISCAL YEAR STARTING IN TWO THOUSAND THIRTEEN, OR (II) THE PRODUCT OF  
49 THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF  
50 THAT SCHOOL DISTRICT FOR THE FISCAL YEAR STARTING IN TWO THOUSAND THIR-  
51 TEEN MULTIPLIED BY THE LEVY CREDIT FACTOR FOR THAT SCHOOL DISTRICT FOR  
52 THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN.

53 (B) IF A TAXING JURISDICTION, OTHER THAN A SCHOOL DISTRICT OR A CITY  
54 WITH A DEPENDENT SCHOOL DISTRICT, HAS A FREEZE-COMPLIANT BUDGET FOR ITS

1 FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN, A CREDIT SHALL BE ALLOWED  
2 FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND FIFTEEN TAXABLE YEAR IN THE  
3 AMOUNT THAT IS THE GREATER OF (I) THE AMOUNT BY WHICH THE REAL PROPERTY  
4 TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF THAT TAXING JURIS-  
5 DICTION FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN EXCEEDS THE  
6 REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING IN TWO THOU-  
7 SAND FOURTEEN, OR (II) THE PRODUCT OF THE REAL PROPERTY TAXES IMPOSED  
8 UPON SUCH RESIDENCE BY OR ON BEHALF OF THAT TAXING JURISDICTION FOR THE  
9 FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN MULTIPLIED BY THE LEVY  
10 CREDIT FACTOR FOR THAT TAXING JURISDICTION FOR THE FISCAL YEAR STARTING  
11 IN TWO THOUSAND FIFTEEN.

12 (C) IF A SCHOOL DISTRICT OTHER THAN A DEPENDENT SCHOOL DISTRICT HAS A  
13 FREEZE-COMPLIANT BUDGET FOR ITS FISCAL YEAR STARTING IN TWO THOUSAND  
14 FIFTEEN, A CREDIT SHALL BE ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOU-  
15 SAND FIFTEEN TAXABLE YEAR IN THE AMOUNT BY WHICH THE REAL PROPERTY TAXES  
16 IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF SUCH SCHOOL DISTRICT FOR  
17 THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN EXCEEDS THE REAL PROP-  
18 ERTY TAXES SO IMPOSED FOR THE FISCAL YEAR IDENTIFIED AS FOLLOWS:

19 (I) IF THE SCHOOL DISTRICT'S BUDGET FOR THE FISCAL YEAR STARTING IN  
20 TWO THOUSAND FOURTEEN WAS A FREEZE-COMPLIANT BUDGET, A CREDIT SHALL BE  
21 ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND FIFTEEN TAXABLE YEAR IN  
22 THE AMOUNT OF THE CREDIT FOR SCHOOL DISTRICT TAXES ALLOWED FOR THE  
23 ELIGIBLE TAXPAYER'S TWO THOUSAND FOURTEEN TAXABLE YEAR; TOGETHER WITH  
24 THE AMOUNT THAT IS THE GREATER OF (I) THE AMOUNT BY WHICH THE REAL PROP-  
25 ERTY TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF THAT SCHOOL  
26 DISTRICT FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN EXCEEDS  
27 THE REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING IN TWO  
28 THOUSAND FOURTEEN, OR (II) THE PRODUCT OF THE REAL PROPERTY TAXES  
29 IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF SUCH SCHOOL DISTRICT FOR  
30 THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN MULTIPLIED BY THE LEVY  
31 CREDIT FACTOR FOR THAT SCHOOL DISTRICT FOR THE FISCAL YEAR STARTING IN  
32 TWO THOUSAND FIFTEEN.

33 (II) IF THE SCHOOL DISTRICT'S BUDGET FOR THE FISCAL YEAR STARTING IN  
34 TWO THOUSAND FOURTEEN WAS NOT A FREEZE-COMPLIANT BUDGET, A CREDIT SHALL  
35 BE ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND FIFTEEN TAXABLE YEAR  
36 IN THE AMOUNT THAT IS THE GREATER OF (I) THE AMOUNT BY WHICH THE REAL  
37 PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF THAT  
38 SCHOOL DISTRICT FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN  
39 EXCEEDS THE REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING  
40 IN TWO THOUSAND FOURTEEN, OR (II) THE PRODUCT OF THE REAL PROPERTY TAXES  
41 IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF SUCH SCHOOL DISTRICT FOR  
42 THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN MULTIPLIED BY THE LEVY  
43 CREDIT FACTOR FOR SUCH SCHOOL DISTRICT FOR THE FISCAL YEAR STARTING IN  
44 TWO THOUSAND FIFTEEN.

45 (D) IF A TAXING JURISDICTION, OTHER THAN A SCHOOL DISTRICT OR A CITY  
46 WITH A DEPENDENT SCHOOL DISTRICT, HAS A FREEZE-COMPLIANT BUDGET FOR ITS  
47 FISCAL YEAR STARTING IN TWO THOUSAND SIXTEEN:

48 (I) IF THE TAXING JURISDICTION'S BUDGET FOR THE FISCAL YEAR STARTING  
49 IN TWO THOUSAND FIFTEEN WAS A FREEZE-COMPLIANT BUDGET, A CREDIT SHALL BE  
50 ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND SIXTEEN TAXABLE YEAR IN  
51 THE AMOUNT OF THE CREDIT FOR THE TAXES IMPOSED BY OR ON BEHALF OF SUCH  
52 TAXING JURISDICTION ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND  
53 FIFTEEN TAXABLE YEAR; TOGETHER WITH THE AMOUNT THAT IS THE GREATER OF  
54 (I) THE AMOUNT BY WHICH THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESI-  
55 DENCE BY OR ON BEHALF OF SUCH TAXING JURISDICTION FOR THE FISCAL YEAR  
56 STARTING IN TWO THOUSAND SIXTEEN EXCEEDS THE REAL PROPERTY TAXES IMPOSED

1 UPON SUCH RESIDENCE BY OR ON BEHALF OF THAT TAXING JURISDICTION FOR THE  
2 FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN, OR (II) THE PRODUCT OF THE  
3 REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF SUCH  
4 TAXING JURISDICTION FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN  
5 MULTIPLIED BY THE LEVY CREDIT FACTOR FOR SUCH TAXING JURISDICTION FOR  
6 THE FISCAL YEAR STARTING IN TWO THOUSAND SIXTEEN.

7 (II) IF THE TAXING JURISDICTION'S BUDGET FOR THE FISCAL YEAR STARTING  
8 IN TWO THOUSAND FIFTEEN WAS NOT A FREEZE-COMPLIANT BUDGET, A CREDIT  
9 SHALL BE ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND SIXTEEN TAXA-  
10 BLE YEAR IN THE AMOUNT THAT IS THE GREATER OF (I) THE AMOUNT BY WHICH  
11 THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF  
12 SUCH TAXING JURISDICTION FOR THE FISCAL YEAR STARTING IN TWO THOUSAND  
13 SIXTEEN EXCEEDS THE REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR  
14 STARTING IN TWO THOUSAND FIFTEEN, OR (II) THE PRODUCT OF THE REAL PROP-  
15 erty taxes imposed upon such residence by or on behalf of such taxing  
16 jurisdiction for the fiscal year starting in two thousand fifteen multi-  
17 plied by the levy credit factor for such taxing jurisdiction for the  
18 fiscal year starting in two thousand sixteen.

19 (E) IF A CITY WITH A DEPENDENT SCHOOL DISTRICT HAS A FREEZE-COMPLIANT  
20 BUDGET FOR ITS FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN, A TAX  
21 CREDIT SHALL BE ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND FOUR-  
22 TEEN TAXABLE YEAR IN THE AMOUNT EQUIVALENT TO SIXTY-SEVEN PERCENT OF THE  
23 AMOUNT THAT IS THE GREATER OF (I) THE AMOUNT BY WHICH THE REAL PROPERTY  
24 TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF THAT CITY FOR THE  
25 FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN EXCEEDS THE REAL PROPERTY  
26 TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING IN TWO THOUSAND THIRTEEN,  
27 OR (II) THE PRODUCT OF THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESI-  
28 DENCE BY OR ON BEHALF OF SUCH CITY FOR THE FISCAL YEAR STARTING IN TWO  
29 THOUSAND THIRTEEN MULTIPLIED BY THE LEVY CREDIT FACTOR FOR SUCH CITY FOR  
30 THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN.

31 (F) IF A CITY WITH A DEPENDENT SCHOOL DISTRICT HAS A FREEZE-COMPLIANT  
32 BUDGET FOR ITS FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN:

33 (I) IF THE CITY'S BUDGET FOR THE FISCAL YEAR STARTING IN TWO THOUSAND  
34 FOURTEEN WAS A FREEZE-COMPLIANT BUDGET, A CREDIT SHALL BE ALLOWED FOR  
35 THE ELIGIBLE TAXPAYER'S TWO THOUSAND FIFTEEN TAXABLE YEAR IN AN AMOUNT  
36 EQUIVALENT TO THIRTY-THREE PERCENT OF THE AMOUNT THAT IS THE GREATER OF  
37 (I) THE AMOUNT BY WHICH THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESI-  
38 DENCE BY THAT CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN  
39 EXCEEDS THE REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING  
40 IN TWO THOUSAND THIRTEEN, OR (II) THE PRODUCT OF THE REAL PROPERTY TAXES  
41 IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF SUCH CITY FOR THE FISCAL  
42 YEAR STARTING IN TWO THOUSAND THIRTEEN MULTIPLIED BY THE LEVY CREDIT  
43 FACTOR FOR SUCH CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FOUR-  
44 TEEN; TOGETHER WITH THE AMOUNT OF THE CREDIT FOR THE TAXES IMPOSED BY OR  
45 ON BEHALF OF SUCH CITY ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND  
46 FOURTEEN TAXABLE YEAR; AND TOGETHER WITH AN AMOUNT EQUIVALENT TO SIXTY-  
47 SEVEN PERCENT OF THE AMOUNT THAT IS THE GREATER OF (I) THE AMOUNT BY  
48 WHICH THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY THAT CITY  
49 FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN EXCEEDS THE REAL  
50 PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING IN TWO THOUSAND  
51 FOURTEEN; OR (II) THE PRODUCT OF THE REAL PROPERTY TAXES IMPOSED UPON  
52 SUCH RESIDENCE BY OR ON BEHALF OF SUCH CITY FOR THE FISCAL YEAR STARTING  
53 IN TWO THOUSAND FOURTEEN MULTIPLIED BY THE LEVY CREDIT FACTOR FOR SUCH  
54 CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN; AND A CREDIT  
55 SHALL BE ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND SIXTEEN TAXA-  
56 BLE YEAR IN AN AMOUNT EQUIVALENT TO THIRTY-THREE PERCENT OF THE AMOUNT



1 THAT IS THE GREATER OF (I) THE AMOUNT BY WHICH THE REAL PROPERTY TAXES  
2 IMPOSED UPON SUCH RESIDENCE BY THAT CITY FOR THE FISCAL YEAR STARTING IN  
3 TWO THOUSAND FIFTEEN EXCEEDS THE REAL PROPERTY TAXES SO IMPOSED FOR THE  
4 FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN, OR (II) THE PRODUCT OF  
5 THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF  
6 SUCH CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN MULTI-  
7 PLIED BY THE LEVY CREDIT FACTOR FOR SUCH CITY FOR THE FISCAL YEAR START-  
8 ING IN TWO THOUSAND FIFTEEN; TOGETHER WITH AN AMOUNT EQUIVALENT TO 49.25  
9 PERCENT OF THE AMOUNT OF THE CREDIT FOR THE TAXES IMPOSED BY OR ON  
10 BEHALF OF SUCH CITY ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND  
11 FOURTEEN TAXABLE YEAR.

12 (II) IF THE CITY'S BUDGET FOR THE FISCAL YEAR STARTING IN TWO THOUSAND  
13 FOURTEEN WAS NOT A FREEZE-COMPLIANT BUDGET, A CREDIT SHALL BE ALLOWED  
14 FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND FIFTEEN TAXABLE YEAR IN AN  
15 AMOUNT EQUIVALENT TO SIXTY-SEVEN PERCENT OF THE AMOUNT THAT IS THE  
16 GREATER OF (I) THE AMOUNT BY WHICH THE REAL PROPERTY TAXES IMPOSED UPON  
17 SUCH RESIDENCE BY THAT CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND  
18 FIFTEEN EXCEEDS THE REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR  
19 STARTING IN TWO THOUSAND FOURTEEN OR (II) THE PRODUCT OF THE REAL PROP-  
20 ERTY TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF SUCH CITY FOR  
21 THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN MULTIPLIED BY THE LEVY  
22 CREDIT FACTOR FOR SUCH CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND  
23 FIFTEEN; AND A CREDIT SHALL BE ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO  
24 THOUSAND SIXTEEN TAXABLE YEAR IN AN AMOUNT EQUIVALENT TO THIRTY-THREE  
25 PERCENT OF THE AMOUNT THAT IS THE GREATER OF (I) THE AMOUNT BY WHICH THE  
26 REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY THAT CITY FOR THE  
27 FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN EXCEEDS THE REAL PROPERTY  
28 TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN  
29 OR (II) THE PRODUCT OF THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESI-  
30 DENCE BY OR ON BEHALF OF SUCH CITY FOR THE FISCAL YEAR STARTING IN TWO  
31 THOUSAND FOURTEEN MULTIPLIED BY THE LEVY CREDIT FACTOR FOR SUCH CITY FOR  
32 THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN.

33 (G) IF A CITY WITH A DEPENDENT SCHOOL DISTRICT HAS A FREEZE-COMPLIANT  
34 BUDGET FOR ITS FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN BUT DOES  
35 NOT HAVE A FREEZE-COMPLIANT BUDGET FOR ITS FISCAL YEAR STARTING IN TWO  
36 THOUSAND FIFTEEN, A TAX CREDIT SHALL BE ALLOWED FOR THE ELIGIBLE TAXPAY-  
37 ER'S TWO THOUSAND FIFTEEN TAXABLE YEAR AN AMOUNT REPRESENTING  
38 THIRTY-THREE PERCENT OF THE AMOUNT THAT IS THE GREATER OF (I) THE AMOUNT  
39 BY WHICH THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY THAT  
40 CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN EXCEEDS THE  
41 REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING IN TWO THOU-  
42 SAND THIRTEEN OR (II) THE PRODUCT OF THE REAL PROPERTY TAXES IMPOSED  
43 UPON SUCH RESIDENCE BY OR ON BEHALF OF SUCH CITY FOR THE FISCAL YEAR  
44 STARTING IN TWO THOUSAND THIRTEEN MULTIPLIED BY THE LEVY CREDIT FACTOR  
45 FOR SUCH CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN.

46 (3) TO BE ELIGIBLE FOR SUCH CREDIT, THE TAXPAYER (OR TAXPAYERS FILING  
47 JOINT RETURNS) MUST MEET THE FOLLOWING CRITERIA:

48 (A) FOR THE TWO THOUSAND FOURTEEN TAXABLE YEAR, THE TAXPAYER'S PRIMARY  
49 RESIDENCE MUST HAVE QUALIFIED FOR THE STAR EXEMPTION FOR THE TWO THOU-  
50 SAND FOURTEEN--TWO THOUSAND FIFTEEN SCHOOL YEAR, OR WOULD HAVE SO QUALI-  
51 FIED IF AN APPLICATION FOR SUCH EXEMPTION HAD BEEN SUBMITTED IN A TIMELY  
52 MANNER.

53 (B) FOR THE TWO THOUSAND FIFTEEN TAXABLE YEAR, THE TAXPAYER'S PRIMARY  
54 RESIDENCE MUST HAVE QUALIFIED FOR THE STAR EXEMPTION FOR THE TWO THOU-  
55 SAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL YEAR, OR WOULD HAVE SO QUALI-

1 FIED IF AN APPLICATION FOR SUCH EXEMPTION HAD BEEN SUBMITTED IN A TIMELY  
2 MANNER.

3 (C) FOR THE TWO THOUSAND SIXTEEN TAXABLE YEAR, THE TAXPAYER'S PRIMARY  
4 RESIDENCE MUST HAVE QUALIFIED FOR THE STAR EXEMPTION FOR THE TWO THOU-  
5 SAND SIXTEEN--TWO THOUSAND SEVENTEEN SCHOOL YEAR, OR WOULD HAVE SO QUAL-  
6 IFIED IF AN APPLICATION FOR SUCH EXEMPTION HAD BEEN SUBMITTED IN A TIME-  
7 LY MANNER.

8 (4) FOR EACH YEAR THIS CREDIT IS ALLOWED, THE COMMISSIONER SHALL  
9 DETERMINE THE TAXPAYER'S ELIGIBILITY FOR THIS CREDIT UTILIZING THE  
10 INFORMATION AVAILABLE TO THE COMMISSIONER. WHEN THE COMMISSIONER HAS  
11 DETERMINED A TAXPAYER TO BE ELIGIBLE FOR THIS CREDIT, THE COMMISSIONER  
12 SHALL ADVANCE A PAYMENT OF THE AMOUNT DETERMINED IN ACCORDANCE WITH THIS  
13 SUBSECTION. THE TAXPAYER SHALL NOT APPLY FOR SUCH CREDIT IN CONJUNCTION  
14 WITH THE FILING OF HIS OR HER RETURN. A TAXPAYER WHO HAS FAILED TO  
15 RECEIVE AN ADVANCE PAYMENT THAT HE OR SHE BELIEVES WAS DUE TO HIM OR  
16 HER, OR WHO HAS RECEIVED AN ADVANCE PAYMENT THAT HE OR SHE BELIEVES IS  
17 LESS THAN THE AMOUNT THAT WAS DUE TO HIM OR HER, MAY REQUEST PAYMENT OF  
18 THE CLAIMED DEFICIENCY IN A MANNER PRESCRIBED BY THE COMMISSIONER.

19 (5) IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION, IF ANY,  
20 SHALL EXCEED THE TAXPAYER'S TAX FOR THE TAXABLE YEAR, THE EXCESS SHALL  
21 BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN  
22 ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS  
23 ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

24 (6) THE FOLLOWING PROVISIONS SHALL APPLY TO THE CALCULATION OF THE  
25 CREDIT PURSUANT TO PARAGRAPH TWO OF THIS SUBSECTION:

26 (A) IF THE TAX BILL PERTAINING TO THE ELIGIBLE TAXPAYER'S PRIMARY  
27 RESIDENCE INCLUDES TAXES LEVIED BY OR ON BEHALF OF MULTIPLE TAXING  
28 JURISDICTIONS, THE CREDIT SHALL BE BASED UPON THE CHANGE IN THE AGGRE-  
29 GATE TAX LIABILITY OF SUCH RESIDENCE, PROVIDED THAT ANY TAX APPEARING ON  
30 THE TAX BILL THAT IS NOT ATTRIBUTABLE TO A FREEZE-COMPLIANT BUDGET SHALL  
31 BE DISREGARDED WHEN DETERMINING THE AGGREGATE TAX LIABILITY OF SUCH  
32 RESIDENCE.

33 (B) IF THE TAX BILL PERTAINING TO THE ELIGIBLE TAXPAYER'S PRIMARY  
34 RESIDENCE INCLUDES RELEVIED TAXES OR OTHER TAXES THAT WERE PREVIOUSLY  
35 BILLED BUT NOT PAID, THOSE TAXES SHALL BE DISREGARDED WHEN DETERMINING  
36 THE AGGREGATE TAX LIABILITY OF SUCH RESIDENCE.

37 (C) IF THE TAX BILL PERTAINING TO THE ELIGIBLE TAXPAYER'S PRIMARY  
38 RESIDENCE INCLUDES USAGE CHARGES, UNIT CHARGES OR OTHER CHARGES THAT ARE  
39 BASED UPON THE CONSUMPTION OF A SERVICE, THOSE CHARGES SHALL BE DISRE-  
40 GARDED WHEN DETERMINING THE AGGREGATE TAX LIABILITY OF SUCH RESIDENCE.

41 (D) NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS SUBSECTION, NO  
42 CREDIT SHALL BE ALLOWED TO THE EXTENT THAT THE TAX LIABILITY OF THE  
43 ELIGIBLE TAXPAYER'S PRIMARY RESIDENCE INCREASED DUE TO ONE OR MORE OF  
44 THE FOLLOWING EVENTS:

45 (I) A PHYSICAL IMPROVEMENT TO THE ELIGIBLE TAXPAYER'S PRIMARY RESI-  
46 DENCE.

47 (II) A REMOVAL OR REDUCTION OF AN EXEMPTION ON THE ELIGIBLE TAXPAYER'S  
48 PRIMARY RESIDENCE, INCLUDING A REDUCTION OF THE STAR EXEMPT AMOUNT  
49 CALCULATED PURSUANT TO SUBDIVISION TWO OF SECTION FOUR HUNDRED  
50 TWENTY-FIVE OF THE REAL PROPERTY TAX LAW.

51 (III) A REVALUATION THAT CAUSED THE ASSESSMENT OF THE ELIGIBLE TAXPAY-  
52 ER'S PRIMARY RESIDENCE TO INCREASE BY A PERCENTAGE THAT IS GREATER THAN  
53 THE APPLICABLE CHANGE IN LEVEL OF ASSESSMENT. AS USED HEREIN, THE TERMS  
54 "REVALUATION" AND "CHANGE IN LEVEL OF ASSESSMENT" SHALL HAVE THE SAME  
55 MEANINGS AS SET FORTH IN SECTIONS ONE HUNDRED TWO AND TWELVE HUNDRED  
56 TWENTY OF THE REAL PROPERTY TAX LAW, RESPECTIVELY.

(E) IN THE CASE OF PROPERTY CONSISTING OF A COOPERATIVE APARTMENT CORPORATION THAT IS DESCRIBED BY PARAGRAPH (K) OF SUBDIVISION TWO OF SECTION FOUR HUNDRED TWENTY-FIVE OF THE REAL PROPERTY TAX LAW, AN ELIGIBLE OWNER SHALL BE ALLOWED A CREDIT IN THE AMOUNT EQUAL TO SIXTY PERCENT OF THE AVERAGE TAX CREDIT IN THAT TAXING JURISDICTION FOR THAT FISCAL YEAR, AS DETERMINED BY THE COMMISSIONER, OR IN THE CASE OF A COOPERATIVE APARTMENT CORPORATION THAT IS DESCRIBED BY SUBPARAGRAPH (IV) OF PARAGRAPH (K) OF SUBDIVISION TWO OF SECTION FOUR HUNDRED TWENTY-FIVE OF THE REAL PROPERTY TAX LAW, A CREDIT OF TWENTY PERCENT OF SUCH AVERAGE TAX CREDIT.

(F) IN THE CASE OF PROPERTY CONSISTING OF A MOBILE HOME THAT IS DESCRIBED BY PARAGRAPH (L) OF SUBDIVISION TWO OF SECTION FOUR HUNDRED TWENTY-FIVE OF THE REAL PROPERTY TAX LAW, AN ELIGIBLE OWNER SHALL BE ALLOWED A CREDIT IN THE AMOUNT EQUAL TO TWENTY-FIVE PERCENT OF THE AVERAGE TAX CREDIT IN THAT TAXING JURISDICTION FOR THAT FISCAL YEAR, AS DETERMINED BY THE COMMISSIONER.

(G) IN THE CASE OF A CITY WITH A DEPENDENT SCHOOL DISTRICT, IT SHALL BE PRESUMED THAT SIXTY-SEVEN PERCENT OF THE CITY TAX BILL IS FOR SCHOOL DISTRICT PURPOSES AND THAT THIRTY-THREE PERCENT IS FOR GENERAL CITY PURPOSES.

(H) THE AMOUNT OF THE CREDIT SHALL BE ROUNDED TO THE NEAREST DOLLAR, EXCEPT WHERE SUCH AMOUNT IS GREATER THAN ZERO AND LESS THAN ONE DOLLAR AND FIFTY CENTS, IN WHICH CASE THE AMOUNT OF THE CREDIT SHALL BE ROUNDED UP TO TWO DOLLARS.

(7) NO CREDIT SHALL BE ALLOWED UNDER THIS SUBSECTION IN RELATION TO PROPERTY LOCATED WITHIN A CITY WITH A POPULATION OF ONE MILLION OR MORE.

S 2. The education law is amended by adding a new section 2023-b to read as follows:

S 2023-B. CERTIFICATION OF COMPLIANCE WITH PROPERTY TAX FREEZE REQUIREMENTS. A SCHOOL DISTRICT THAT IS SUBJECT TO THE PROVISIONS OF SECTION TWO THOUSAND TWENTY-THREE-A OF THIS PART MUST COMPLY WITH THE REQUIREMENTS OF SUBDIVISION TWO OF THIS SECTION IN ORDER TO RENDER ITS TAXPAYERS ELIGIBLE FOR THE REAL PROPERTY TAX FREEZE CREDIT AUTHORIZED BY SUBSECTION (BBB) OF SECTION SIX HUNDRED SIX OF THE TAX LAW FOR A FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN. THE PROPERTY TAX CUTS WILL BE EXTENDED FOR A SECOND YEAR IN JURISDICTIONS WHICH COMPLY WITH THE TAX CAP AND HAVE A STATE APPROVED GOVERNMENT EFFICIENCY PLAN WHICH DEMONSTRATE THREE YEAR SAVINGS AND EFFICIENCIES OF AT LEAST ONE PERCENT PER YEAR FROM SHARED SERVICES, COOPERATION AGREEMENTS AND/OR MERGERS OR EFFICIENCIES. THE DIRECTOR OF THE BUDGET SHALL CONSIDER PAST EFFICIENCIES, SHARED SERVICES AND REFORMS IN THEIR APPROVAL PROCESS. WHILE LOCALITIES MAY OFFER A VARIETY OF APPROACHES IT IS ANTICIPATED THAT THE COUNTY GOVERNMENT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES WILL CONVENE AND FACILITATE A PROCESS AND SUBMIT A COUNTY WIDE OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES REGION WIDE PLAN FOR APPROVAL. A SCHOOL DISTRICT THAT IS SUBJECT TO THE PROVISIONS OF SECTION TWO THOUSAND TWENTY-THREE-A OF THIS PART MUST COMPLY WITH THE REQUIREMENTS OF SUBDIVISION TWO AND EITHER SUBDIVISION THREE OR SUBDIVISION FOUR OF THIS SECTION IN ORDER TO RENDER ITS TAXPAYERS ELIGIBLE FOR THE REAL PROPERTY TAX FREEZE CREDIT AUTHORIZED BY SUBSECTION (BBB) OF SECTION SIX HUNDRED SIX OF THE TAX LAW FOR A FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN.

1. DEFINITIONS. AS USED IN THIS SECTION:

A. "MERGERS" MEANS: REORGANIZATIONS OF ELIGIBLE SCHOOL DISTRICTS PURSUANT TO SECTIONS FIFTEEN HUNDRED FIVE, FIFTEEN HUNDRED ELEVEN THROUGH FIFTEEN HUNDRED THIRTEEN, FIFTEEN HUNDRED TWENTY-FOUR, FIFTEEN HUNDRED TWENTY-SIX, SEVENTEEN HUNDRED FIVE, EIGHTEEN HUNDRED ONE THROUGH

1 EIGHTEEN HUNDRED THREE, OR TWENTY-TWO HUNDRED EIGHTEEN OF THE EDUCATION  
2 LAW; OR REORGANIZATIONS, CONSOLIDATIONS, OR DISSOLUTIONS OF ELIGIBLE  
3 SCHOOL DISTRICTS IN WHICH ONE OR MORE ELIGIBLE SCHOOL DISTRICTS ARE  
4 TERMINATED AND ANOTHER ELIGIBLE SCHOOL DISTRICT ASSUMES JURISDICTION  
5 OVER THE TERMINATED SCHOOL DISTRICT OR DISTRICTS PURSUANT TO ANY OTHER  
6 PROVISION OF LAW.

7 B. "COOPERATION AGREEMENTS" MEANS AGREEMENTS ENTERED INTO BETWEEN  
8 ELIGIBLE SCHOOL DISTRICTS TO IMPLEMENT THE SHARING OR CONSOLIDATION OF  
9 FUNCTIONS OR SERVICES, INCLUDING BUT NOT LIMITED TO: PROCUREMENT, REAL  
10 ESTATE AND FACILITY MANAGEMENT, FLEET MANAGEMENT, BUSINESS AND FINANCIAL  
11 SERVICES, ADMINISTRATIVE SERVICES, PAYROLL ADMINISTRATION, TIME AND  
12 ATTENDANCE, BENEFITS ADMINISTRATION AND OTHER TRANSACTIONAL HUMAN  
13 RESOURCES FUNCTIONS, CONTRACT MANAGEMENT, GRANTS MANAGEMENT, TRANSPORTA-  
14 TION SERVICES, FACILITIES AND FUNCTION, HUMAN SERVICES FACILITIES AND  
15 FUNCTIONS, CUSTOMER SERVICE FACILITIES AND FUNCTIONS AND INFORMATION  
16 TECHNOLOGY INFRASTRUCTURE, PROCESS, SERVICES AND FUNCTIONS.

17 C. "ELIGIBLE SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT THAT IS SUBJECT  
18 TO SECTION TWO THOUSAND TWENTY-THREE-A OF THIS PART, BUT SHALL NOT MEAN  
19 A SCHOOL DISTRICT THAT IS SUBJECT TO ARTICLE FIFTY-TWO OF THIS CHAPTER.

20 D. "GOVERNMENT EFFICIENCY PLAN" MEANS A PLAN THAT IDENTIFIES COOPER-  
21 ATION AGREEMENTS, SHARED SERVICES AND/OR MERGERS OR EFFICIENCIES TO BE  
22 FULLY IMPLEMENTED BY ONE OR MORE ELIGIBLE SCHOOL DISTRICTS THAT ARE  
23 SIGNATORIES TO THE PLAN.

24 E. "LEAD DISTRICT" MEANS THE ELIGIBLE SCHOOL DISTRICT THAT IS PARTIC-  
25 IPATING IN A GOVERNMENT EFFICIENCY PLAN WITH MORE THAN ONE SIGNATORY  
26 THAT HAS ELECTED TO SUBMIT THE GOVERNMENT EFFICIENCY PLAN TO THE DIREC-  
27 TOR OF THE BUDGET ON BEHALF OF ALL SIGNATORIES TO THE PLAN.

28 F. "SHARED SERVICES" MEANS FUNCTIONAL CONSOLIDATIONS BY WHICH ONE  
29 ELIGIBLE SCHOOL DISTRICT COMPLETELY PROVIDES A SERVICE OR FUNCTION FOR  
30 ANOTHER ELIGIBLE SCHOOL DISTRICT, WHICH NO LONGER ENGAGES IN THAT FUNC-  
31 TION OR SERVICE; SHARED OR COOPERATIVE SERVICES BETWEEN AND AMONG ELIGI-  
32 BLE SCHOOL DISTRICTS; AND REGIONALIZED DELIVERY OF SERVICES BETWEEN AND  
33 AMONG ELIGIBLE SCHOOL DISTRICTS. THESE SHARED SERVICES MAY BE FOR  
34 SERVICES OR FUNCTIONS INCLUDING BUT NOT LIMITED TO: PROCUREMENT, REAL  
35 ESTATE AND FACILITY MANAGEMENT, FLEET MANAGEMENT, BUSINESS AND FINANCIAL  
36 SERVICES, ADMINISTRATIVE SERVICES, PAYROLL ADMINISTRATION, TIME AND  
37 ATTENDANCE, BENEFITS ADMINISTRATION AND OTHER TRANSACTIONAL HUMAN  
38 RESOURCES FUNCTIONS, CONTRACT MANAGEMENT, GRANTS MANAGEMENT, TRANSPORTA-  
39 TION SERVICES, FACILITIES AND FUNCTIONS, HUMAN SERVICES FACILITIES AND  
40 FUNCTIONS, CUSTOMER SERVICE FACILITIES AND FUNCTIONS AND INFORMATION  
41 TECHNOLOGY INFRASTRUCTURE, PROCESSES, SERVICES AND FUNCTIONS.

42 2. CERTIFICATION OF COMPLIANCE WITH TAX LEVY LIMIT. A. UPON THE  
43 ADOPTION OF THE BUDGET OF AN ELIGIBLE SCHOOL DISTRICT, THE CHIEF EXECU-  
44 TIVE OFFICER OF SUCH SCHOOL DISTRICT SHALL CERTIFY TO THE STATE COMP-  
45 TROLLER, THE COMMISSIONER OF TAXATION AND FINANCE AND THE COMMISSIONER  
46 THAT THE BUDGET SO ADOPTED DOES NOT EXCEED THE TAX LEVY LIMIT PRESCRIBED  
47 BY SECTION TWO THOUSAND TWENTY-THREE-A OF THIS PART. SUCH CERTIFICATION  
48 SHALL BE MADE IN A FORM AND MANNER PRESCRIBED BY THE STATE COMPTROLLER  
49 IN CONSULTATION WITH THE COMMISSIONER OF TAXATION AND FINANCE AND THE  
50 COMMISSIONER.

51 B. IN ORDER FOR SUCH CERTIFICATION TO GIVE RISE TO A REAL PROPERTY TAX  
52 FREEZE CREDIT UNDER SUBSECTION (BBB) OF SECTION SIX HUNDRED SIX OF THE  
53 TAX LAW, SUCH CERTIFICATION SHALL BE MADE NO LATER THAN THE TWENTY-FIRST  
54 DAY OF THE FISCAL YEAR TO WHICH IT APPLIES.

55 C. IF SUCH A CERTIFICATION HAS BEEN MADE AND THE ACTUAL TAX LEVY OF  
56 THE SCHOOL DISTRICT EXCEEDS THE APPLICABLE TAX LEVY LIMIT, THE EXCESS

1 AMOUNT SHALL BE PLACED IN RESERVE AND USED IN THE MANNER PRESCRIBED BY  
2 SUBDIVISION FIVE OF SECTION TWO THOUSAND TWENTY-THREE-A OF THIS PART,  
3 EVEN IF A TAX LEVY IN EXCESS OF THE TAX LEVY LIMIT HAD BEEN DULY AUTHOR-  
4 IZED FOR THE APPLICABLE FISCAL YEAR BY THE SCHOOL DISTRICT VOTERS.

5 D. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, EVERY SCHOOL  
6 DISTRICT THAT IS SUBJECT TO THE PROVISIONS OF SECTION TWO THOUSAND TWEN-  
7 TY-THREE-A OF THIS PART SHALL REPORT BOTH ITS PROPOSED BUDGET AND ITS  
8 ADOPTED BUDGET TO THE OFFICE OF THE STATE COMPTROLLER AND THE COMMIS-  
9 SIONER AT THE TIME AND IN THE MANNER AS THEY MAY PRESCRIBE, WHETHER OR  
10 NOT SUCH BUDGET HAS BEEN OR WILL BE CERTIFIED AS PROVIDED BY THIS SUBDI-  
11 VISION.

12 3. SCHOOL DISTRICT GOVERNMENT EFFICIENCY PLANS SUBMITTED BY LEAD  
13 DISTRICT. A. THE SUPERINTENDENT OF EACH LEAD DISTRICT SHALL SUBMIT TO  
14 THE DIRECTOR OF THE BUDGET BY JUNE FIRST, TWO THOUSAND FIFTEEN, A  
15 GOVERNMENT EFFICIENCY PLAN THAT DEMONSTRATES THREE YEAR SAVINGS AND  
16 EFFICIENCIES OF AT LEAST ONE PERCENT PER YEAR FROM SHARED SERVICES,  
17 COOPERATION AGREEMENTS AND/OR MERGERS OR EFFICIENCIES OVER THE AGGREGATE  
18 TWO THOUSAND FOURTEEN--TWO THOUSAND FIFTEEN SCHOOL YEAR TAX LEVIES FOR  
19 ALL ELIGIBLE SCHOOL DISTRICTS THAT ARE SIGNATORIES TO SUCH PLAN.

20 (I) THE SUPERINTENDENT OF EACH ELIGIBLE SCHOOL DISTRICT THAT IS A  
21 SIGNATORY TO A GOVERNMENT EFFICIENCY PLAN SHALL SUBMIT TO THE SUPER-  
22 INTENDENT OF THE LEAD DISTRICT BY MAY FIFTEENTH, TWO THOUSAND FIFTEEN, A  
23 WRITTEN CERTIFICATION THAT THE ELIGIBLE SCHOOL DISTRICT AGREES TO UNDER-  
24 TAKE ITS BEST EFFORTS TO FULLY IMPLEMENT BY THE END OF THE TWO THOUSAND  
25 SIXTEEN--TWO THOUSAND SEVENTEEN SCHOOL YEAR THE COOPERATION AGREEMENTS,  
26 MERGERS, EFFICIENCIES AND/OR SHARED SERVICES SPECIFIED FOR THE ELIGIBLE  
27 SCHOOL DISTRICT IN SUCH PLAN.

28 (II) THE CHIEF FINANCIAL OFFICER OF A SCHOOL DISTRICT THAT IS A SIGNA-  
29 TORY TO A GOVERNMENT EFFICIENCY PLAN SHALL SUBMIT TO THE SUPERINTENDENT  
30 OF THE LEAD DISTRICT BY MAY FIFTEENTH, TWO THOUSAND FIFTEEN, A WRITTEN  
31 CERTIFICATION THAT IN HIS OR HER PROFESSIONAL OPINION, FULL IMPLEMENTA-  
32 TION BY THE END OF THE TWO THOUSAND SIXTEEN--TWO THOUSAND SEVENTEEN  
33 SCHOOL YEAR OF THE COOPERATION AGREEMENTS, MERGERS, EFFICIENCIES AND/OR  
34 SHARED SERVICES THAT ARE TO BE TAKEN BY SUCH SCHOOL DISTRICT ITSELF AS  
35 SPECIFIED IN SUCH PLAN WILL RESULT IN THE SAVINGS SET FORTH IN SUCH PLAN  
36 ATTRIBUTABLE TO SUCH SCHOOL DISTRICT.

37 (III) THE CHIEF FINANCIAL OFFICER OF EACH ELIGIBLE SCHOOL DISTRICT  
38 THAT IS A SIGNATORY TO A GOVERNMENT EFFICIENCY PLAN SHALL SUBMIT TO THE  
39 LEAD DISTRICT BY MAY FIFTEENTH, TWO THOUSAND FIFTEEN, A WRITTEN CERTIF-  
40 ICATION THAT IN HIS OR HER PROFESSIONAL OPINION, FULL IMPLEMENTATION OF  
41 THE COOPERATION AGREEMENTS, MERGERS, EFFICIENCIES AND/OR SHARED SERVICES  
42 AS SPECIFIED FOR ALL OF THE ELIGIBLE SCHOOL DISTRICTS THAT ARE SIGNATO-  
43 RIES TO SUCH PLAN WILL RESULT IN SAVINGS OVER THE AGGREGATE TWO THOUSAND  
44 FOURTEEN--TWO THOUSAND FIFTEEN SCHOOL YEAR TAX LEVIES FOR ALL ELIGIBLE  
45 SCHOOL DISTRICTS THAT ARE SIGNATORIES TO SUCH PLAN OF AT LEAST ONE  
46 PERCENT IN EACH OF THE TWO THOUSAND SIXTEEN--TWO THOUSAND SEVENTEEN, THE  
47 TWO THOUSAND SEVENTEEN--TWO THOUSAND EIGHTEEN AND THE TWO THOUSAND EIGH-  
48 TEEN--TWO THOUSAND NINETEEN SCHOOL YEARS.

49 B. THE CHIEF FINANCIAL OFFICER OF EACH LEAD DISTRICT SHALL SUBMIT THE  
50 FOLLOWING DOCUMENTS TO THE DIRECTOR OF THE BUDGET ON OR BEFORE JUNE  
51 FIRST, TWO THOUSAND FIFTEEN: (I) THE GOVERNMENT EFFICIENCY PLAN; (II) A  
52 LIST OF ALL ELIGIBLE SCHOOL DISTRICTS THAT ARE SIGNATORIES TO SUCH PLAN;  
53 (III) ALL OF THE CERTIFICATIONS REQUIRED BY PARAGRAPH A OF THIS SUBDIVI-  
54 SION; AND (IV) AN ANALYSIS OF THE AGGREGATE AMOUNT OF SAVINGS SET FORTH  
55 IN SUCH PLAN ATTRIBUTABLE TO ALL ELIGIBLE SCHOOL DISTRICTS THAT ARE  
56 SIGNATORIES TO SUCH PLAN THAT WILL BE ACHIEVED IF THE COOPERATION AGREE-

MENTS, MERGERS, EFFICIENCIES AND/OR SHARED SERVICES IDENTIFIED IN SUCH PLAN ARE FULLY IMPLEMENTED BY THE END OF THE TWO THOUSAND SIXTEEN--TWO THOUSAND SEVENTEEN SCHOOL YEAR. THE DIRECTOR OF THE BUDGET SHALL REVIEW SUCH DOCUMENTS AND SHALL CONSIDER PAST EFFICIENCIES, SHARED SERVICES AND REFORMS IN THEIR APPROVAL PROCESS TO DETERMINE WHETHER THE REQUIREMENTS OF THIS SUBDIVISION HAVE BEEN MET WITH RESPECT TO EACH ELIGIBLE SCHOOL DISTRICT THAT IS A SIGNATORY TO THE GOVERNMENT EFFICIENCY PLAN AND SHALL NOTIFY THE COMMISSIONER OF TAXATION AND FINANCE OF SUCH DETERMINATIONS NO LATER THAN JULY THIRTY-FIRST, TWO THOUSAND FIFTEEN.

4. SCHOOL DISTRICT GOVERNMENT EFFICIENCY PLANS SUBMITTED BY A SINGLE ELIGIBLE SCHOOL DISTRICT. A. WHILE LOCALITIES MAY OFFER A VARIETY OF APPROACHES IT IS ANTICIPATED THAT THE COUNTY GOVERNMENT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES WILL CONVENE AND FACILITATE A PROCESS AND SUBMIT A COUNTY WIDE OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES REGION WIDE PLAN FOR APPROVAL. AS SUCH, ELIGIBLE SCHOOL DISTRICTS ARE STRONGLY ENCOURAGED TO DEVELOP A SINGLE GOVERNMENT EFFICIENCY PLAN FOR ALL OF THE ELIGIBLE SCHOOL DISTRICTS IN THEIR BOARD OF COOPERATION EDUCATIONAL SERVICES DISTRICT. HOWEVER, THE SUPERINTENDENT OF EACH ELIGIBLE SCHOOL DISTRICT THAT IS NOT PARTICIPATING IN A GOVERNMENT EFFICIENCY PLAN WITH MORE THAN ONE SIGNATORY MAY SUBMIT TO THE DIRECTOR OF THE BUDGET BY JUNE FIRST, TWO THOUSAND FIFTEEN, A GOVERNMENT EFFICIENCY PLAN THAT DEMONSTRATES THREE YEAR SAVINGS AND EFFICIENCIES OF AT LEAST ONE PERCENT PER YEAR FROM SHARED SERVICES, COOPERATION AGREEMENTS AND/OR MERGERS OR EFFICIENCIES OVER SUCH ELIGIBLE SCHOOL DISTRICT'S TWO THOUSAND FOURTEEN--TWO THOUSAND FIFTEEN SCHOOL YEAR TAX LEVY.

(I) IN THE EVENT AN ELIGIBLE SCHOOL DISTRICT CHOOSES TO SUBMIT SUCH A GOVERNMENT EFFICIENCY PLAN, THE SUPERINTENDENT OF SUCH ELIGIBLE SCHOOL DISTRICT SHALL SUBMIT TO THE DIRECTOR OF THE BUDGET BY JUNE FIRST, TWO THOUSAND FIFTEEN, A WRITTEN CERTIFICATION THAT SUCH ELIGIBLE SCHOOL DISTRICT AGREES TO UNDERTAKE ITS BEST EFFORTS TO FULLY IMPLEMENT BY THE END OF THE TWO THOUSAND SIXTEEN--TWO THOUSAND SEVENTEEN SCHOOL YEAR THE COOPERATION AGREEMENTS, MERGERS, EFFICIENCIES AND/OR SHARED SERVICES SPECIFIED IN SUCH PLAN.

(II) IN THE EVENT A SCHOOL DISTRICT CHOOSES TO SUBMIT SUCH A GOVERNMENT EFFICIENCY PLAN, THE CHIEF FINANCIAL OFFICER OF SUCH ELIGIBLE SCHOOL DISTRICT SHALL SUBMIT TO THE DIRECTOR OF THE BUDGET BY JUNE FIRST, TWO THOUSAND FIFTEEN, AN ANALYSIS OF THE SAVINGS SET FORTH IN SUCH PLAN THAT WILL BE ACHIEVED IF THE COOPERATION AGREEMENTS, SHARED SERVICES AND/OR MERGERS OR EFFICIENCIES IDENTIFIED IN SUCH PLAN ARE FULLY IMPLEMENTED BY THE END OF THE TWO THOUSAND SIXTEEN--TWO THOUSAND SEVENTEEN SCHOOL YEAR, AS WELL AS A WRITTEN CERTIFICATION THAT IN HIS OR HER PROFESSIONAL OPINION, FULL IMPLEMENTATION OF THE COOPERATION AGREEMENTS, MERGERS, EFFICIENCIES AND/OR SHARED SERVICES AS SPECIFIED IN SUCH PLAN WILL RESULT IN SAVINGS OVER ITS TWO THOUSAND FOURTEEN--TWO THOUSAND FIFTEEN SCHOOL YEAR TAX LEVY OF AT LEAST ONE PERCENT IN EACH OF THE TWO THOUSAND SIXTEEN--TWO THOUSAND SEVENTEEN, THE TWO THOUSAND SEVENTEEN--TWO THOUSAND EIGHTEEN AND THE TWO THOUSAND EIGHTEEN--TWO THOUSAND NINETEEN SCHOOL YEARS.

B. THE DIRECTOR OF THE BUDGET SHALL REVIEW THE DOCUMENTS REFERRED TO IN PARAGRAPH A OF THIS SUBDIVISION AND SHALL CONSIDER PAST EFFICIENCIES, SHARED SERVICES AND REFORMS IN THEIR APPROVAL PROCESS TO DETERMINE WHETHER THE REQUIREMENTS OF THIS SUBDIVISION HAVE BEEN MET WITH RESPECT TO AN ELIGIBLE SCHOOL DISTRICT THAT HAS SUBMITTED A GOVERNMENT EFFICIENCY PLAN AND SHALL NOTIFY THE COMMISSIONER OF TAXATION AND FINANCE OF SUCH DETERMINATION NO LATER THAN JULY THIRTY-FIRST, TWO THOUSAND FIFTEEN.

1 S 3. The general municipal law is amended by adding a new section 3-d  
2 to read as follows:

3 S 3-D. CERTIFICATION OF COMPLIANCE WITH PROPERTY TAX FREEZE REQUIRE-  
4 MENTS. A MUNICIPAL CORPORATION OR AN INDEPENDENT SPECIAL DISTRICT THAT  
5 IS SUBJECT TO THE PROVISIONS OF SECTION THREE-C OF THIS ARTICLE MUST  
6 COMPLY WITH THE REQUIREMENTS OF SUBDIVISION TWO OF THIS SECTION IN ORDER  
7 TO RENDER ITS TAXPAYERS ELIGIBLE FOR THE REAL PROPERTY TAX FREEZE CREDIT  
8 AUTHORIZED BY SUBSECTION (BBB) OF SECTION SIX HUNDRED SIX OF THE TAX LAW  
9 FOR A FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN. THE PROPERTY TAX  
10 CUTS WILL BE EXTENDED FOR A SECOND YEAR IN JURISDICTIONS WHICH COMPLY  
11 WITH THE TAX CAP AND HAVE A STATE APPROVED GOVERNMENT EFFICIENCY PLAN  
12 WHICH DEMONSTRATE THREE YEAR SAVINGS AND EFFICIENCIES OF AT LEAST ONE  
13 PERCENT PER YEAR FROM SHARED SERVICES, COOPERATION AGREEMENTS AND/OR  
14 MERGERS OR EFFICIENCIES. THE DIRECTOR OF THE BUDGET SHALL CONSIDER PAST  
15 EFFICIENCIES, SHARED SERVICES AND REFORMS IN THEIR APPROVAL PROCESS.  
16 WHILE LOCALITIES MAY OFFER A VARIETY OF APPROACHES IT IS ANTICIPATED  
17 THAT THE COUNTY GOVERNMENT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES  
18 WILL CONVENE AND FACILITATE A PROCESS AND SUBMIT A COUNTY WIDE OR BOARD  
19 OF COOPERATIVE EDUCATIONAL SERVICES REGION WIDE PLAN FOR APPROVAL. A  
20 MUNICIPAL CORPORATION OR AN INDEPENDENT SPECIAL DISTRICT THAT IS SUBJECT  
21 TO THE PROVISIONS OF SECTION THREE-C OF THIS ARTICLE MUST COMPLY WITH  
22 THE REQUIREMENTS OF SUBDIVISION TWO AND EITHER SUBDIVISION THREE OR  
23 SUBDIVISION FOUR OF THIS SECTION IN ORDER TO RENDER ITS TAXPAYERS ELIGI-  
24 BLE FOR THE REAL PROPERTY TAX FREEZE CREDIT AUTHORIZED BY SUBSECTION  
25 (BBB) OF SECTION SIX HUNDRED SIX OF THE TAX LAW FOR A FISCAL YEAR START-  
26 ING IN TWO THOUSAND SIXTEEN. PROVIDED HOWEVER, THAT A CITY WITH A  
27 DEPENDENT SCHOOL DISTRICT MUST COMPLY WITH THE REQUIREMENTS OF SUBDIVI-  
28 SION TWO OF THIS SECTION IN ORDER TO RENDER ITS TAXPAYERS ELIGIBLE FOR  
29 THE REAL PROPERTY TAX FREEZE CREDIT AUTHORIZED BY SUBSECTION (BBB) OF  
30 SECTION SIX HUNDRED SIX OF THE TAX LAW FOR A FISCAL YEAR STARTING IN TWO  
31 THOUSAND FOURTEEN AND COMPLY WITH THE REQUIREMENTS OF SUBDIVISION TWO OF  
32 THIS SECTION, AND BOTH THE CITY AND ITS DEPENDENT SCHOOL DISTRICT MUST  
33 JOINTLY COMPLY WITH THE REQUIREMENTS OF SUBDIVISION THREE OR SUBDIVISION  
34 FOUR OF THIS SECTION, IN ORDER TO RENDER ITS TAXPAYERS ELIGIBLE FOR THE  
35 REAL PROPERTY TAX FREEZE CREDIT AUTHORIZED BY SUBSECTION (BBB) OF  
36 SECTION SIX HUNDRED SIX OF THE TAX LAW FOR A FISCAL YEAR STARTING IN TWO  
37 THOUSAND FIFTEEN OR TWO THOUSAND SIXTEEN.

38 1. DEFINITIONS. AS USED IN THIS SECTION:

39 (A) "MERGERS" MEANS: CONSOLIDATIONS OR DISSOLUTIONS OF LOCAL GOVERN-  
40 MENT UNITS IN ACCORDANCE WITH ARTICLE SEVENTEEN-A OF THIS CHAPTER OR  
41 REORGANIZATIONS, CONSOLIDATIONS, OR DISSOLUTIONS OF LOCAL GOVERNMENT  
42 UNITS IN WHICH ONE OR MORE LOCAL GOVERNMENT UNITS ARE TERMINATED AND  
43 ANOTHER LOCAL GOVERNMENT UNIT ASSUMES JURISDICTION OVER THE TERMINATED  
44 LOCAL GOVERNMENT UNIT OR UNITS PURSUANT TO ANY OTHER PROVISION OF LAW.

45 (B) "COOPERATION AGREEMENTS" MEANS AGREEMENTS ENTERED INTO BETWEEN  
46 LOCAL GOVERNMENT UNITS TO IMPLEMENT THE SHARING OR CONSOLIDATION OF  
47 FUNCTIONS OR SERVICES, INCLUDING BUT NOT LIMITED TO: PROCUREMENT, REAL  
48 ESTATE AND FACILITY MANAGEMENT, FLEET MANAGEMENT, BUSINESS AND FINANCIAL  
49 SERVICES, ADMINISTRATIVE SERVICES, PAYROLL ADMINISTRATION, TIME AND  
50 ATTENDANCE, BENEFITS ADMINISTRATION AND OTHER TRANSACTIONAL HUMAN  
51 RESOURCES FUNCTIONS, CONTRACT MANAGEMENT, GRANTS MANAGEMENT, TRANSPORTA-  
52 TION SERVICES, FACILITIES AND FUNCTION, HUMAN SERVICES FACILITIES AND  
53 FUNCTIONS, CUSTOMER SERVICE FACILITIES AND FUNCTIONS AND INFORMATION  
54 TECHNOLOGY INFRASTRUCTURE, PROCESS, SERVICES AND FUNCTIONS.

1 (C) "DEPENDENT SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT THAT IS  
2 SUBJECT TO ARTICLE FIFTY-TWO OF THE EDUCATION LAW AND THAT HAS A POPU-  
3 LATION OF LESS THAN ONE MILLION.

4 (D) "GOVERNMENT EFFICIENCY PLAN" MEANS A PLAN THAT IDENTIFIES COOPER-  
5 ATION AGREEMENTS, SHARED SERVICES AND/OR MERGERS OR EFFICIENCIES TO BE  
6 FULLY IMPLEMENTED BY ONE OR MORE LOCAL GOVERNMENT UNITS THAT ARE SIGNA-  
7 TORIES TO THE PLAN.

8 (E) "INDEPENDENT SPECIAL DISTRICT" MEANS A SPECIAL DISTRICT AS DEFINED  
9 BY SECTION ONE HUNDRED TWO OF THE REAL PROPERTY TAX LAW THAT EITHER (I)  
10 HAS A SEPARATE INDEPENDENT ELECTED BOARD, AND EITHER HAS THE AUTHORITY  
11 TO LEVY A TAX, OR CAN REQUIRE A MUNICIPAL CORPORATION TO LEVY A TAX ON  
12 ITS BEHALF, OR (II) HAS A SEPARATE INDEPENDENT BOARD APPOINTED BY THE  
13 GOVERNING BODY OF ANOTHER MUNICIPAL CORPORATION AND EITHER HAS THE  
14 AUTHORITY TO LEVY A TAX OR CAN REQUIRE A MUNICIPAL CORPORATION TO LEVY A  
15 TAX ON ITS BEHALF.

16 (F) "LEAD LOCAL GOVERNMENT UNIT" MEANS THE LOCAL GOVERNMENT UNIT THAT  
17 IS PARTICIPATING IN A GOVERNMENT EFFICIENCY PLAN WITH MORE THAN ONE  
18 SIGNATORY THAT HAS ELECTED TO SUBMIT THE GOVERNMENT EFFICIENCY PLAN TO  
19 THE DIRECTOR OF THE BUDGET ON BEHALF OF ALL SIGNATORIES TO THE PLAN.

20 (G) "LOCAL GOVERNMENT UNIT" MEANS A MUNICIPAL CORPORATION OR AN INDE-  
21 PENDENT SPECIAL DISTRICT THAT IS SUBJECT TO THE PROVISIONS OF SECTION  
22 THREE-C OF THIS ARTICLE.

23 (H) "SHARED SERVICES" MEANS FUNCTIONAL CONSOLIDATIONS BY WHICH ONE  
24 LOCAL GOVERNMENT UNIT COMPLETELY PROVIDES A SERVICE OR FUNCTION FOR  
25 ANOTHER LOCAL GOVERNMENT UNIT, WHICH NO LONGER ENGAGES IN THAT FUNCTION  
26 OR SERVICE; SHARED OR COOPERATIVE SERVICES BETWEEN AND AMONG LOCAL  
27 GOVERNMENT UNITS; AND REGIONALIZED DELIVERY OF SERVICES BETWEEN AND  
28 AMONG LOCAL GOVERNMENT UNITS. THESE SHARED SERVICES MAY BE FOR SERVICES  
29 OR FUNCTIONS INCLUDING BUT NOT LIMITED TO: PROCUREMENT, REAL ESTATE AND  
30 FACILITY MANAGEMENT, FLEET MANAGEMENT, BUSINESS AND FINANCIAL SERVICES,  
31 ADMINISTRATIVE SERVICES, PAYROLL ADMINISTRATION, TIME AND ATTENDANCE,  
32 BENEFITS ADMINISTRATION AND OTHER TRANSACTIONAL HUMAN RESOURCES FUNC-  
33 TIONS, CONTRACT MANAGEMENT, GRANTS MANAGEMENT, TRANSPORTATION SERVICES,  
34 FACILITIES AND FUNCTIONS, HUMAN SERVICES FACILITIES AND FUNCTIONS,  
35 CUSTOMER SERVICE FACILITIES AND FUNCTIONS AND INFORMATION TECHNOLOGY  
36 INFRASTRUCTURE, PROCESSES, SERVICES AND FUNCTIONS.

37 2. CERTIFICATION OF COMPLIANCE WITH TAX LEVY LIMIT. (A) UPON THE  
38 ADOPTION OF THE BUDGET OF A LOCAL GOVERNMENT UNIT, THE CHIEF EXECUTIVE  
39 OFFICER OR BUDGET OFFICER OF SUCH LOCAL GOVERNMENT UNIT SHALL CERTIFY TO  
40 THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE THAT  
41 THE BUDGET SO ADOPTED DOES NOT EXCEED THE TAX LEVY LIMIT PRESCRIBED IN  
42 SECTION THREE-C OF THIS ARTICLE AND, IF THE GOVERNING BODY OF THE LOCAL  
43 GOVERNMENT UNIT DID ENACT A LOCAL LAW OR APPROVE A RESOLUTION TO OVER-  
44 RIDE THE TAX LEVY LIMIT, THAT SUCH LOCAL LAW OR RESOLUTION WAS SUBSE-  
45 QUENTLY REPEALED. SUCH CERTIFICATION SHALL BE MADE IN A FORM AND MANNER  
46 PRESCRIBED BY THE STATE COMPTROLLER IN CONSULTATION WITH THE COMMISSION-  
47 ER OF TAXATION AND FINANCE.

48 (B) IN ORDER FOR SUCH CERTIFICATION TO GIVE RISE TO A REAL PROPERTY  
49 TAX FREEZE CREDIT UNDER SUBSECTION (BBB) OF SECTION SIX HUNDRED SIX OF  
50 THE TAX LAW, SUCH CERTIFICATION SHALL BE MADE NO LATER THAN THE TWENTY-  
51 FIRST DAY OF THE FISCAL YEAR TO WHICH IT APPLIES.

52 (C) NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, IF SUCH A CERTIF-  
53 ICATION HAS BEEN MADE AND THE ACTUAL TAX LEVY OF THE LOCAL GOVERNMENT  
54 UNIT EXCEEDS THE APPLICABLE TAX LEVY LIMIT, THE EXCESS AMOUNT SHALL BE  
55 PLACED IN RESERVE AND USED IN THE MANNER PRESCRIBED BY SUBDIVISION SIX  
56 OF SECTION THREE-C OF THIS ARTICLE, EVEN IF A TAX LEVY IN EXCESS OF THE



1 TAX LEVY LIMIT HAD BEEN AUTHORIZED FOR THE APPLICABLE FISCAL YEAR BY A  
2 DULY ADOPTED LOCAL LAW OR RESOLUTION.

3 (D) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, EVERY LOCAL  
4 GOVERNMENT UNIT SHALL REPORT BOTH ITS PROPOSED BUDGET AND ITS ADOPTED  
5 BUDGET TO THE OFFICE OF THE STATE COMPTROLLER AT THE TIME AND IN THE  
6 MANNER AS HE OR SHE MAY PRESCRIBE, WHETHER OR NOT SUCH BUDGET HAS BEEN  
7 OR WILL BE CERTIFIED AS PROVIDED BY THIS SUBDIVISION.

8 3. LOCAL GOVERNMENT GOVERNMENT EFFICIENCY PLANS SUBMITTED BY LEAD  
9 LOCAL GOVERNMENT UNIT. (A) THE CHIEF EXECUTIVE OFFICER OR BUDGET OFFICER  
10 OF EACH LEAD LOCAL GOVERNMENT UNIT SHALL SUBMIT TO THE DIRECTOR OF THE  
11 BUDGET BY JUNE FIRST, TWO THOUSAND FIFTEEN, A GOVERNMENT EFFICIENCY PLAN  
12 THAT DEMONSTRATES THREE YEAR SAVINGS AND EFFICIENCIES OF AT LEAST ONE  
13 PERCENT PER YEAR FROM SHARED SERVICES, COOPERATION AGREEMENTS AND/OR  
14 MERGERS OR EFFICIENCIES OVER THE AGGREGATE TAX LEVIES FOR FISCAL YEARS  
15 BEGINNING IN TWO THOUSAND FOURTEEN FOR ALL LOCAL GOVERNMENT UNITS AND  
16 DEPENDENT SCHOOL DISTRICTS THAT ARE SIGNATORIES TO SUCH PLAN.

17 (I) THE CHIEF EXECUTIVE OFFICER OR BUDGET OFFICER OF EACH LOCAL  
18 GOVERNMENT UNIT AND DEPENDENT SCHOOL DISTRICT THAT IS A SIGNATORY TO A  
19 GOVERNMENT EFFICIENCY PLAN SHALL SUBMIT TO THE CHIEF EXECUTIVE OFFICER  
20 OR BUDGET OFFICER OF THE LEAD LOCAL GOVERNMENT UNIT BY MAY FIFTEENTH,  
21 TWO THOUSAND FIFTEEN, A WRITTEN CERTIFICATION THAT THE LOCAL GOVERNMENT  
22 UNIT OR DEPENDENT SCHOOL DISTRICT AGREES TO UNDERTAKE ITS BEST EFFORTS  
23 TO FULLY IMPLEMENT BY THE END OF THE LOCAL FISCAL YEAR BEGINNING IN TWO  
24 THOUSAND SEVENTEEN THE COOPERATION AGREEMENTS, MERGERS, EFFICIENCIES  
25 AND/OR SHARED SERVICES SPECIFIED FOR THE LOCAL GOVERNMENT UNIT OR  
26 DEPENDENT SCHOOL DISTRICT IN SUCH PLAN.

27 (II) THE CHIEF FINANCIAL OFFICER OF A LOCAL GOVERNMENT UNIT AND THE  
28 CHIEF FISCAL OFFICER OF THE DEPENDENT SCHOOL DISTRICT, THAT IS A SIGNA-  
29 TORY TO A GOVERNMENT EFFICIENCY PLAN SHALL SUBMIT TO THE CHIEF EXECUTIVE  
30 OFFICER OF THE LEAD LOCAL GOVERNMENT UNIT BY MAY FIFTEENTH, TWO THOUSAND  
31 FIFTEEN, A WRITTEN CERTIFICATION THAT IN HIS OR HER PROFESSIONAL OPIN-  
32 ION, FULL IMPLEMENTATION BY THE END OF THE LOCAL FISCAL YEAR BEGINNING  
33 IN TWO THOUSAND SEVENTEEN, OF THE COOPERATION AGREEMENTS, MERGERS, EFFI-  
34 CIENCIES AND/OR SHARED SERVICES THAT ARE TO BE TAKEN BY SUCH LOCAL  
35 GOVERNMENT UNIT ITSELF AS SPECIFIED IN SUCH PLAN WILL RESULT IN THE  
36 SAVINGS SET FORTH IN THE GOVERNMENT EFFICIENCY PLAN ATTRIBUTABLE TO SUCH  
37 LOCAL GOVERNMENT UNIT OR DEPENDENT SCHOOL DISTRICT.

38 (III) THE CHIEF FINANCIAL OFFICER OF EACH LOCAL GOVERNMENT UNIT AND  
39 DEPENDENT SCHOOL DISTRICT THAT IS A SIGNATORY TO A GOVERNMENT EFFICIENCY  
40 PLAN SHALL SUBMIT TO THE LEAD LOCAL GOVERNMENT UNIT BY MAY FIFTEENTH,  
41 TWO THOUSAND FIFTEEN, A WRITTEN CERTIFICATION THAT IN HIS OR HER PROFES-  
42 SIONAL OPINION, FULL IMPLEMENTATION OF THE COOPERATION AGREEMENTS, MERG-  
43 ERS, EFFICIENCIES AND/OR SHARED SERVICES AS SPECIFIED FOR ALL OF THE  
44 LOCAL GOVERNMENT UNITS AND DEPENDENT SCHOOL DISTRICTS THAT ARE SIGNATO-  
45 RIES TO SUCH PLAN WILL RESULT IN SAVINGS OVER THE AGGREGATE TAX LEVIES  
46 FOR FISCAL YEARS BEGINNING IN TWO THOUSAND FOURTEEN FOR ALL LOCAL  
47 GOVERNMENT UNITS THAT ARE SIGNATORIES TO SUCH PLAN OF AT LEAST ONE  
48 PERCENT IN EACH OF THE FISCAL YEARS BEGINNING IN TWO THOUSAND SEVENTEEN,  
49 BEGINNING IN TWO THOUSAND EIGHTEEN AND BEGINNING IN TWO THOUSAND NINE-  
50 TEEN.

51 (B) THE CHIEF FINANCIAL OFFICER OF EACH LEAD LOCAL GOVERNMENT UNIT  
52 SHALL SUBMIT THE FOLLOWING DOCUMENTS TO THE DIRECTOR OF THE BUDGET ON OR  
53 BEFORE JUNE FIRST, TWO THOUSAND FIFTEEN: (I) THE GOVERNMENT EFFICIENCY  
54 PLAN; (II) A LIST OF ALL LOCAL GOVERNMENT UNITS AND DEPENDENT SCHOOL  
55 DISTRICTS THAT ARE SIGNATORIES TO SUCH PLAN; (III) ALL OF THE CERTIF-  
56 ICATIONS REQUIRED BY PARAGRAPH (A) OF THIS SUBDIVISION; AND (IV) AN

1 ANALYSIS OF THE AGGREGATE AMOUNT OF SAVINGS SET FORTH IN SUCH PLAN  
2 ATTRIBUTABLE TO ALL LOCAL GOVERNMENT UNITS AND DEPENDENT SCHOOL  
3 DISTRICTS THAT ARE SIGNATORIES TO SUCH PLAN THAT WILL BE ACHIEVED IF THE  
4 COOPERATION AGREEMENTS, SHARED SERVICES AND/OR MERGERS OR EFFICIENCIES  
5 IDENTIFIED IN SUCH PLAN ARE FULLY IMPLEMENTED BY THE END OF THE LOCAL  
6 FISCAL YEAR BEGINNING IN TWO THOUSAND SEVENTEEN. THE DIRECTOR OF THE  
7 BUDGET SHALL REVIEW SUCH DOCUMENTS AND SHALL CONSIDER PAST EFFICIENCIES,  
8 SHARED SERVICES AND REFORMS IN THEIR APPROVAL PROCESS TO DETERMINE  
9 WHETHER THE REQUIREMENTS OF THIS SUBDIVISION HAVE BEEN MET WITH RESPECT  
10 TO EACH LOCAL GOVERNMENT UNIT AND DEPENDENT SCHOOL DISTRICT THAT IS A  
11 SIGNATORY TO THE GOVERNMENT EFFICIENCY PLAN AND SHALL NOTIFY THE COMMIS-  
12 SIONER OF TAXATION AND FINANCE OF SUCH DETERMINATIONS NO LATER THAN JULY  
13 THIRTY-FIRST, TWO THOUSAND FIFTEEN.

14 4. LOCAL GOVERNMENT GOVERNMENT EFFICIENCY PLANS SUBMITTED BY A SINGLE  
15 LOCAL GOVERNMENT UNIT. (A) WHILE LOCALITIES MAY OFFER A VARIETY OF  
16 APPROACHES IT IS ANTICIPATED THAT THE COUNTY GOVERNMENT OR BOARD OF  
17 COOPERATIVE EDUCATIONAL SERVICES WILL CONVENE AND FACILITATE A PROCESS  
18 AND SUBMIT A COUNTY WIDE OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES  
19 REGION WIDE PLAN FOR APPROVAL. AS SUCH, LOCAL GOVERNMENT UNITS ARE  
20 STRONGLY ENCOURAGED TO DEVELOP A SINGLE GOVERNMENT EFFICIENCY PLAN FOR  
21 ALL OF THE LOCAL GOVERNMENT UNITS IN THEIR COUNTY. HOWEVER, THE CHIEF  
22 EXECUTIVE OFFICER OR BUDGET OFFICER OF EACH LOCAL GOVERNMENT UNIT THAT  
23 IS NOT PARTICIPATING IN A GOVERNMENT EFFICIENCY PLAN WITH MORE THAN ONE  
24 SIGNATORY MAY SUBMIT TO THE DIRECTOR OF THE BUDGET BY JUNE FIRST, TWO  
25 THOUSAND FIFTEEN, A GOVERNMENT EFFICIENCY PLAN THAT DEMONSTRATES THREE  
26 YEAR SAVINGS AND EFFICIENCIES OF AT LEAST ONE PERCENT PER YEAR FROM  
27 SHARED SERVICES, COOPERATION AGREEMENTS AND/OR MERGERS OR EFFICIENCIES  
28 OVER SUCH LOCAL GOVERNMENT UNIT'S TAX LEVY FOR THE FISCAL YEAR BEGINNING  
29 IN TWO THOUSAND FOURTEEN.

30 (I) IN THE EVENT A LOCAL GOVERNMENT UNIT CHOOSES TO SUBMIT SUCH A  
31 GOVERNMENT EFFICIENCY PLAN, THE CHIEF EXECUTIVE OFFICER OR BUDGET OFFI-  
32 CER OF SUCH LOCAL GOVERNMENT UNIT SHALL SUBMIT TO THE DIRECTOR OF THE  
33 BUDGET BY JUNE FIRST, TWO THOUSAND FIFTEEN, A WRITTEN CERTIFICATION THAT  
34 SUCH LOCAL GOVERNMENT UNIT AGREES TO UNDERTAKE ITS BEST EFFORTS TO FULLY  
35 IMPLEMENT BY THE END OF THE LOCAL FISCAL YEAR BEGINNING IN TWO THOUSAND  
36 SEVENTEEN THE COOPERATION AGREEMENTS, MERGERS, EFFICIENCIES AND/OR  
37 SHARED SERVICES SPECIFIED IN SUCH PLAN.

38 (II) IN THE EVENT A LOCAL GOVERNMENT UNIT CHOOSES TO SUBMIT SUCH A  
39 GOVERNMENT EFFICIENCY PLAN, THE CHIEF FINANCIAL OFFICER OF SUCH LOCAL  
40 GOVERNMENT UNIT SHALL SUBMIT TO THE DIRECTOR OF THE BUDGET BY JUNE  
41 FIRST, TWO THOUSAND FIFTEEN, AN ANALYSIS OF THE SAVINGS SET FORTH IN  
42 SUCH PLAN THAT WILL BE ACHIEVED IF THE COOPERATION AGREEMENTS, SHARED  
43 SERVICES AND/OR MERGERS OR EFFICIENCIES IDENTIFIED IN SUCH PLAN ARE  
44 FULLY IMPLEMENTED BY THE END OF THE LOCAL FISCAL YEAR BEGINNING IN TWO  
45 THOUSAND SEVENTEEN, AS WELL AS A WRITTEN CERTIFICATION THAT IN HIS OR  
46 HER PROFESSIONAL OPINION, FULL IMPLEMENTATION OF THE COOPERATION AGREE-  
47 MENTS, MERGERS, EFFICIENCIES AND/OR SHARED SERVICES AS SPECIFIED IN SUCH  
48 PLAN WILL RESULT IN SAVINGS OVER ITS TAX LEVY FOR THE FISCAL YEAR BEGIN-  
49 NING IN TWO THOUSAND FOURTEEN OF AT LEAST ONE PERCENT IN EACH OF THE  
50 FISCAL YEARS BEGINNING IN TWO THOUSAND SEVENTEEN, BEGINNING IN TWO THOU-  
51 SAND EIGHTEEN AND BEGINNING IN TWO THOUSAND NINETEEN.

52 (B) THE DIRECTOR OF THE BUDGET SHALL REVIEW THE DOCUMENTS REFERRED TO  
53 IN PARAGRAPH A OF THIS SUBDIVISION AND SHALL CONSIDER PAST EFFICIENCIES,  
54 SHARED SERVICES AND REFORMS IN THEIR APPROVAL PROCESS TO DETERMINE  
55 WHETHER THE REQUIREMENTS OF THIS SUBDIVISION HAVE BEEN MET WITH RESPECT  
56 TO A LOCAL GOVERNMENT UNIT THAT HAS SUBMITTED A GOVERNMENT EFFICIENCY

PLAN AND SHALL NOTIFY THE COMMISSIONER OF TAXATION AND FINANCE OF SUCH DETERMINATION NO LATER THAN JULY THIRTY-FIRST, TWO THOUSAND FIFTEEN.

S 4. Section 1590 of the real property tax law is amended by adding a new subdivision 3 to read as follows:

3. EACH MUNICIPAL CORPORATION SHALL SUBMIT TO THE COMMISSIONER THE DATA FILES USED TO PREPARE ITS TAX ROLLS AND TAX BILLS NO LATER THAN TEN DAYS AFTER THE ANNEXATION OF THE WARRANT FOR THE COLLECTION OF TAXES FOR THE APPLICABLE FISCAL YEAR, OR WHERE NO SUCH WARRANT IS ANNEXED, NO LATER THAN TEN DAYS AFTER THE LAST DATE PRESCRIBED BY LAW FOR THE LEVY OF TAXES OF THE APPLICABLE FISCAL YEAR, PROVIDED THAT IF ITS TAX ROLLS OR TAX BILLS, OR BOTH, ARE PREPARED BY A DIFFERENT GOVERNMENTAL ENTITY, THAT ENTITY SHALL BE JOINTLY RESPONSIBLE FOR SUBMITTING THE APPLICABLE DATA FILES TO THE COMMISSIONER.

S 5. This act shall take effect immediately, provided that the provisions of subdivision 3 of section 1590 of the real property tax law as added by section four of this act shall apply to tax rolls and tax bills of school districts and cities with a population of 125,000 or more for fiscal years starting on or after July 1, 2013, and to tax rolls and tax bills for other municipal corporations for fiscal years starting on or after January 1, 2014, except that in the case of tax rolls and tax bills for fiscal years that started prior to the effective date of this act, the data files used to prepare tax rolls and tax bills shall be submitted to the commissioner of taxation and finance no later than 60 days after the effective date of this act.

#### PART GG

Section 1. This act enacts into law major components of legislation relating to lower Manhattan. Each component is wholly contained within a Subpart identified as Subparts A through G. The effective date for each particular provision contained within such Subpart is set forth in the last section of such Subpart. Any provision in any section contained within a Subpart, including the effective date of the Subpart, which makes a reference 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 Subpart in which it is found. Section three of this act sets forth the general effective date of this act.

#### SUBPART A

Section 1. Subparagraph (A) of paragraph 7 of subdivision (ee) of section 1115 of the tax law, as amended by section 2 of chapter 203 of the laws of 2009, is amended to read as follows:

(A) "Tenant" means a person who, as lessee, enters into a space lease with a landlord for a term of ten years or more commencing on or after September first, two thousand five, but not later than, in the case of a space lease with respect to leased premises located in eligible areas as defined in clause (i) of subparagraph (D) of this paragraph, September first, two thousand [thirteen] FIFTEEN and, in the case of a space lease with respect to leased premises located in eligible areas as defined in clause (ii) of subparagraph (D) of this paragraph not later than September first, two thousand [fifteen] SEVENTEEN, of premises for use as commercial office space in buildings located or to be located in the eligible areas. A person who currently occupies premises for use as commercial office space under an existing lease in a building in the

1 eligible areas shall not be eligible for exemption under this subdivi-  
2 sion unless such existing lease, in the case of a space lease with  
3 respect to leased premises located in eligible areas as defined in  
4 clause (i) of subparagraph (D) of this paragraph expires according to  
5 its terms before September first, two thousand [thirteen] FIFTEEN or  
6 such existing lease, in the case of a space lease with respect to leased  
7 premises located in eligible areas as defined in clause (ii) of subpara-  
8 graph (D) of this paragraph and such person enters into a space lease,  
9 for a term of ten years or more commencing on or after September first,  
10 two thousand five, of premises for use as commercial office space in a  
11 building located or to be located in the eligible areas, provided that  
12 such space lease with respect to leased premises located in eligible  
13 areas as defined in clause (i) of subparagraph (D) of this paragraph  
14 commences no later than September first, two thousand [thirteen]  
15 FIFTEEN, and provided that such space lease with respect to leased prem-  
16 ises located in eligible areas as defined in clause (ii) of subparagraph  
17 (D) of this paragraph commences no later than September first, two thou-  
18 sand [fifteen] SEVENTEEN and provided, further, that such space lease  
19 shall expire no earlier than ten years after the expiration of the  
20 original lease.

21 S 2. Section 2 of part C of chapter 2 of the laws of 2005 amending  
22 the tax law relating to exemptions from sales and use taxes, as amended  
23 by chapter 203 of the laws of 2009, is amended to read as follows:

24 S 2. This act shall take effect September 1, 2005 and shall expire and  
25 be deemed repealed on December 1, [2016] 2018, and shall apply to sales  
26 made, uses occurring and services rendered on or after such effective  
27 date, in accordance with the applicable transitional provisions of  
28 sections 1106 and 1217 of the tax law; except that clause (i) of subpar-  
29 agraph (D) of paragraph seven of subdivision (ee) of section 1115 of the  
30 tax law, as added by section one of this act, shall expire and be deemed  
31 repealed December 1, [2014] 2016.

32 S 3. The commissioner of taxation and finance shall prescribe the  
33 methods to allow the tenants, landlord and contractors, who have made  
34 purchases which, but for the expiration of the provisions of subpara-  
35 graph (A) of paragraph 7 of subdivision (ee) of section 1115 of the tax  
36 law would have been qualified purchases, after August 31, 2013 and  
37 before the date this act became law to receive a credit or refund of the  
38 tax paid even if a person did not receive an exemption for a qualifying  
39 purchase made between September 1, 2013 and the date this act became  
40 law.

41 S 4. This act shall take effect immediately and shall be deemed to  
42 have been in full force and effect after August 31, 2013; provided,  
43 however, that the amendments to subparagraph (A) of paragraph 7 of  
44 subdivision (ee) of section 1115 of the tax law made by section one of  
45 this act shall not affect the repeal of such subdivision and shall be  
46 deemed repealed therewith.

#### 47 SUBPART B

48 Section 1. Subdivisions 5 and 9 of section 499-a of the real property  
49 tax law, as amended by chapter 22 of the laws of 2010, are amended to  
50 read as follows:

51 5. "Benefit period." The period commencing with the first day of the  
52 month immediately following the rent commencement date and terminating  
53 no later than sixty months thereafter, provided, however, that with  
54 respect to a lease commencing on or after April first, nineteen hundred

1 ninety-seven with an initial lease term of less than five years, but not  
2 less than three years, the period commencing with the first day of the  
3 month immediately following the rent commencement date and terminating  
4 no later than thirty-six months thereafter. Notwithstanding the forego-  
5 ing sentence, a benefit period shall expire no later than March thirty-  
6 first, two thousand [twenty] TWENTY-TWO.

7 9. "Eligibility period." The period commencing April first, nineteen  
8 hundred ninety-five and terminating March thirty-first, two thousand  
9 [fourteen] SIXTEEN.

10 S 2. Paragraph (a) of subdivision 3 of section 499-c of the real prop-  
11 erty tax law, as amended by chapter 22 of the laws of 2010, is amended  
12 to read as follows:

13 (a) For purposes of determining whether the amount of expenditures  
14 required by subdivision one of this section have been satisfied, expend-  
15 itures on improvements to the common areas of an eligible building shall  
16 be included only if work on such improvements commenced and the expendi-  
17 tures are made on or after April first, nineteen hundred ninety-five and  
18 on or before September thirtieth, two thousand [fourteen] SIXTEEN;  
19 provided, however, that expenditures on improvements to the common areas  
20 of an eligible building made prior to three years before the lease  
21 commencement date shall not be included.

22 S 3. Subdivision 8 of section 499-d of the real property tax law, as  
23 amended by chapter 22 of the laws of 2010, is amended to read as  
24 follows:

25 8. Leases commencing on or after April first, nineteen hundred nine-  
26 ty-seven shall be subject to the provisions of this title as amended by  
27 chapter six hundred twenty-nine of the laws of nineteen hundred ninety-  
28 seven, chapter one hundred eighteen of the laws of two thousand one,  
29 chapter four hundred forty of the laws of two thousand three, chapter  
30 sixty of the laws of two thousand seven [and the], chapter TWENTY-TWO of  
31 the laws of two thousand ten [that added this phrase] AND THE CHAPTER OF  
32 THE LAWS OF TWO THOUSAND FOURTEEN THAT ADDED THIS PHRASE. Notwithstand-  
33 ing any other provision of law to the contrary, with respect to leases  
34 commencing on or after April first, nineteen hundred ninety-seven, an  
35 application for a certificate of abatement shall be considered timely  
36 filed if filed within one hundred eighty days following the lease  
37 commencement date or within sixty days following the date chapter six  
38 hundred twenty-nine of the laws of nineteen hundred ninety-seven became  
39 a law, whichever is later.

40 S 4. Subparagraph (a) of paragraph 2 of subdivision i of section  
41 11-704 of the administrative code of the city of New York, as amended by  
42 chapter 22 of the laws of 2010, is amended to read as follows:

43 (a) An eligible tenant of eligible taxable premises shall be allowed a  
44 special reduction in determining the taxable base rent for such eligible  
45 taxable premises. Such special reduction shall be allowed with respect  
46 to the rent for such eligible taxable premises for a period not exceed-  
47 ing sixty months or, with respect to a lease commencing on or after  
48 April first, nineteen hundred ninety-seven with an initial lease term of  
49 less than five years, but not less than three years, for a period not  
50 exceeding thirty-six months, commencing on the rent commencement date  
51 applicable to such eligible taxable premises, provided, however, that in  
52 no event shall any special reduction be allowed for any period beginning  
53 after March thirty-first, two thousand [twenty] TWENTY-TWO. For  
54 purposes of applying such special reduction, the base rent for the base  
55 year shall, where necessary to determine the amount of the special  
56 reduction allowable with respect to any number of months falling within

1 a tax period, be prorated by dividing the base rent for the base year by  
2 twelve and multiplying the result by such number of months.  
3 S 5. This act shall take effect immediately and shall be deemed to  
4 have been in full force and effect after March 31, 2014.

## SUBPART C

6 Section 1. Paragraph (a) of subdivision 1 of section 489-ddddddd of the  
7 real property tax law, as amended by chapter 28 of the laws of 2011, is  
8 amended to read as follows:

9 (a) Application for benefits pursuant to this title may be made imme-  
10 diately following the effective date of a local law enacted pursuant to  
11 this title and continuing until March first, two thousand [fifteen]  
12 SEVENTEEN.

13 S 2. Subdivision 3 of section 489-ddddddd of the real property tax  
14 law, as added by chapter 28 of the laws of 2011, is amended to read as  
15 follows:

16 3. (a) No benefits pursuant to this title shall be granted for  
17 construction work performed pursuant to a building permit issued after  
18 April first, two thousand [fifteen] SEVENTEEN.

19 (b) If no building permit was required, then no benefits pursuant to  
20 this title shall be granted for construction work that is commenced  
21 after April first, two thousand [fifteen] SEVENTEEN.

22 S 3. Paragraph 1 of subdivision a of section 11-271 of the adminis-  
23 trative code of the city of New York, as amended by chapter 28 of the  
24 laws of 2011, is amended to read as follows:

25 (1) Application for benefits pursuant to this part may be made imme-  
26 diately following the effective date of the local law that added this  
27 section and continuing until March first, two thousand [fifteen] SEVEN-  
28 TEEN.

29 S 4. Subdivision c of section 11-271 of the administrative code of  
30 the city of New York, as added by chapter 28 of the laws of 2011, is  
31 amended to read as follows:

32 c. (1) No benefits pursuant to this part shall be granted for  
33 construction work performed pursuant to a building permit issued after  
34 April first, two thousand [fifteen] SEVENTEEN.

35 (2) If no building permit was required, then no benefits pursuant to  
36 this part shall be granted for construction work that is commenced after  
37 April first, two thousand [fifteen] SEVENTEEN.

38 S 5. This act shall take effect immediately.

## SUBPART D

40 Section 1. Subdivision (b) of section 25-z of the general city law, as  
41 amended by chapter 131 of the laws of 2008, is amended to read as  
42 follows:

43 (b) No eligible business shall be authorized to receive a credit under  
44 any local law enacted pursuant to this article until the premises with  
45 respect to which it is claiming the credit meet the requirements in the  
46 definition of eligible premises and until it has obtained a certifi-  
47 cation of eligibility from the mayor of such city or an agency desig-  
48 nated by such mayor, and an annual certification from such mayor or an  
49 agency designated by such mayor as to the number of eligible aggregate  
50 employment shares maintained by such eligible business that may qualify  
51 for obtaining a tax credit for the eligible business' taxable year. Any  
52 written documentation submitted to such mayor or such agency or agencies

1 in order to obtain any such certification shall be deemed a written  
2 instrument for purposes of section 175.00 of the penal law. Such local  
3 law may provide for application fees to be determined by such mayor or  
4 such agency or agencies. No such certification of eligibility shall be  
5 issued under any local law enacted pursuant to this article to an eligi-  
6 ble business on or after July first, two thousand [thirteen] FIFTEEN  
7 unless:

8 (1) prior to such date such business has purchased, leased or entered  
9 into a contract to purchase or lease particular premises or a parcel on  
10 which will be constructed such premises or already owned such premises  
11 or parcel;

12 (2) prior to such date improvements have been commenced on such prem-  
13 ises or parcel, which improvements will meet the requirements of subdi-  
14 vision (e) of section twenty-five-y of this article relating to expendi-  
15 tures for improvements;

16 (3) prior to such date such business submits a preliminary application  
17 for a certification of eligibility to such mayor or such agency or agen-  
18 cies with respect to a proposed relocation to such particular premises;  
19 and

20 (4) such business relocates to such particular premises not later than  
21 thirty-six months or, in a case in which the expenditures made for the  
22 improvements specified in paragraph two of this subdivision are in  
23 excess of fifty million dollars within seventy-two months from the date  
24 of submission of such preliminary application.

25 S 2. Subdivision (b) of section 25-ee of the general city law, as  
26 amended by chapter 131 of the laws of 2008, is amended to read as  
27 follows:

28 (b) No eligible business or special eligible business shall be author-  
29 ized to receive a credit against tax under any local law enacted pursu-  
30 ant to this article until the premises with respect to which it is  
31 claiming the credit meet the requirements in the definition of eligible  
32 premises and until it has obtained a certification of eligibility from  
33 the mayor of such city or any agency designated by such mayor, and an  
34 annual certification from such mayor or an agency designated by such  
35 mayor as to the number of eligible aggregate employment shares main-  
36 tained by such eligible business or such special eligible business that  
37 may qualify for obtaining a tax credit for the eligible business' taxa-  
38 ble year. No special eligible business shall be authorized to receive a  
39 credit against tax under the provisions of this article unless the  
40 number of relocated employee base shares calculated pursuant to subdivi-  
41 sion (o) of section twenty-five-dd of this article is equal to or great-  
42 er than the lesser of twenty-five percent of the number of New York city  
43 base shares calculated pursuant to subdivision (p) of such section and  
44 two hundred fifty employment shares. Any written documentation submitted  
45 to such mayor or such agency or agencies in order to obtain any such  
46 certification shall be deemed a written instrument for purposes of  
47 section 175.00 of the penal law. Such local law may provide for applica-  
48 tion fees to be determined by such mayor or such agency or agencies. No  
49 certification of eligibility shall be issued under any local law enacted  
50 pursuant to this article to an eligible business on or after July first,  
51 two thousand [thirteen] FIFTEEN unless:

52 (1) prior to such date such business has purchased, leased or entered  
53 into a contract to purchase or lease premises in the eligible Lower  
54 Manhattan area or a parcel on which will be constructed such premises;

55 (2) prior to such date improvements have been commenced on such prem-  
56 ises or parcel, which improvements will meet the requirements of subdi-

vision (e) of section twenty-five-dd of this article relating to expenditures for improvements;

(3) prior to such date such business submits a preliminary application for a certification of eligibility to such mayor or such agency or agencies with respect to a proposed relocation to such premises; and

(4) such business relocates to such premises as provided in subdivision (j) of section twenty-five-dd of this article not later than thirty-six months or, in a case in which the expenditures made for the improvements specified in paragraph two of this subdivision are in excess of fifty million dollars within seventy-two months from the date of submission of such preliminary application.

S 3. Subdivision (b) of section 22-622 of the administrative code of the city of New York, as amended by chapter 131 of the laws of 2008, is amended to read as follows:

(b) No eligible business shall be authorized to receive a credit against tax or a reduction in base rent subject to tax under the provisions of this chapter, and of title eleven of the code as described in subdivision (a) of this section, until the premises with respect to which it is claiming the credit meet the requirements in the definition of eligible premises and until it has obtained a certification of eligibility from the mayor or an agency designated by the mayor, and an annual certification from the mayor or an agency designated by the mayor as to the number of eligible aggregate employment shares maintained by such eligible business that may qualify for obtaining a tax credit for the eligible business' taxable year. Any written documentation submitted to the mayor or such agency or agencies in order to obtain any such certification shall be deemed a written instrument for purposes of section 175.00 of the penal law. Application fees for such certifications shall be determined by the mayor or such agency or agencies. No certification of eligibility shall be issued to an eligible business on or after July first, two thousand [thirteen] FIFTEEN unless:

(1) prior to such date such business has purchased, leased or entered into a contract to purchase or lease particular premises or a parcel on which will be constructed such premises or already owned such premises or parcel;

(2) prior to such date improvements have been commenced on such premises or parcel which improvements will meet the requirements of subdivision (e) of section 22-621 of this chapter relating to expenditures for improvements;

(3) prior to such date such business submits a preliminary application for a certification of eligibility to such mayor or such agency or agencies with respect to a proposed relocation to such particular premises; and

(4) such business relocates to such particular premises not later than thirty-six months or, in a case in which the expenditures made for improvements specified in paragraph two of this subdivision are in excess of fifty million dollars within seventy-two months from the date of submission of such preliminary application.

S 4. Subdivision (b) of section 22-624 of the administrative code of the city of New York, as amended by chapter 131 of the laws of 2008, is amended to read as follows:

(b) No eligible business or special eligible business shall be authorized to receive a credit against tax under the provisions of this chapter, and of title eleven of the code as described in subdivision (a) of this section, until the premises with respect to which it is claiming the credit meet the requirements in the definition of eligible premises



1 and until it has obtained a certification of eligibility from the mayor  
2 or an agency designated by the mayor, and an annual certification from  
3 the mayor or an agency designated by the mayor as to the number of  
4 eligible aggregate employment shares maintained by such eligible busi-  
5 ness or special eligible business that may qualify for obtaining a tax  
6 credit for the eligible business' taxable year. No special eligible  
7 business shall be authorized to receive a credit against tax under the  
8 provisions of this chapter and of title eleven of the code unless the  
9 number of relocated employee base shares calculated pursuant to subdivi-  
10 sion (o) of section 22-623 of this chapter is equal to or greater than  
11 the lesser of twenty-five percent of the number of New York city base  
12 shares calculated pursuant to subdivision (p) of such section 22-623,  
13 and two hundred fifty employment shares. Any written documentation  
14 submitted to the mayor or such agency or agencies in order to obtain any  
15 such certification shall be deemed a written instrument for purposes of  
16 section 175.00 of the penal law. Application fees for such certif-  
17 ications shall be determined by the mayor or such agency or agencies. No  
18 certification of eligibility shall be issued to an eligible business on  
19 or after July first, two thousand [thirteen] FIFTEEN unless:

20 (1) prior to such date such business has purchased, leased or entered  
21 into a contract to purchase or lease premises in the eligible Lower  
22 Manhattan area or a parcel on which will be constructed such premises;

23 (2) prior to such date improvements have been commenced on such prem-  
24 ises or parcel, which improvements will meet the requirements of subdivi-  
25 sion (e) of section 22-623 of this chapter relating to expenditures  
26 for improvements;

27 (3) prior to such date such business submits a preliminary application  
28 for a certification of eligibility to such mayor or such agency or agen-  
29 cies with respect to a proposed relocation to such premises; and

30 (4) such business relocates to such premises not later than thirty-six  
31 months or, in a case in which the expenditures made for the improvements  
32 specified in paragraph two of this subdivision are in excess of fifty  
33 million dollars within seventy-two months from the date of submission of  
34 such preliminary application.

35 S 5. This act shall take effect immediately and shall be deemed to  
36 have been in full force and effect after June 30, 2013.

#### 37 SUBPART E

38 Section 1. Paragraph 1 of subdivision (b) of section 25-s of the  
39 general city law, as amended by chapter 406 of the laws of 2010, is  
40 amended to read as follows:

41 (1) non-residential premises that are wholly contained in property  
42 that is eligible to obtain benefits under title two-D or two-F of arti-  
43 cle four of the real property tax law, or would be eligible to receive  
44 benefits under such article except that such property is exempt from  
45 real property taxation and the requirements of paragraph (b) of subdivi-  
46 sion seven of section four hundred eighty-nine-dddd of such title two-D,  
47 or the requirements of subparagraph (ii) of paragraph (b) of subdivision  
48 five of section four hundred eighty-nine-cccccc of such title two-F,  
49 whichever is applicable, have not been satisfied, provided that applica-  
50 tion for such benefits was made after May third, nineteen hundred eight-  
51 y-five and prior to July first, two thousand [thirteen] FIFTEEN, that  
52 construction or renovation of such premises was described in such appli-  
53 cation, that such premises have been substantially improved by such  
54 construction or renovation so described, that the minimum required

1 expenditure as defined in such title two-D or two-F, whichever is appli-  
2 cable, has been made, and that such real property is located in an  
3 eligible area; or

4 S 2. Paragraph 3 of subdivision (b) of section 25-s of the general  
5 city law, as amended by chapter 406 of the laws of 2010, is amended to  
6 read as follows:

7 (3) non-residential premises that are wholly contained in real proper-  
8 ty that has obtained approval after October thirty-first, two thousand  
9 and prior to July first, two thousand [thirteen] FIFTEEN for financing  
10 by an industrial development agency established pursuant to article  
11 eighteen-A of the general municipal law, provided that such financing  
12 has been used in whole or in part to substantially improve such premises  
13 (by construction or renovation), and that expenditures have been made  
14 for improvements to such real property in excess of ten per centum of  
15 the value at which such real property was assessed for tax purposes for  
16 the tax year in which such improvements commenced, that such expendi-  
17 tures have been made within thirty-six months after the earlier of (i)  
18 the issuance by such agency of bonds for such financing, or (ii) the  
19 conveyance of title to such property to such agency, and that such real  
20 property is located in an eligible area; or

21 S 3. Paragraph 5 of subdivision (b) of section 25-s of the general  
22 city law, as amended by chapter 406 of the laws of 2010, is amended to  
23 read as follows:

24 (5) non-residential premises that are wholly contained in real proper-  
25 ty owned by such city or the New York state urban development corpo-  
26 ration, or a subsidiary thereof, a lease for which was approved in  
27 accordance with the applicable provisions of the charter of such city or  
28 by the board of directors of such corporation, and such approval was  
29 obtained after October thirty-first, two thousand and prior to July  
30 first, two thousand [thirteen] FIFTEEN, provided, however, that such  
31 premises were constructed or renovated subsequent to such approval, that  
32 expenditures have been made subsequent to such approval for improvements  
33 to such real property (by construction or renovation) in excess of ten  
34 per centum of the value at which such real property was assessed for tax  
35 purposes for the tax year in which such improvements commenced, that  
36 such expenditures have been made within thirty-six months after the  
37 effective date of such lease, and that such real property is located in  
38 an eligible area; or

39 S 4. Paragraph 2 of subdivision (c) of section 25-t of the general  
40 city law, as amended by chapter 406 of the laws of 2010, is amended to  
41 read as follows:

42 (2) No eligible energy user, qualified eligible energy user, on-site  
43 cogenerator, or clean on-site cogenerator shall receive a rebate pursu-  
44 ant to this article until it has obtained a certification from the  
45 appropriate city agency in accordance with a local law enacted pursuant  
46 to this section. No such certification for a qualified eligible energy  
47 user shall be issued on or after November first, two thousand. No such  
48 certification of any other eligible energy user, on-site cogenerator, or  
49 clean on-site cogenerator shall be issued on or after July first, two  
50 thousand [thirteen] FIFTEEN.

51 S 5. Paragraph 1 of subdivision (a) of section 25-aa of the general  
52 city law, as amended by chapter 406 of the laws of 2010, is amended to  
53 read as follows:

54 (1) is eligible to obtain benefits under title two-D or two-F of arti-  
55 cle four of the real property tax law, or would be eligible to receive  
56 benefits under such title except that such property is exempt from real

1 property taxation and the requirements of paragraph (b) of subdivision  
2 seven of section four hundred eighty-nine-dddd of such title two-D, or  
3 the requirements of subparagraph (ii) of paragraph (b) of subdivision  
4 five of section four hundred eighty-nine-cccccc of such title two-F,  
5 whichever is applicable, of the real property tax law have not been  
6 satisfied, provided that application for such benefits was made after  
7 the thirtieth day of June, nineteen hundred ninety-five and before the  
8 first day of July, two thousand [thirteen] FIFTEEN, that construction or  
9 renovation of such building or structure was described in such applica-  
10 tion, that such building or structure has been substantially improved by  
11 such construction or renovation, and (i) that the minimum required  
12 expenditure as defined in such title has been made, or (ii) where there  
13 is no applicable minimum required expenditure, the building was  
14 constructed within such period or periods of time established by title  
15 two-D or two-F, whichever is applicable, of article four of the real  
16 property tax law for construction of a new building or structure; or  
17 S 6. Paragraphs 2 and 3 of subdivision (a) of section 25-aa of the  
18 general city law, as amended by chapter 406 of the laws of 2010, are  
19 amended to read as follows:

20 (2) has obtained approval after the thirtieth day of June, nineteen  
21 hundred ninety-five and before the first day of July, two thousand  
22 [thirteen] FIFTEEN, for financing by an industrial development agency  
23 established pursuant to article eighteen-A of the general municipal law,  
24 provided that such financing has been used in whole or in part to  
25 substantially improve such building or structure by construction or  
26 renovation, that expenditures have been made for improvements to such  
27 real property in excess of twenty per centum of the value at which such  
28 real property was assessed for tax purposes for the tax year in which  
29 such improvements commenced, and that such expenditures have been made  
30 within thirty-six months after the earlier of (i) the issuance by such  
31 agency of bonds for such financing, or (ii) the conveyance of title to  
32 such building or structure to such agency; or

33 (3) is owned by the city of New York or the New York state urban  
34 development corporation, or a subsidiary corporation thereof, a lease  
35 for which was approved in accordance with the applicable provisions of  
36 the charter of such city or by the board of directors of such corpo-  
37 ration, as the case may be, and such approval was obtained after the  
38 thirtieth day of June, nineteen hundred ninety-five and before the first  
39 day of July, two thousand [thirteen] FIFTEEN, provided that expenditures  
40 have been made for improvements to such real property in excess of twen-  
41 ty per centum of the value at which such real property was assessed for  
42 tax purposes for the tax year in which such improvements commenced, and  
43 that such expenditures have been made within thirty-six months after the  
44 effective date of such lease; or

45 S 7. Subdivision (f) of section 25-bb of the general city law, as  
46 amended by chapter 406 of the laws of 2010, is amended to read as  
47 follows:

48 (f) Application and certification. An owner or lessee of a building or  
49 structure located in an eligible revitalization area, or an agent of  
50 such owner or lessee, may apply to such department of small business  
51 services for certification that such building or structure is an eligi-  
52 ble building or targeted eligible building meeting the criteria of  
53 subdivision (a) or (q) of section twenty-five-aa of this article.  
54 Application for such certification must be filed after the thirtieth day  
55 of June, nineteen hundred ninety-five and before a building permit is  
56 issued for the construction or renovation required by such subdivisions

1 and before the first day of July, two thousand [thirteen] FIFTEEN,  
2 provided that no certification for a targeted eligible building shall be  
3 issued after October thirty-first, two thousand. Such application shall  
4 identify expenditures to be made that will affect eligibility under such  
5 subdivision (a) or (q). Upon completion of such expenditures, an appli-  
6 cant shall supplement such application to provide information (i) estab-  
7 lishing that the criteria of such subdivision (a) or (q) have been met;  
8 (ii) establishing a basis for determining the amount of special rebates,  
9 including a basis for an allocation of the special rebate among eligible  
10 revitalization area energy users purchasing or otherwise receiving ener-  
11 gy services from an eligible redistributor of energy or a qualified  
12 eligible redistributor of energy; and (iii) supporting an allocation of  
13 charges for energy services between eligible charges and other charges.  
14 Such department shall certify a building or structure as an eligible  
15 building or targeted eligible building after receipt and review of such  
16 information and upon a determination that such information establishes  
17 that the building or structure qualifies as an eligible building or  
18 targeted eligible building. Such department shall mail such certif-  
19 ication or notice thereof to the applicant upon issuance. Such certif-  
20 ication shall remain in effect provided the eligible redistributor of  
21 energy or qualified eligible redistributor of energy reports any changes  
22 that materially affect the amount of the special rebates to which it is  
23 entitled or the amount of reduction required by subdivision (c) of this  
24 section in an energy services bill of an eligible revitalization area  
25 energy user and otherwise complies with the requirements of this arti-  
26 cle. Such department shall notify the private utility or public utility  
27 service required to make a special rebate to such redistributor of the  
28 amount of such special rebate established at the time of certification  
29 and any changes in such amount and any suspension or termination by such  
30 department of certification under this subdivision. Such department may  
31 require some or all of the information required as part of an applica-  
32 tion or other report be provided by a licensed engineer.

33 S 8. Paragraph 1 of subdivision (i) of section 22-601 of the adminis-  
34 trative code of the city of New York, as amended by chapter 406 of the  
35 laws of 2010, is amended to read as follows:

36 (1) Non-residential premises that are wholly contained in property  
37 that is eligible to obtain benefits under part four or part five of  
38 subchapter two of chapter two of title eleven of this code, or would be  
39 eligible to receive benefits under such chapter except that such proper-  
40 ty is exempt from real property taxation and the requirements of para-  
41 graph two of subdivision g of section 11-259 of this code, or the  
42 requirements of subparagraph (b) of paragraph two of subdivision e of  
43 section 11-270 of this code, whichever is applicable, have not been  
44 satisfied, provided that application for such benefits was made after  
45 May third, nineteen hundred eighty-five and prior to July first, two  
46 thousand [thirteen] FIFTEEN, that construction or renovation of such  
47 premises was described in such application, that such premises have been  
48 substantially improved by such construction or renovation so described,  
49 that the minimum required expenditure as defined in such part four or  
50 part five, whichever is applicable, has been made, and that such real  
51 property is located in an eligible area; or

52 S 9. Paragraph 3 of subdivision (i) of section 22-601 of the adminis-  
53 trative code of the city of New York, as amended by chapter 406 of the  
54 laws of 2010, is amended to read as follows:

55 (3) non-residential premises that are wholly contained in real proper-  
56 ty that has obtained approval after October thirty-first, two thousand

1 and prior to July first, two thousand [thirteen] FIFTEEN for financing  
2 by an industrial development agency established pursuant to article  
3 eighteen-A of the general municipal law, provided that such financing  
4 has been used in whole or in part to substantially improve such premises  
5 (by construction or renovation), and that expenditures have been made  
6 for improvements to such real property in excess of ten per centum of  
7 the value at which such real property was assessed for tax purposes for  
8 the tax year in which such improvements commenced, that such expendi-  
9 tures have been made within thirty-six months after the earlier of (i)  
10 the issuance by such agency of bonds for such financing, or (ii) the  
11 conveyance of title to such property to such agency, and that such real  
12 property is located in an eligible area; or

13 S 10. Paragraph 5 of subdivision (i) of section 22-601 of the adminis-  
14 trative code of the city of New York, as amended by chapter 406 of the  
15 laws of 2010, is amended to read as follows:

16 (5) non-residential premises that are wholly contained in real proper-  
17 ty owned by such city or the New York state urban development corpo-  
18 ration, or a subsidiary thereof, a lease for which was approved in  
19 accordance with the applicable provisions of the charter of such city or  
20 by the board of directors of such corporation, and such approval was  
21 obtained after October thirty-first, two thousand and prior to July  
22 first, two thousand [thirteen] FIFTEEN, provided, however, that such  
23 premises were constructed or renovated subsequent to such approval, that  
24 expenditures have been made subsequent to such approval for improvements  
25 to such real property (by construction or renovation) in excess of ten  
26 per centum of the value at which such real property was assessed for tax  
27 purposes for the tax year in which such improvements commenced, that  
28 such expenditures have been made within thirty-six months after the  
29 effective date of such lease, and that such real property is located in  
30 an eligible area; or

31 S 11. Paragraph 1 of subdivision (c) of section 22-602 of the adminis-  
32 trative code of the city of New York, as amended by chapter 406 of the  
33 laws of 2010, is amended to read as follows:

34 (1) No eligible energy user, qualified eligible energy user, on-site  
35 cogenerator, clean on-site cogenerator or special eligible energy user  
36 shall receive a rebate pursuant to this chapter until it has obtained a  
37 certification as an eligible energy user, qualified eligible energy  
38 user, on-site cogenerator, clean on-site cogenerator or special eligible  
39 energy user, respectively, from the commissioner of small business  
40 services. No such certification for a qualified eligible energy user  
41 shall be issued on or after July first, two thousand three. No such  
42 certification of any other eligible energy user, on-site cogenerator or  
43 clean on-site cogenerator shall be issued on or after July first, two  
44 thousand [thirteen] FIFTEEN. The commissioner of small business  
45 services, after notice and hearing, may revoke a certification issued  
46 pursuant to this subdivision where it is found that eligibility criteria  
47 have not been met or that compliance with conditions for continued  
48 eligibility has not been maintained. The corporation counsel may main-  
49 tain a civil action to recover an amount equal to any benefits improper-  
50 ly obtained.

51 S 12. This act shall take effect immediately and shall be deemed to  
52 have been in full force and effect after June 30, 2013.

1 Section 1. Subparagraph (b-2) of paragraph 2 of subdivision i of  
2 section 11-704 of the administrative code of the city of New York, as  
3 amended by chapter 203 of the laws of 2009, is amended to read as  
4 follows:

5 (b-2) The amount of the special reduction allowed by this subdivision  
6 with respect to a lease other than a sublease commencing between July  
7 first, two thousand five and June thirtieth, two thousand [thirteen]  
8 FIFTEEN with an initial or renewal lease term of at least five years  
9 shall be determined as follows:

10 (i) For the base year the amount of such special reduction shall be  
11 equal to the base rent for the base year.

12 (ii) For the first, second, third and fourth twelve-month periods  
13 following the base year the amount of such special reduction shall be  
14 equal to the lesser of (A) the base rent for each such twelve-month  
15 period or (B) the base rent for the base year.

16 S 2. Subparagraph (a) of paragraph 5 of subdivision i of section  
17 11-704 of the administrative code of the city of New York is amended by  
18 adding a new clause (iii) to read as follows:

19 (III) NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW TO THE CONTRARY, AN  
20 APPLICATION FOR THE SPECIAL REDUCTION ALLOWED BY SUBPARAGRAPH (B-2) OF  
21 PARAGRAPH TWO OF THIS SUBDIVISION SHALL BE CONSIDERED TIMELY FILED IF  
22 FILED BY SUCH TENANT WITH THE DEPARTMENT OF FINANCE ON OR AFTER THE DATE  
23 ON WHICH THE LEASE FOR THE ELIGIBLE PREMISES IS EXECUTED BY THE LANDLORD  
24 AND TENANT BUT IN NO EVENT MORE THAN ONE HUNDRED EIGHTY DAYS FOLLOWING  
25 THE RENT COMMENCEMENT DATE OR SIXTY DAYS FOLLOWING THE DATE THAT THE  
26 CHAPTER OF THE LAWS OF TWO THOUSAND FOURTEEN THAT ADDED THIS CLAUSE  
27 BECAME A LAW, WHICHEVER IS LATER, AND NO SUCH SPECIAL REDUCTION SHALL BE  
28 PERMITTED UNLESS SUCH APPLICATION IS FILED WITHIN SUCH TIME.

29 S 3. This act shall take effect immediately and shall be deemed to  
30 have been in full force and effect after June 30, 2013.

#### 31 SUBPART G

32 Section 1. Subdivision 9 of section 499-aa of the real property tax  
33 law, as amended by chapter 306 of the laws of 2010, is amended to read  
34 as follows:

35 9. "Eligibility period." The period commencing April first, nineteen  
36 hundred ninety-five and terminating March thirty-first, two thousand  
37 one, provided, however, that with respect to eligible premises defined  
38 in subparagraph (i) of paragraph (b) of subdivision ten of this section,  
39 the period commencing July first, two thousand and terminating June  
40 thirtieth, two thousand [fourteen] SIXTEEN, and provided, further,  
41 however, that with respect to eligible premises defined in subparagraph  
42 (ii) of paragraph (b) or paragraph (c) of subdivision ten of this  
43 section, the period commencing July first, two thousand five and termi-  
44 nating June thirtieth, two thousand [fourteen] SIXTEEN.

45 S 2. Subparagraph (iii) of paragraph (a) of subdivision 3 of section  
46 499-cc of the real property tax law, as amended by chapter 306 of the  
47 laws of 2010, is amended to read as follows:

48 (iii) With respect to the eligible premises defined in subparagraph  
49 (ii) of paragraph (b) or paragraph (c) of subdivision ten of section  
50 four hundred ninety-nine-aa of this title and for purposes of determin-  
51 ing whether the amount of expenditures required by subdivision one of  
52 this section have been satisfied, expenditures on improvements to the  
53 common areas of an eligible building shall be included only if work on  
54 such improvements commenced and the expenditures are made on or after

1 July first, two thousand five and on or before December thirty-first,  
2 two thousand [fourteen] SIXTEEN; provided, however, that expenditures on  
3 improvements to the common areas of an eligible building made prior to  
4 three years before the lease commencement date shall not be included.

5 S 3. This act shall take effect immediately.

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

15 S 3. This act shall take effect immediately provided, however, that  
16 the applicable effective date of Subparts A through G of this act shall  
17 be as specifically set forth in the last section of such Subparts.

18 PART HH

19 Section 1. The tax law is amended by adding a new section 24-a to read  
20 as follows:

21 S 24-A. MUSICAL AND THEATRICAL PRODUCTION CREDIT. (A)(1) ALLOWANCE OF  
22 CREDIT. A TAXPAYER WHICH IS A QUALIFIED MUSICAL AND THEATRICAL  
23 PRODUCTION COMPANY, OR WHICH IS A SOLE PROPRIETOR OF OR A MEMBER OF A  
24 PARTNERSHIP WHICH IS A QUALIFIED MUSICAL AND THEATRICAL PRODUCTION  
25 COMPANY, AND WHICH IS SUBJECT TO TAX UNDER ARTICLE NINE-A OR TWENTY-TWO  
26 OF THIS CHAPTER, SHALL BE ALLOWED A CREDIT AGAINST SUCH TAX, PURSUANT TO  
27 THE PROVISIONS REFERRED TO IN SUBDIVISION (C) OF THIS SECTION, AND TO BE  
28 COMPUTED AS PROVIDED IN THIS SECTION.

29 (2) THE AMOUNT OF THE CREDIT SHALL BE THE PRODUCT (OR PRO RATA SHARE  
30 OF THE PRODUCT, IN THE CASE OF A MEMBER OF A PARTNERSHIP) OF TWENTY-FIVE  
31 PERCENT AND THE SUM OF THE QUALIFIED PRODUCTION EXPENDITURES AND THE  
32 TRANSPORTATION EXPENDITURES.

33 (3) NO QUALIFIED PRODUCTION EXPENDITURES OR TRANSPORTATION EXPENDI-  
34 TURES USED BY A TAXPAYER EITHER AS THE BASIS FOR THE ALLOWANCE OF THE  
35 CREDIT PROVIDED FOR PURSUANT TO THIS SECTION OR USED IN THE CALCULATION  
36 OF THE CREDIT PROVIDED PURSUANT TO THIS SECTION SHALL BE USED BY SUCH  
37 TAXPAYER TO CLAIM ANY OTHER CREDIT ALLOWED PURSUANT TO THIS CHAPTER.

38 (B) DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL  
39 HAVE THE FOLLOWING MEANINGS:

40 (1) "QUALIFIED MUSICAL AND THEATRICAL PRODUCTION" MEANS A FOR-PROFIT  
41 LIVE, DRAMATIC STAGE PRESENTATION IN A QUALIFIED PRODUCTION FACILITY,  
42 CERTIFIED PURSUANT TO RULES AND REGULATIONS PROMULGATED BY THE DEPART-  
43 MENT OF ECONOMIC DEVELOPMENT, AS A QUALIFIED TOURING PRODUCTION.

44 (2) "QUALIFIED TOURING PRODUCTION" MEANS A LIVE, DRAMATIC STAGE  
45 PRODUCTION THAT, IN ITS ORIGINAL OR ADAPTIVE VERSION, IS PERFORMED IN A  
46 QUALIFIED PRODUCTION FACILITY, AND HAS BEGUN OR WILL BEGIN A TOUR,  
47 CONSISTING OF EIGHT OR MORE SHOWS IN THREE OR MORE LOCALITIES.

48 (3) "QUALIFIED PRODUCTION EXPENDITURE" MEANS ANY COSTS FOR TANGIBLE  
49 PROPERTY USED AND SERVICES PERFORMED DIRECTLY AND PREDOMINANTLY IN THE  
50 PRODUCTION OF A QUALIFIED MUSICAL AND THEATRICAL PRODUCTION WITHIN THE  
51 STATE INCLUDING: (I) EXPENDITURES FOR DESIGN, CONSTRUCTION AND OPERA-  
52 TION, INCLUDING SETS, SPECIAL AND VISUAL EFFECTS, COSTUMES, WARDROBES,  
53 MAKE-UP, ACCESSORIES AND COSTS ASSOCIATED WITH SOUND, LIGHTING, AND  
54 STAGING, (II) ALL SALARIES, WAGES, FEES, AND OTHER COMPENSATION INCLUD-

1 ING RELATED BENEFITS FOR SERVICES PERFORMED OF WHICH THE TOTAL ALLOWABLE  
2 EXPENSE SHALL NOT EXCEED TWO HUNDRED THOUSAND DOLLARS PER WEEK, AND  
3 (III) TECHNICAL AND CREW PRODUCTION COSTS, SUCH AS EXPENDITURES FOR  
4 QUALIFIED PRODUCTION FACILITIES, OR ANY PART THEREOF, PROPS, MAKE-UP,  
5 WARDROBE, COSTUMES, EQUIPMENT USED FOR SPECIAL AND VISUAL EFFECTS, SOUND  
6 RECORDING, SET CONSTRUCTION, AND LIGHTING.

7 (4) "QUALIFIED PRODUCTION FACILITY" MEANS A FACILITY LOCATED IN THE  
8 STATE BUT OUTSIDE THE CITY OF NEW YORK (I) IN WHICH LIVE THEATRICAL  
9 PRODUCTIONS ARE OR ARE INTENDED TO BE PRIMARILY PRESENTED, (II) THAT  
10 CONTAINS AT LEAST ONE STAGE, A SEATING CAPACITY OF ONE THOUSAND OR MORE  
11 SEATS, AND DRESSING ROOMS, STORAGE AREAS, AND OTHER ANCILLARY AMENITIES  
12 NECESSARY FOR THE QUALIFIED MUSICAL AND THEATRICAL PRODUCTION, (III) FOR  
13 WHICH RECEIPTS ATTRIBUTABLE TO TICKET SALES CONSTITUTE SEVENTY-FIVE  
14 PERCENT OR MORE OF GROSS RECEIPTS OF THE FACILITY, AND (IV) WHICH IS NOT  
15 A LICENSEE, OR AFFILIATED WITH A LICENSEE, OF THE NEW YORK STATE GAMING  
16 COMMISSION UNDER THE RACING, PARI-MUTUEL WAGERING AND BREEDING LAW.

17 (5) "QUALIFIED MUSICAL AND THEATRICAL PRODUCTION COMPANY" IS A CORPO-  
18 RATION, PARTNERSHIP, LIMITED PARTNERSHIP, OR OTHER ENTITY OR INDIVIDUAL  
19 WHICH OR WHO IS PRINCIPALLY ENGAGED IN THE PRODUCTION OF A QUALIFIED  
20 MUSICAL OR THEATRICAL PRODUCTION AND PERFORMS IN A QUALIFIED PRODUCTION  
21 FACILITY.

22 (6) (I) "TRANSPORTATION EXPENDITURES" MEANS TRANSPORTATION EXPENDI-  
23 TURES INCURRED AND PAID DIRECTLY AND PREDOMINANTLY IN THE PRODUCTION OF  
24 A QUALIFIED MUSICAL AND THEATRICAL PRODUCTION. SUCH EXPENDITURES SHALL  
25 INCLUDE THE PACKAGING, CRATING, AND TRANSPORTATION WITHIN THE STATE FOR  
26 USE IN A QUALIFIED THEATER PRODUCTION OF SETS, COSTUMES, OR OTHER TANGI-  
27 BLE PROPERTY CONSTRUCTED OR MANUFACTURED IN AND OUT OF STATE, AND THE  
28 TRANSPORTATION OF THE CAST AND CREW WITHIN THE STATE. SUCH TERM SHALL  
29 INCLUDE THE PACKAGING, CRATING, AND TRANSPORTING WITHIN THE STATE OF  
30 PROPERTY AND EQUIPMENT USED FOR SPECIAL AND VISUAL EFFECTS, SOUND,  
31 LIGHTING AND STAGING, COSTUMES, WARDROBES, MAKE-UP AND RELATED ACCESSO-  
32 RIES AND MATERIALS, AS WELL AS ANY OTHER PERFORMANCE OR PRODUCTION-RE-  
33 LATED PROPERTY AND EQUIPMENT.

34 (II) TRANSPORTATION EXPENDITURES SHALL NOT INCLUDE ANY COSTS TO TRANS-  
35 PORT PROPERTY AND EQUIPMENT TO BE USED ONLY FOR FILMING AND NOT IN A  
36 QUALIFIED THEATER PRODUCTION, ANY INDIRECT COSTS, AND EXPENDITURES THAT  
37 ARE LATER REIMBURSED BY A THIRD PARTY, OR ANY AMOUNTS THAT ARE PAID TO  
38 PERSONS OR ENTITIES AS A RESULT OF THEIR PARTICIPATION IN PROFITS FROM  
39 THE EXPLOITATION OF THE PRODUCTION.

40 (C) CROSS-REFERENCES. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN  
41 THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

42 (1) ARTICLE 9-A: SECTION 210-B: SUBDIVISION 47.

43 (2) ARTICLE 22: SECTION 606: SUBSECTION (U).

44 (D) NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER, (I) EMPLOYEES AND  
45 OFFICERS OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT AND THE DEPARTMENT  
46 SHALL BE ALLOWED AND ARE DIRECTED TO SHARE AND EXCHANGE INFORMATION  
47 REGARDING THE CREDITS APPLIED FOR, ALLOWED, OR CLAIMED PURSUANT TO THIS  
48 SECTION AND TAXPAYERS WHO ARE APPLYING FOR CREDITS OR WHO ARE CLAIMING  
49 CREDITS, INCLUDING INFORMATION CONTAINED IN OR DERIVED FROM CREDIT CLAIM  
50 FORMS SUBMITTED TO THE DEPARTMENT AND APPLICATIONS FOR CERTIFICATION  
51 SUBMITTED TO THE DEPARTMENT OF ECONOMIC DEVELOPMENT, AND (II) THE  
52 COMMISSIONER AND THE COMMISSIONER OF THE DEPARTMENT OF ECONOMIC DEVELOP-  
53 MENT MAY RELEASE THE NAMES AND ADDRESSES OF ANY TAXPAYER CLAIMING THIS  
54 CREDIT AND THE AMOUNT OF THE CREDIT EARNED BY THE TAXPAYER. PROVIDED,  
55 HOWEVER, IF A TAXPAYER CLAIMS THIS CREDIT BECAUSE IT IS A MEMBER OF A  
56 LIMITED LIABILITY COMPANY OR A PARTNER IN A PARTNERSHIP, ONLY THE AMOUNT



1 OF CREDIT EARNED BY THE ENTITY AND NOT THE AMOUNT OF CREDIT CLAIMED BY  
2 THE TAXPAYER MAY BE RELEASED.

3 (E) MAXIMUM AMOUNT OF CREDITS. (1) THE AGGREGATE AMOUNT OF TAX CREDITS  
4 ALLOWED UNDER THIS SECTION, SUBDIVISION FORTY-SEVEN OF SECTION TWO  
5 HUNDRED TEN-B AND SUBSECTION (U) OF SECTION SIX HUNDRED SIX OF THIS  
6 CHAPTER IN ANY CALENDAR YEAR SHALL BE FOUR MILLION DOLLARS. SUCH AGGRE-  
7 GATE AMOUNT OF CREDITS SHALL BE ALLOCATED BY THE DEPARTMENT OF ECONOMIC  
8 DEVELOPMENT AMONG TAXPAYERS IN ORDER OF PRIORITY BASED UPON THE DATE OF  
9 FILING AN APPLICATION FOR ALLOCATION OF MUSICAL AND THEATRICAL  
10 PRODUCTION CREDIT WITH SUCH DEPARTMENT. IF THE TOTAL AMOUNT OF ALLOCATED  
11 CREDITS APPLIED FOR IN ANY PARTICULAR YEAR EXCEEDS THE AGGREGATE AMOUNT  
12 OF TAX CREDITS ALLOWED FOR SUCH YEAR UNDER THIS SECTION, SUCH EXCESS  
13 SHALL BE TREATED AS HAVING BEEN APPLIED FOR ON THE FIRST DAY OF THE  
14 SUBSEQUENT YEAR.

15 (2) THE COMMISSIONER OF ECONOMIC DEVELOPMENT, AFTER CONSULTING WITH  
16 THE COMMISSIONER, SHALL PROMULGATE REGULATIONS BY OCTOBER THIRTY-FIRST,  
17 TWO THOUSAND FOURTEEN TO ESTABLISH PROCEDURES FOR THE ALLOCATION OF TAX  
18 CREDITS AS REQUIRED BY SUBDIVISION (A) OF THIS SECTION. SUCH RULES AND  
19 REGULATIONS SHALL INCLUDE PROVISIONS DESCRIBING THE APPLICATION PROCESS,  
20 THE DUE DATES FOR SUCH APPLICATIONS, THE STANDARDS WHICH SHALL BE USED  
21 TO EVALUATE THE APPLICATIONS, THE DOCUMENTATION THAT WILL BE PROVIDED TO  
22 TAXPAYERS TO SUBSTANTIATE TO THE DEPARTMENT THE AMOUNT OF TAX CREDITS  
23 ALLOCATED TO SUCH TAXPAYERS, AND SUCH OTHER PROVISIONS AS DEEMED NECES-  
24 SARY AND APPROPRIATE. NOTWITHSTANDING ANY OTHER PROVISIONS TO THE  
25 CONTRARY IN THE STATE ADMINISTRATIVE PROCEDURE ACT, SUCH RULES AND REGU-  
26 LATIONS MAY BE ADOPTED ON AN EMERGENCY BASIS IF NECESSARY TO MEET SUCH  
27 OCTOBER THIRTY-FIRST, TWO THOUSAND FOURTEEN DEADLINE.

28 (F) THE DEPARTMENT OF ECONOMIC DEVELOPMENT SHALL SUBMIT TO THE GOVER-  
29 NOR, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE  
30 ASSEMBLY, AN ANNUAL REPORT TO BE SUBMITTED ON FEBRUARY FIRST OF EACH  
31 YEAR EVALUATING THE EFFECTIVENESS OF THE MUSICAL AND THEATRICAL  
32 PRODUCTION TAX CREDIT PROVIDED BY THIS SECTION IN STIMULATING THE GROWTH  
33 OF THE MUSICAL AND THEATRICAL INDUSTRY IN THE STATE. SUCH REPORT SHALL  
34 INCLUDE, BUT NEED NOT BE LIMITED TO, IN TOTAL AND BY QUALIFIED MUSICAL  
35 AND THEATRICAL PRODUCTION, THE NUMBER OF QUALIFIED MUSICAL AND THEATRI-  
36 CAL PRODUCTIONS WHICH RECEIVED A MUSICAL AND THEATRICAL PRODUCTION CRED-  
37 IT, THE QUALIFIED PRODUCTION EXPENDITURES, THE TRANSPORTATION EXPENDI-  
38 TURES, THE QUALIFIED PRODUCTION FACILITIES, AND THE CREDIT AMOUNTS  
39 CLAIMED BY EACH QUALIFIED MUSICAL AND THEATRICAL PRODUCTION, AS WELL AS  
40 THE IMPACT ON EMPLOYMENT AND THE ECONOMY OF THE STATE. SUCH REPORT SHALL  
41 INCLUDE (1) THE CREDIT-ELIGIBLE MAN HOURS FOR EACH PROJECT AND THE TOTAL  
42 WAGES FOR SUCH CREDIT-ELIGIBLE MAN HOURS FOR EACH PROJECT AS WELL AS THE  
43 NAME OF EACH TAXPAYER ALLOCATED A TAX CREDIT FOR EACH PROJECT AND THE  
44 COUNTY OF RESIDENCE OR INCORPORATION OF SUCH TAXPAYER OR, IF THE TAXPAY-  
45 ER DOES NOT RESIDE OR IS NOT INCORPORATED IN NEW YORK, THEN THE STATE OF  
46 RESIDENCE OR INCORPORATION; PROVIDED HOWEVER, IF THE TAXPAYER CLAIMS A  
47 TAX CREDIT BECAUSE THE TAXPAYER IS A MEMBER OF A LIMITED LIABILITY  
48 COMPANY, A PARTNER IN A PARTNERSHIP OR A SHAREHOLDER IN A SUBCHAPTER S  
49 CORPORATION, THE NAME OF EACH LIMITED LIABILITY COMPANY, PARTNERSHIP OR  
50 SUBCHAPTER S CORPORATION EARNING ANY OF THOSE TAX CREDITS MUST BE  
51 INCLUDED IN THE REPORT INSTEAD OF INFORMATION ABOUT THE TAXPAYER CLAIM-  
52 ING THE TAX CREDIT; AND (2) THE AMOUNT OF TAX CREDIT ALLOCATED TO EACH  
53 TAXPAYER; PROVIDED, HOWEVER, IF THE TAXPAYER CLAIMS A TAX CREDIT BECAUSE  
54 THE TAXPAYER IS A MEMBER OF A LIMITED LIABILITY COMPANY, A PARTNER IN A  
55 PARTNERSHIP OR A SHAREHOLDER IN A SUBCHAPTER S CORPORATION, THE AMOUNT  
56 OF TAX CREDIT EARNED BY EACH ENTITY MUST BE INCLUDED IN THE REPORT

1 INSTEAD OF INFORMATION ABOUT THE TAXPAYER CLAIMING THE TAX CREDIT, AND  
2 INFORMATION IDENTIFYING THE PROJECT ASSOCIATED WITH EACH TAXPAYER FOR  
3 WHICH A TAX CREDIT WAS CLAIMED UNDER THIS SECTION, INCLUDING THE NAME OF  
4 THE MUSICAL AND THEATRICAL PRODUCTION AND COUNTY IN WHICH THE PRODUCTION  
5 IS PERFORMED MUST BE INCLUDED IN SUCH REPORT. SUCH REPORT SHALL BE BASED  
6 ON DATA AVAILABLE FROM THE APPLICATION FILED WITH THE DEPARTMENT OF  
7 ECONOMIC DEVELOPMENT FOR ALLOCATION OF MUSICAL AND THEATRICAL PRODUCTION  
8 CREDITS. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE  
9 INFORMATION CONTAINED IN THE REPORT SHALL BE PUBLIC INFORMATION. THE  
10 REPORT MAY ALSO INCLUDE ANY RECOMMENDATIONS OF CHANGES IN THE CALCU-  
11 LATION OR ADMINISTRATION OF THE CREDIT, AND ANY OTHER RECOMMENDATION OF  
12 THE COMMISSIONER OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT REGARDING  
13 CONTINUING MODIFICATION, REPEAL OF SUCH ACT, AND SUCH OTHER INFORMATION  
14 REGARDING THE ACT AS THE COMMISSIONER OF THE DEPARTMENT OF ECONOMIC  
15 DEVELOPMENT MAY FEEL USEFUL AND APPROPRIATE.

16 S 2. Section 210-B of the tax law, as added by section 17 of part A of  
17 this act, is amended by adding a new subdivision 47 to read as follows:

18 47. MUSICAL AND THEATRICAL PRODUCTION CREDIT. (A) ALLOWANCE OF CREDIT.  
19 A TAXPAYER WHO IS ELIGIBLE PURSUANT TO SECTION TWENTY-FOUR-A OF THIS  
20 CHAPTER SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SUCH  
21 SECTION AGAINST THE TAX IMPOSED BY THIS ARTICLE.

22 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION  
23 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS  
24 THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF THIS  
25 SECTION. PROVIDED, HOWEVER, THAT IF THE AMOUNT OF THE CREDIT ALLOWABLE  
26 UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH  
27 AMOUNT, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CRED-  
28 ITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOU-  
29 SAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, FURTHER, THE PROVISIONS OF  
30 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER  
31 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

32 S 3. Subparagraph (B) of paragraph 1 of subsection (i) of section 606  
33 of the tax law is amended by adding a new clause (xxxix) to read as  
34 follows:

35 (XXXIX) MUSICAL AND THEATRICAL	AMOUNT OF CREDIT FOR
36 PRODUCTION CREDIT UNDER	THE SUM OF THE QUALIFIED
37 SUBSECTION (U)	PRODUCTION EXPENDITURES AND
38	THE TRANSPORTATION EXPENDITURES
39	IN A QUALIFIED MUSICAL AND
40	THEATRICAL PRODUCTION UNDER
41	SUBDIVISION FORTY-SEVEN OF
42	SECTION TWO HUNDRED TEN-B

43 S 4. Section 606 of the tax law is amended by adding a new subsection  
44 (u) to read as follows:

45 (U) MUSICAL AND THEATRICAL PRODUCTION CREDIT. (1) ALLOWANCE OF CREDIT.  
46 A TAXPAYER WHO IS ELIGIBLE PURSUANT TO SECTION TWENTY-FOUR-A OF THIS  
47 CHAPTER SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SUCH  
48 SECTION AGAINST THE TAX IMPOSED BY THIS ARTICLE.

49 (2) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER  
50 THIS SUBSECTION FOR ANY TAXABLE YEAR EXCEEDS THE TAXPAYER'S TAX FOR SUCH  
51 YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDIT-  
52 ED OR REFUNDED AS PROVIDED IN SECTION SIX HUNDRED EIGHTY-SIX OF THIS  
53 ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

54 S 5. This act shall take effect immediately, provided that section two  
55 of this act shall take effect on January 1, 2015, and shall apply to  
56 taxable years beginning on or after January 1, 2015, with respect to

"qualified production expenditures" and "transportation expenditures" paid or incurred on or after such effective date, regardless of whether the production of the qualified musical or theatrical production commenced before such date, provided further that this act shall expire and be deemed repealed 4 years after such date.

## PART II

Section 1. Paragraph 1 of subdivision (a) of section 1115 of the tax law, as amended by section 1 of part O of chapter 63 of the laws of 2000, is amended to read as follows:

(1) Food, food products, beverages, dietary foods and health supplements, sold for human consumption but not including (i) candy and confectionery, (ii) fruit drinks which contain less than seventy percent of natural fruit juice, (iii) soft drinks, sodas and beverages such as are ordinarily dispensed at soda fountains or in connection therewith (other than coffee, tea and cocoa) and (iv) beer, wine or other alcoholic beverages, all of which shall be subject to the retail sales and compensating use taxes, whether or not the item is sold in liquid form. The food and drink excluded from the exemption provided by this paragraph under subparagraphs (i), (ii) and (iii) of this paragraph shall be exempt under this paragraph when sold for [seventy-five cents] ONE DOLLAR AND FIFTY CENTS or less through any vending machine activated by the use of coin, currency, credit card or debit card. With the exception of the provision in this paragraph providing for an exemption for certain food or drink sold for [seventy-five cents] ONE DOLLAR AND FIFTY CENTS or less through vending machines, nothing herein shall be construed as exempting food or drink from the tax imposed under subdivision (d) of section eleven hundred five OF THIS ARTICLE.

S 2. This act shall take effect June 1, 2014.

## PART JJ

Section 1. Paragraph 5 of subdivision (a) of section 24 of the tax law, as added by section 7 of part B of chapter 59 of the laws of 2013, is amended to read as follows:

(5) For the period two thousand fifteen through two thousand nineteen, in addition to the amount of credit established in paragraph two of this subdivision, a taxpayer shall be allowed a credit equal to the product (or pro rata share of the product, in the case of a member of a partnership) of ten percent and the amount of wages or salaries paid to individuals directly employed (excluding those employed as writers, directors, music directors, producers and performers, including background actors with no scripted lines) by a qualified film production company or a qualified independent film production company for services performed by those individuals in one of the counties specified in this paragraph in connection with a qualified film with a minimum budget of five hundred thousand dollars. For purposes of this additional credit, the services must be performed in one or more of the following counties: ALBANY, Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Cortland, Delaware, Erie, Essex, Franklin, Fulton, Genesee, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Otsego, SCHENECTADY, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Tioga, Tompkins, Wayne, Wyoming, or Yates. The aggregate amount of tax credits allowed pursuant to the authority of this paragraph shall be

1 five million dollars each year during the period two thousand fifteen  
2 through two thousand nineteen of the annual allocation made available to  
3 the program pursuant to paragraph four of subdivision (e) of this  
4 section. Such aggregate amount of credits shall be allocated by the  
5 governor's office for motion picture and television development among  
6 taxpayers in order of priority based upon the date of filing an applica-  
7 tion for allocation of film production credit with such office. If the  
8 total amount of allocated credits applied for under this paragraph in  
9 any year exceeds the aggregate amount of tax credits allowed for such  
10 year under this paragraph, such excess shall be treated as having been  
11 applied for on the first day of the next year. If the total amount of  
12 allocated tax credits applied for under this paragraph at the conclusion  
13 of any year is less than five million dollars, the remainder shall be  
14 treated as part of the annual allocation made available to the program  
15 pursuant to paragraph four of subdivision (e) of this section. However,  
16 in no event may the total of the credits allocated under this paragraph  
17 and the credits allocated under paragraph five of subdivision (a) of  
18 section thirty-one of this article exceed five million dollars in any  
19 year during the period two thousand fifteen through two thousand nine-  
20 teen.

21 S. 2. Paragraph 5 of subdivision (a) of section 31 of the tax law, as  
22 added by section 8 of part B of chapter 59 of the laws of 2013, is  
23 amended to read as follows:

24 [(5)] (6) For the period two thousand fifteen through two thousand  
25 nineteen, in addition to the amount of credit established in paragraph  
26 two of subdivision (a) of this section, a taxpayer shall be allowed a  
27 credit equal to the product (or pro rata share of the product, in the  
28 case of a member of a partnership) of ten percent and the amount of  
29 wages or salaries paid to individuals directly employed (excluding those  
30 employed as writers, directors, music directors, producers and perform-  
31 ers, including background actors with no scripted lines) for services  
32 performed by those individuals in one of the counties specified in this  
33 paragraph in connection with the post production work on a qualified  
34 film with a minimum budget of five hundred thousand dollars at a quali-  
35 fied post production facility in one of the counties listed in this  
36 paragraph. For purposes of this additional credit, the services must be  
37 performed in one or more of the following counties: ALBANY, Allegany,  
38 Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton,  
39 Cortland, Delaware, Erie, Essex, Franklin, Fulton, Genesee, Hamilton,  
40 Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery,  
41 Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Otsego, SCHENECTA-  
42 DY, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Tioga, Tompkins,  
43 Wayne, Wyoming, or Yates. The aggregate amount of tax credits allowed  
44 pursuant to the authority of this paragraph shall be five million  
45 dollars each year during the period two thousand fifteen through two  
46 thousand nineteen of the annual allocation made available to the empire  
47 state film post production credit pursuant to paragraph four of subdivi-  
48 sion (e) of section twenty-four of this article. Such aggregate amount  
49 of credits shall be allocated by the governor's office for motion  
50 picture and television development among taxpayers in order of priority  
51 based upon the date of filing an application for allocation of post  
52 production credit with such office. If the total amount of allocated  
53 credits applied for under this paragraph in any year exceeds the aggre-  
54 gate amount of tax credits allowed for such year under this paragraph,  
55 such excess shall be treated as having been applied for on the first day  
56 of the next year. If the total amount of allocated tax credits applied

for under this paragraph at the conclusion of any year is less than five million dollars, the remainder shall be treated as part of the annual allocation for two thousand seventeen made available to the empire state film post production credit pursuant to paragraph four of subdivision (e) of section twenty-four of this article. However, in no event may the total of the credits allocated under this paragraph and the credits allocated under paragraph five of subdivision (a) of section twenty-four of this article exceed five million dollars in any year during the period two thousand fifteen through two thousand nineteen.

S 3. This act shall take effect January 1, 2015.

#### PART KK

Section 1. Subsection (c) of section 612 of the tax law is amended by adding a new paragraph 41 to read as follows:

(41) THE AMOUNT OF ANY AWARD PAID TO A VOLUNTEER FIREFIGHTER OR VOLUNTEER AMBULANCE WORKER FROM A LENGTH OF SERVICE DEFINED CONTRIBUTION PLAN OR DEFINED BENEFIT PLAN AS PROVIDED FOR IN ARTICLES ELEVEN-A, ELEVEN-AA, ELEVEN-AAA AND ELEVEN-AAAA OF THE GENERAL MUNICIPAL LAW, TO THE EXTENT THAT SUCH AWARD IS INCLUDABLE IN GROSS INCOME FOR FEDERAL INCOME TAX PURPOSES; PROVIDED, HOWEVER, THAT SUCH AWARD IS NOT DISTRIBUTED IN THE FORM OF A LUMP SUM DISTRIBUTION, AS DEFINED IN SUBPARAGRAPH (A) OF PARAGRAPH FOUR OF SUBSECTION (E) OF SECTION FOUR HUNDRED TWO OF THE INTERNAL REVENUE CODE AND TAXED UNDER SECTION SIX HUNDRED THREE OF THIS ARTICLE; AND PROVIDED, FURTHER, THAT SUCH AWARD IS NOT DISTRIBUTED TO A TAXPAYER WHO HAS NOT ATTAINED THE AGE OF FIFTY-NINE AND ONE-HALF YEARS.

S 2. Subdivision (c) of section 11-1712 of the administrative code of the city of New York is amended by adding a new paragraph 37 to read as follows:

(37) THE AMOUNT OF ANY AWARD PAID TO A VOLUNTEER FIREFIGHTER OR VOLUNTEER AMBULANCE WORKER FROM A LENGTH OF SERVICE DEFINED CONTRIBUTION PLAN OR DEFINED BENEFIT PLAN AS PROVIDED FOR IN ARTICLES ELEVEN-A, ELEVEN-AA, ELEVEN-AAA AND ELEVEN-AAAA OF THE GENERAL MUNICIPAL LAW, TO THE EXTENT THAT SUCH AWARD IS INCLUDABLE IN GROSS INCOME FOR FEDERAL INCOME TAX PURPOSES; PROVIDED, HOWEVER, THAT SUCH AWARD IS NOT DISTRIBUTED IN THE FORM OF A LUMP SUM DISTRIBUTION, AS DEFINED IN SUBPARAGRAPH (A) OF PARAGRAPH FOUR OF SUBSECTION (E) OF SECTION FOUR HUNDRED TWO OF THE INTERNAL REVENUE CODE AND TAXED UNDER SECTION SIX HUNDRED THREE OF THE TAX LAW; AND PROVIDED, FURTHER, THAT SUCH AWARD IS NOT DISTRIBUTED TO A TAXPAYER WHO HAS NOT ATTAINED THE AGE OF FIFTY-NINE AND ONE-HALF YEARS.

S 3. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2014.

#### PART LL

Section 1. Subdivision (e) of section 1111 of the tax law, as amended by chapter 261 of the laws of 1988, paragraph 2 as amended by section 6 of part M1 of chapter 109 of the laws of 2006, is amended to read as follows:

(e) (1) There are hereby created and established within the state [two] THREE regions for purposes of the payment of the tax imposed by section eleven hundred two of this article. (i) [One] THE FIRST region shall consist of the localities included in the metropolitan commuter transportation district created and established pursuant to section twelve hundred sixty-two of the public authorities law, EXCLUDING ALL LOCALITIES INCLUDED IN THE COUNTIES OF NASSAU AND SUFFOLK. (ii) THE

SECOND REGION SHALL CONSIST OF THE LOCALITIES INCLUDED IN THE COUNTIES OF NASSAU AND SUFFOLK. (III) The [other] THIRD region shall consist of the area of the state outside the [region] REGIONS referred to in [subparagraph] SUBPARAGRAPHS (i) AND (II) of this paragraph.

(2) (i) Where the motor fuel is imported, manufactured or sold in, or diesel motor fuel is sold or used in the region referred to in subparagraph (i) of paragraph one of this subdivision, the tax required to be prepaid pursuant to section eleven hundred two of this article on each gallon of such fuel shall be [fourteen and three-quarters] SEVENTEEN AND ONE-HALF cents.

(ii) Where motor fuel is imported, manufactured or sold in, or diesel motor fuel is sold or used in the region referred to in subparagraph (ii) of paragraph one of this subdivision, the tax required to be prepaid pursuant to section eleven hundred two of this article on each gallon of such fuel shall be [fourteen] TWENTY-ONE cents.

(III) WHERE MOTOR FUEL IS IMPORTED, MANUFACTURED OR SOLD IN, OR DIESEL MOTOR FUEL IS SOLD OR USED IN THE REGION REFERRED TO IN SUBPARAGRAPH (III) OF PARAGRAPH ONE OF THIS SUBDIVISION, THE TAX REQUIRED TO BE PREPAID PURSUANT TO SECTION ELEVEN HUNDRED TWO OF THIS ARTICLE ON EACH GALLON OF SUCH FUEL SHALL BE SIXTEEN CENTS.

S 2. This act shall take effect June 1, 2014.

#### PART MM

Section 1. The labor law is amended by adding a new section 25-b to read as follows:

S 25-B. POWER TO ADMINISTER THE WORKERS WITH DISABILITIES TAX CREDIT PROGRAM. (A) THE COMMISSIONER IS AUTHORIZED TO ESTABLISH AND ADMINISTER THE WORKERS WITH DISABILITIES TAX CREDIT PROGRAM TO PROVIDE TAX INCENTIVES TO EMPLOYERS FOR EMPLOYING INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES. THE COMMISSIONER IS AUTHORIZED TO ALLOCATE UP TO SIX MILLION DOLLARS OF TAX CREDITS ANNUALLY.

(B) DEFINITIONS. (1) THE TERM "QUALIFIED EMPLOYER" MEANS AN EMPLOYER THAT HAS BEEN CERTIFIED BY THE COMMISSIONER TO PARTICIPATE IN THE WORKERS WITH DISABILITIES TAX CREDIT PROGRAM AND THAT EMPLOYS ONE OR MORE QUALIFIED EMPLOYEES.

(2) THE TERM "QUALIFIED EMPLOYEE" MEANS AN INDIVIDUAL:

(I) WHO IS DEEMED TO HAVE A DEVELOPMENTAL DISABILITY, AS THAT TERM IS DEFINED IN SUBDIVISION TWENTY-TWO OF SECTION 1.03 OF THE MENTAL HYGIENE LAW AND WHO IS CERTIFIED BY THE EDUCATION DEPARTMENT OR THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES:

(A) AS A PERSON WITH A DISABILITY WHICH CONSTITUTES OR RESULTS IN A SUBSTANTIAL HANDICAP TO EMPLOYMENT; AND

(B) AS A PERSON HAVING COMPLETED OR AS RECEIVING SERVICES UNDER AN INDIVIDUALIZED WRITTEN REHABILITATION PLAN APPROVED BY THE EDUCATION DEPARTMENT OR OTHER STATE AGENCY RESPONSIBLE FOR PROVIDING VOCATIONAL REHABILITATION SERVICES TO SUCH INDIVIDUAL; AND

(II) WHO IS A CURRENT EMPLOYEE OF A SHELTERED WORKSHOP, WHICH FOR PURPOSES OF THIS SUBDIVISION IS DEFINED AS AN ORGANIZATION OR ENVIRONMENT THAT EMPLOYS PEOPLE WITH DISABILITIES SEGREGATED FROM OTHERS; OR WHO WAS UNEMPLOYED FOR AT LEAST THREE MONTHS PRIOR TO JANUARY FIRST, TWO THOUSAND FIFTEEN; AND

(III) WHO HAS WORKED FOR THE QUALIFIED EMPLOYER IN A FULL-TIME OR PART-TIME POSITION THAT PAYS WAGES THAT ARE EQUIVALENT TO THE WAGES PAID FOR SIMILAR JOBS, WITH APPROPRIATE ADJUSTMENTS FOR EXPERIENCE AND TRAINING, AND FOR WHICH NO OTHER EMPLOYEE HAS BEEN TERMINATED, OR WHERE THE

1 EMPLOYER HAS NOT OTHERWISE REDUCED ITS WORKFORCE BY INVOLUNTARY TERMI-  
2 NATIONS WITH THE INTENTION OF FILLING THE VACANCY BY CREATING A NEW  
3 HIRE; AND

4 (IV) WHO HAS NOT WORKED FOR AN ENTITY RELATED TO THE QUALIFIED EMPLOY-  
5 ER IN THE PAST TWENTY-FOUR MONTHS; AND

6 (V) IS EMPLOYED IN NEW YORK AT A LOCATION IN NEW YORK STATE.

7 (C) A QUALIFIED EMPLOYER SHALL BE ENTITLED TO A TAX CREDIT. THE TAX  
8 CREDITS SHALL BE CLAIMED BY THE QUALIFIED EMPLOYER AS SPECIFIED IN  
9 SUBDIVISION FORTY-EIGHT OF SECTION TWO HUNDRED TEN-B AND SUBSECTION (ZZ)  
10 OF SECTION SIX HUNDRED SIX OF THE TAX LAW.

11 (D) TO PARTICIPATE IN THE DEVELOPMENTALLY DISABLED WORKS TAX CREDIT  
12 PROGRAM, AN EMPLOYER MUST SUBMIT AN APPLICATION (IN A FORM PRESCRIBED BY  
13 THE COMMISSIONER) TO THE COMMISSIONER NO LATER THAN NOVEMBER THIRTIETH  
14 OF THE PRIOR YEAR. THE COMMISSIONER SHALL ESTABLISH GUIDELINES THAT  
15 SPECIFY REQUIREMENTS FOR EMPLOYERS TO PARTICIPATE IN THE PROGRAM INCLUD-  
16 ING CRITERIA FOR CERTIFYING QUALIFIED EMPLOYEES. ANY REGULATIONS THAT  
17 THE COMMISSIONER DETERMINES ARE NECESSARY MAY BE ADOPTED ON AN EMERGENCY  
18 BASIS NOTWITHSTANDING ANYTHING TO THE CONTRARY IN SECTION TWO HUNDRED  
19 TWO OF THE STATE ADMINISTRATIVE PROCEDURE ACT. SUCH REQUIREMENTS MAY  
20 INCLUDE THE TYPES OF INDUSTRIES THAT THE EMPLOYERS ARE ENGAGED IN.

21 (E) IF, AFTER REVIEWING THE APPLICATION SUBMITTED BY AN EMPLOYER, THE  
22 COMMISSIONER DETERMINES THAT SUCH EMPLOYER IS ELIGIBLE TO PARTICIPATE IN  
23 THE WORKERS WITH DISABILITIES TAX CREDIT PROGRAM, THE COMMISSIONER SHALL  
24 ISSUE THE EMPLOYER A PRELIMINARY CERTIFICATE OF ELIGIBILITY THAT ESTAB-  
25 LISHES THE EMPLOYER AS A QUALIFIED EMPLOYER. THE CERTIFICATE OF ELIGI-  
26 BILITY SHALL SPECIFY THE MAXIMUM AMOUNT OF WORKERS WITH DISABILITIES TAX  
27 CREDIT THAT THE EMPLOYER WILL BE ALLOWED TO CLAIM. AT THE END OF THE  
28 TAXABLE YEAR, A QUALIFIED EMPLOYER MUST OBTAIN A FINAL CERTIFICATE OF  
29 ELIGIBILITY FROM THE COMMISSIONER TO FILE WITH A RETURN CLAIMING THE  
30 CREDIT. THE FINAL CERTIFICATE MUST CONTAIN THE CERTIFICATE'S TAXABLE  
31 YEAR TO WHICH THE CREDIT APPLIES, THE MAXIMUM AMOUNT OF THE CREDIT  
32 ALLOWED, THE QUALIFIED EMPLOYER'S NAME AND EMPLOYER IDENTIFICATION  
33 NUMBER, THE EMPLOYER'S BUSINESS ADDRESS WHERE THE CLAIMED EMPLOYEES WERE  
34 EMPLOYED, THE SOCIAL SECURITY NUMBERS OF CLAIMED EMPLOYEES AND THEIR  
35 HIRE AND TERMINATION DATES, VERIFICATION THAT THE CLAIMED EMPLOYEES HAVE  
36 MET THE STATUTORY DEFINITION OF "QUALIFIED EMPLOYEE", AND EACH EMPLOY-  
37 EE'S TOTAL HOURS WORKED EACH QUARTER, HOURLY WAGE, AND FULL-TIME OR  
38 PART-TIME STATUS.

39 S 2. Section 210-B of the tax law, as added by section 17 of part A of  
40 this act, is amended by adding a new subdivision 48 to read as follows:

41 48. WORKERS WITH DISABILITIES TAX CREDIT. (A) A QUALIFIED EMPLOYER,  
42 AS DEFINED IN PARAGRAPH ONE OF SUBDIVISION (B) OF SECTION TWENTY-FIVE-B  
43 OF THE LABOR LAW, SHALL BE ENTITLED TO A CREDIT AGAINST THE TAX IMPOSED  
44 BY THIS ARTICLE. THE AMOUNT OF THE CREDIT SHALL BE: FIFTEEN PERCENT OF  
45 THE QUALIFIED WAGES PAID AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN TO A  
46 QUALIFIED FULL-TIME EMPLOYEE WHO IS EMPLOYED FOR NOT LESS THAN SIX  
47 MONTHS AND WHO WORKS AT LEAST THIRTY HOURS PER WEEK; AND SHALL BE TEN  
48 PERCENT OF THE QUALIFIED WAGES PAID AFTER JANUARY FIRST, TWO THOUSAND  
49 FIFTEEN TO A QUALIFIED PART-TIME EMPLOYEE WHO IS EMPLOYED FOR NOT LESS  
50 THAN SIX MONTHS AND WORKS AT LEAST EIGHT HOURS PER WEEK. THE CREDIT  
51 ALLOWED PURSUANT TO THIS SUBDIVISION SHALL NOT EXCEED, DURING ANY TAXA-  
52 BLE YEAR, FIVE THOUSAND DOLLARS FOR ANY QUALIFIED FULL TIME EMPLOYEE AND  
53 TWO THOUSAND FIVE HUNDRED DOLLARS FOR ANY QUALIFIED PART TIME EMPLOYEE.  
54 "QUALIFIED WAGES" MEANS WAGES PAID OR INCURRED BY THE QUALIFIED EMPLOYER  
55 DURING THE TAXABLE YEAR TO A QUALIFIED EMPLOYEE WHICH ARE ATTRIBUTABLE,

1 WITH RESPECT TO SUCH EMPLOYEE, TO SERVICES RENDERED BY THE QUALIFIED  
2 EMPLOYEE.

3 (B) CARRYOVER. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXA-  
4 BLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE  
5 AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF THIS SECTION.  
6 HOWEVER, IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR  
7 ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT  
8 NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING  
9 THREE YEARS, AND MAY BE DEDUCTED FROM THE QUALIFIED EMPLOYER'S TAX FOR  
10 SUCH YEARS.

11 (C) THE TAXPAYER SHALL ATTACH TO ITS TAX RETURN ITS FINAL CERTIFICATE  
12 OF ELIGIBILITY ISSUED BY THE COMMISSIONER OF LABOR PURSUANT TO SECTION  
13 TWENTY-FIVE-B OF THE LABOR LAW FOR EACH TAXABLE YEAR THAT THE CREDIT IS  
14 CLAIMED. IN NO EVENT SHALL THE TAXPAYER BE ALLOWED A CREDIT GREATER  
15 THAN THE AMOUNT OF THE CREDIT LISTED ON THE FINAL CERTIFICATE OF ELIGI-  
16 BILITY. NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER TO THE CONTRARY,  
17 THE COMMISSIONER AND THE COMMISSIONER'S DESIGNEES MAY RELEASE THE NAMES  
18 AND ADDRESSES OF ANY TAXPAYER CLAIMING THIS CREDIT AND THE AMOUNT OF THE  
19 CREDIT EARNED BY THE TAXPAYER.

20 (D) A QUALIFIED EMPLOYER MAY NOT CLAIM THE WORKERS WITH DISABILITIES  
21 TAX CREDIT IF IT CLAIMS ANY OF THE OTHER CREDITS FOR EMPLOYMENT OF  
22 PERSONS WITH DISABILITIES UNDER EITHER SUBSECTION (O) OF SECTION SIX  
23 HUNDRED SIX, SUBDIVISION TWELVE OF THIS SECTION, OR SUBDIVISION (J) OF  
24 SECTION FIFTEEN HUNDRED ELEVEN OF THIS CHAPTER.

25 S 3. Subsections (yy) and (zz) of section 606 of the tax law, as  
26 relettered by section 5 of part H of chapter 1 of the laws of 2003, are  
27 relettered subsections (yyy) and (zzz) and a new subsection (zz) is  
28 added to read as follows:

29 (ZZ) WORKERS WITH DISABILITIES TAX CREDIT. (1) A QUALIFIED EMPLOYER,  
30 AS DEFINED IN PARAGRAPH ONE OF SUBDIVISION (B) OF SECTION TWENTY-FIVE-B  
31 OF THE LABOR LAW, SHALL BE ENTITLED TO A CREDIT AGAINST THE TAX IMPOSED  
32 BY THIS ARTICLE. THE AMOUNT OF THE CREDIT SHALL BE: FIFTEEN PERCENT OF  
33 THE QUALIFIED WAGES PAID AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN TO A  
34 QUALIFIED FULL-TIME EMPLOYEE WHO IS EMPLOYED FOR NOT LESS THAN SIX  
35 MONTHS AND WHO WORKS AT LEAST THIRTY HOURS PER WEEK; AND SHALL BE TEN  
36 PERCENT OF THE QUALIFIED WAGES PAID AFTER JANUARY FIRST, TWO THOUSAND  
37 FIFTEEN TO A QUALIFIED PART-TIME EMPLOYEE WHO IS EMPLOYED FOR NOT LESS  
38 THAN SIX MONTHS AND WORKS AT LEAST EIGHT HOURS PER WEEK. THE CREDIT  
39 ALLOWED PURSUANT TO THIS SUBSECTION SHALL NOT EXCEED, DURING ANY TAXABLE  
40 YEAR, FIVE THOUSAND DOLLARS FOR ANY QUALIFIED FULL TIME EMPLOYEE AND TWO  
41 THOUSAND FIVE HUNDRED DOLLARS FOR ANY QUALIFIED PART TIME EMPLOYEE.  
42 "QUALIFIED WAGES" MEANS WAGES PAID OR INCURRED BY THE QUALIFIED EMPLOYER  
43 DURING THE TAXABLE YEAR TO A QUALIFIED EMPLOYEE WHICH ARE ATTRIBUTABLE,  
44 WITH RESPECT TO SUCH EMPLOYEE, TO SERVICES RENDERED BY THE QUALIFIED  
45 EMPLOYEE.

46 (2) IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR ANY  
47 TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, ANY AMOUNT  
48 OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE  
49 FOLLOWING THREE YEARS, AND MAY BE DEDUCTED FOR THE QUALIFIED EMPLOYER'S  
50 TAX FOR SUCH YEARS.

51 (3) THE TAXPAYER SHALL ATTACH TO ITS TAX RETURN ITS FINAL CERTIFICATE  
52 OF ELIGIBILITY ISSUED BY THE COMMISSIONER OF LABOR PURSUANT TO SECTION  
53 TWENTY-FIVE-B OF THE LABOR LAW. IN NO EVENT SHALL THE TAXPAYER BE  
54 ALLOWED A CREDIT GREATER THAN THE AMOUNT OF THE CREDIT LISTED ON THE  
55 FINAL CERTIFICATE OF ELIGIBILITY. NOTWITHSTANDING ANY PROVISION OF THIS  
56 CHAPTER TO THE CONTRARY, THE COMMISSIONER AND THE COMMISSIONER'S DESIG-



NEES MAY RELEASE THE NAMES AND ADDRESSES OF ANY TAXPAYER CLAIMING THIS CREDIT AND THE AMOUNT OF THE CREDIT EARNED BY THE TAXPAYER.

(4) A QUALIFIED EMPLOYER MAY NOT CLAIM THE WORKERS WITH DISABILITIES TAX CREDIT IF IT CLAIMS ANY OF THE OTHER CREDITS FOR EMPLOYMENT OF PERSONS WITH DISABILITIES UNDER EITHER SUBSECTION (O) OF SECTION SIX HUNDRED SIX, SUBDIVISION TWELVE OF SECTION TWO HUNDRED TEN-B, OR SUBDIVISION (J) OF SECTION FIFTEEN HUNDRED ELEVEN OF THIS CHAPTER.

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

(XL) WORKERS WITH DISABILITIES	AMOUNT OF
TAX CREDIT UNDER SUBSECTION (ZZ)	CREDIT UNDER SUBDIVISION
	FORTY-EIGHT OF SECTION TWO
	HUNDRED TEN-B

S 5. This act shall take effect January 1, 2015, and shall apply to taxable years beginning on and after that date; provided, however, that this act shall expire and be deemed repealed January 1, 2020.

#### PART NN

Section 1. Subparagraph (i) of paragraph (b) of subdivision 4 of section 425 of the real property tax law is amended by adding a new clause (C-1) to read as follows:

(C-1) NOTWITHSTANDING THE PROVISIONS OF CLAUSE (C) OF THIS SUBPARAGRAPH, IN THE EVENT THAT A SENIOR CITIZEN, AS A RESULT OF THE DEATH OF HIS OR HER SPOUSE, EXPERIENCES A DECREASE IN INCOME SUCH THAT HE OR SHE WOULD QUALIFY FOR THE ENHANCED EXEMPTION IF HIS OR HER ELIGIBILITY WERE BASED UPON HIS OR HER INCOME FOR THE INCOME TAX YEAR IMMEDIATELY SUBSEQUENT TO THE INCOME TAX YEAR THAT WOULD OTHERWISE BE APPLICABLE PURSUANT TO CLAUSE (C) OF THIS SUBPARAGRAPH, THEN THE ELIGIBILITY OF SUCH SENIOR CITIZEN FOR THE ENHANCED EXEMPTION ON THE APPLICABLE TAXABLE STATUS DATE SHALL BE DETERMINED BASED UPON HIS OR HER INCOME FOR SUCH LATER INCOME TAX YEAR; PROVIDED THAT THE INCOME TAX RETURN FOR SUCH YEAR HAS BEEN FILED WITH THE APPROPRIATE STATE OR FEDERAL AGENCY AND A COPY THEREOF HAS BEEN FILED WITH THE ASSESSOR ON OR BEFORE THE APPLICABLE TAXABLE STATUS DATE, OR OTHER DOCUMENTATION OF INCOME ELIGIBILITY HAS BEEN FILED WITH THE ASSESSOR ON OR BEFORE THE APPLICABLE TAXABLE STATUS DATE.

S 2. This act shall take effect immediately.

#### PART OO

Section 1. Paragraphs 2 and 3 of subdivision b of section 1612 of the tax law, as amended by chapter 174 of the laws of 2013, the opening paragraph of paragraph 2 as amended by chapter 175 of the laws of 2013, are amended to read as follows:

2. As consideration for the operation of a video lottery gaming facility, the division, shall cause the investment in the racing industry of a portion of the vendor fee received pursuant to paragraph one of this subdivision in the manner set forth in this subdivision. With the exception of Aqueduct racetrack or a facility in the county of Nassau or Suffolk operated by a corporation established pursuant to section five hundred two of the racing, pari-mutuel wagering and breeding law, each such track shall dedicate a portion of its vendor fees, received pursuant to clause (A), (B), (C), (D), (E), (F), or (G) of subparagraph (ii) of paragraph one of this subdivision, [solely] for the purpose of enhancing purses at such track, in an amount equal to eight and three-

1 quarters percent of the total revenue wagered at the vendor track after  
2 pay out for prizes. One percent of [such] THE GROSS purse enhancement  
3 amount, AS REQUIRED BY THIS SUBDIVISION, shall be paid to the gaming  
4 commission to be used exclusively to promote and ensure equine health  
5 and safety in New York. Any portion of such funding to the gaming  
6 commission unused during a fiscal year shall be returned to the video  
7 lottery gaming operators on a pro rata basis in accordance with the  
8 amounts originally contributed by each operator and shall be used for  
9 the purpose of enhancing purses at such track. ONE AND ONE-HALF PERCENT  
10 OF THE GROSS PURSE ENHANCEMENT AMOUNT AT A THOROUGHBRED TRACK, AS  
11 REQUIRED BY THIS SUBDIVISION, SHALL BE PAID TO AN ACCOUNT ESTABLISHED  
12 PURSUANT TO SECTION TWO HUNDRED TWENTY-ONE-A OF THE RACING, PARI-MUTUEL  
13 WAGERING AND BREEDING LAW TO BE USED EXCLUSIVELY TO PROVIDE HEALTH  
14 INSURANCE FOR JOCKEYS. In addition, with the exception of Aqueduct race-  
15 track or a facility in the county of Nassau or Suffolk operated by a  
16 corporation established pursuant to section five hundred two of the  
17 racing, pari-mutuel wagering and breeding law, one and one-quarter  
18 percent of total revenue wagered at the vendor track after pay out for  
19 prizes, received pursuant to clause (A), (B), (C), (D), (E), (F), or (G)  
20 of subparagraph (ii) of paragraph one of this subdivision, shall be  
21 distributed to the appropriate breeding fund for the manner of racing  
22 conducted by such track.

23 Provided, further, that nothing in this paragraph shall prevent each  
24 track from entering into an agreement, not to exceed five years, with  
25 the organization authorized to represent its horsemen to increase or  
26 decrease the portion of its vendor fee dedicated to enhancing purses at  
27 such track during the years of participation by such track, or to race  
28 fewer dates than required herein.

29 3. Nothing in paragraph two of this subdivision shall affect any  
30 agreement in effect on or before the effective date of this paragraph,  
31 except that the obligation to pay funds to the gaming commission to  
32 promote and ensure equine health and safety AND THE OBLIGATION TO PAY  
33 FUNDS TO AN ACCOUNT ESTABLISHED PURSUANT TO SECTION TWO HUNDRED TWENTY-  
34 ONE-A OF THE RACING, PARI-MUTUEL WAGERING AND BREEDING LAW TO BE USED  
35 EXCLUSIVELY TO PROVIDE HEALTH INSURANCE FOR JOCKEYS shall supersede any  
36 provision to the contrary in any such agreement.

37 S 2. Paragraph 1 of subdivision f of section 1612 of the tax law, as  
38 amended by chapter 174 of the laws of 2013, is amended to read as  
39 follows:

40 1. Six and one-half percent of the total wagered after payout of  
41 prizes for the first year of operation of video lottery gaming at Aque-  
42 duct racetrack, seven percent of the total wagered after payout of  
43 prizes for the second year of operation, and seven and one-half percent  
44 of the total wagered after payout of prizes for the third year of opera-  
45 tion and thereafter, for the purpose of enhancing purses at Aqueduct  
46 racetrack, Belmont Park racetrack and Saratoga race course. One percent  
47 of [such] THE GROSS purse enhancement amount, AS REQUIRED BY THIS SUBDI-  
48 VISION, shall be paid to the gaming commission to be used exclusively to  
49 promote and ensure equine health and safety in New York. Any portion of  
50 such funding to the gaming commission unused during a fiscal year shall  
51 be returned on a pro rata basis in accordance with the amounts  
52 originally contributed and shall be used for the purpose of enhancing  
53 purses at such tracks. ONE AND ONE-HALF PERCENT OF THE GROSS PURSE  
54 ENHANCEMENT AMOUNT, AS REQUIRED BY THIS SUBDIVISION, SHALL BE PAID TO AN  
55 ACCOUNT ESTABLISHED PURSUANT TO SECTION TWO HUNDRED TWENTY-ONE-A OF THE

1 RACING, PARI-MUTUEL WAGERING AND BREEDING LAW TO BE USED EXCLUSIVELY TO  
2 PROVIDE HEALTH INSURANCE FOR JOCKEYS.

3 S 3. The racing, pari-mutuel wagering and breeding law is amended by  
4 adding a new section 221-a to read as follows:

5 S 221-A. HEALTH INSURANCE FOR JOCKEYS. 1. A FRANCHISED CORPORATION  
6 SHALL, AS A CONDITION OF RACING, ESTABLISH A PROGRAM TO ADMINISTER THE  
7 PURCHASE OF HEALTH INSURANCE FOR ELIGIBLE JOCKEYS.

8 SUCH PROGRAM SHALL BE FUNDED THROUGH THE DEPOSIT OF ONE AND ONE-HALF  
9 PERCENT OF THE GROSS PURSE ENHANCEMENT AMOUNT FROM VIDEO LOTTERY GAMING  
10 AT A THOROUGHBRED TRACK PURSUANT TO PARAGRAPH TWO OF SUBDIVISION B AND  
11 PARAGRAPH ONE OF SUBDIVISION F OF SECTION SIXTEEN HUNDRED TWELVE OF THE  
12 TAX LAW. THE FRANCHISED CORPORATION SHALL ESTABLISH A SEGREGATED ACCOUNT  
13 FOR THE RECEIPT OF THESE MONIES AND THESE MONIES SHALL REMAIN SEPARATE  
14 FROM ANY OTHER FUNDS. ANY CORPORATION OR ASSOCIATION LICENSED PURSUANT  
15 TO THIS ARTICLE SHALL PAY INTO SUCH ACCOUNT ANY AMOUNT DUE WITHIN TEN  
16 DAYS OF THE RECEIPT OF REVENUE PURSUANT TO SECTION SIXTEEN HUNDRED  
17 TWELVE OF THE TAX LAW. ANY PORTION OF SUCH FUNDING TO THE ACCOUNT UNUSED  
18 DURING A CALENDAR YEAR, LESS AN AMOUNT SUFFICIENT TO COVER ANTICIPATED  
19 PREMIUM LIABILITIES OVER THE NEXT SIXTY DAYS, SHALL BE RETURNED ON A PRO  
20 RATA BASIS IN ACCORDANCE WITH THE AMOUNTS ORIGINALLY CONTRIBUTED AND  
21 SHALL BE USED FOR THE PURPOSE OF ENHANCING PURSES AT SUCH TRACKS.  
22 PROVIDED, HOWEVER, IF A CORPORATION OR ASSOCIATION LICENSED PURSUANT TO  
23 THIS ARTICLE PROVIDES AN ALTERNATIVE SOURCE OF FUNDING FOR THIS PROGRAM,  
24 AN AMOUNT EQUAL TO THIS ALTERNATIVE FUNDING, BUT NOT IN EXCESS OF THE  
25 AMOUNT ORIGINALLY CONTRIBUTED DURING THE YEAR FROM THE GROSS PURSE  
26 ENHANCEMENT AMOUNT FROM VIDEO LOTTERY GAMING ATTRIBUTABLE TO SUCH CORPO-  
27 RATION OR ASSOCIATION, SHALL BE RETURNED TO THE CORPORATION OR ASSOCI-  
28 ATION AND USED FOR THE PURPOSE OF ENHANCING PURSES AT SUCH TRACK.  
29 PROVIDED, FURTHER, ANY SUCH ALTERNATIVE SOURCE OF FUNDING MUST BE  
30 APPROVED BY THE GAMING COMMISSION.

31 2. THE FRANCHISED CORPORATION SHALL ENTER INTO A MEMORANDUM OF UNDER-  
32 STANDING WITH THE JOCKEY'S ORGANIZATION THAT REPRESENTS AT LEAST FIFTY-  
33 ONE PERCENT OF ELIGIBLE ACTIVE JOCKEYS ESTABLISHING A PLAN OF OPERATION  
34 FOR THE PROGRAM, PROVIDED THAT SUCH MEMORANDUM OF UNDERSTANDING SHALL BE  
35 APPROVED BY THE GAMING COMMISSION AND INCLUDE, BUT NOT BE LIMITED TO,  
36 THE FOLLOWING CONDITIONS:

37 A. HEALTH INSURANCE POLICIES MUST BE PURCHASED ON AN AMERICAN HEALTH  
38 BENEFIT EXCHANGE ESTABLISHED PURSUANT TO 42 U.S.C. S 18031(B) BY THE  
39 INSURED;

40 B. HEALTH INSURANCE POLICIES ELIGIBLE TO BE PURCHASED UNDER THE  
41 PROGRAM SHALL BE ANY POLICY THAT IS SILVER LEVEL OF COVERAGE OR LOWER AS  
42 DEFINED BY 42 U.S.C.S18022(D). PROVIDED, HOWEVER, THE INSURED MAY ELECT  
43 TO PURCHASE A GOLD LEVEL OR PLATINUM LEVEL OF COVERAGE AS DEFINED BY 42  
44 U.S.C. S 18022(D) IF THE INSURED PAYS THE DIFFERENCE IN PREMIUMS BETWEEN  
45 SUCH POLICY AND THE PREMIUM FOR THE SILVER LEVEL POLICY OFFERED BY THE  
46 SAME INSURER. SUCH PAYMENTS SHALL BE PAID INTO THE ACCOUNT ESTABLISHED  
47 IN SUBDIVISION ONE OF THIS SECTION AND SHALL BE GOVERNED BY THE TERMS OF  
48 THE MEMORANDUM OF UNDERSTANDING REQUIRED BY THIS SECTION;

49 C. THE PAYMENT OF PREMIUMS SHALL BE MADE ON BEHALF OF ELIGIBLE JOCKEYS  
50 PURSUANT TO PARAGRAPH D OF THIS SUBDIVISION BY THE FRANCHISED CORPO-  
51 RATION FROM MONIES IN THE ACCOUNT ESTABLISHED IN SUBDIVISION ONE OF THIS  
52 SECTION DIRECTLY TO THE HEALTH PLAN SELECTED PURSUANT TO PARAGRAPH B OF  
53 THIS SUBDIVISION;

54 D. TO BE ELIGIBLE TO RECEIVE HEALTH INSURANCE THROUGH THIS PROGRAM, AN  
55 INDIVIDUAL MUST MEET ONE OF THE FOLLOWING REQUIREMENTS:

(I) HAVE RIDDEN IN AT LEAST TWO HUNDRED FIFTY RACES CONDUCTED BY THE FRANCHISED CORPORATION DURING THE PRIOR CALENDAR YEAR OR IN AT LEAST ONE HUNDRED FIFTY RACES CONDUCTED BY ANY OTHER CORPORATION OR ASSOCIATION LICENSED PURSUANT TO THIS ARTICLE DURING THE PRIOR CALENDAR YEAR; PROVIDED, HOWEVER, IF AN INDIVIDUAL QUALIFIED FOR COVERAGE IN ANY PRIOR YEAR AND FAILS TO MEET THE QUALIFICATION DUE TO AN INJURY NOT RESULTING IN A PERMANENT DISABILITY, THAT INDIVIDUAL SHALL BE DEEMED TO HAVE MET THE QUALIFICATION; OR

(II) HAVE RETIRED FROM RACING ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN AFTER HAVING RIDDEN IN AT LEAST SEVENTY-FIVE HUNDRED RACES CONDUCTED BY ANY CORPORATION OR ASSOCIATION LICENSED PURSUANT TO THIS ARTICLE. FOR THE PURPOSES OF THIS SECTION, AN INDIVIDUAL SHALL BE CONSIDERED RETIRED FROM RACING IF THEY HAVE RIDDEN IN FEWER THAN FIFTY RACES AT ANY TRACK IN THE NATION LICENSED TO CONDUCT THOROUGHBRED RACING DURING THE CALENDAR YEAR; OR

(III) HAVE BECOME PERMANENTLY DISABLED DUE TO A RACING ACCIDENT WHILE ELIGIBLE TO RECEIVE BENEFITS OR WOULD BECOME ELIGIBLE TO RECEIVE BENEFITS IN THE FOLLOWING YEAR PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH; PROVIDED, HOWEVER, IF AN INDIVIDUAL FAILS TO MEET THE QUALIFICATION OF SUCH SUBPARAGRAPH (I) DUE TO AN INJURY RESULTING IN A PERMANENT DISABILITY, THAT INDIVIDUAL SHALL BE DEEMED TO HAVE MET THE QUALIFICATION; AND

E. THE GAMING COMMISSION SHALL HAVE THE FOLLOWING POWERS:

(I) TO RULE ON ELIGIBILITY IN THE EVENT OF A DENIAL OF COVERAGE PURSUANT TO PARAGRAPH D OF THIS SUBDIVISION. IN THE EVENT OF A DENIAL OF COVERAGE, SUCH INDIVIDUAL DENIED ELIGIBILITY MAY APPEAL TO THE GAMING COMMISSION;

(II) TO MAKE A DETERMINATION IF AN INDIVIDUAL WOULD HAVE QUALIFIED PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH D OF THIS SUBDIVISION IN THE EVENT THAT THE INDIVIDUAL SUFFERS AN INJURY AND CONTENTS THAT HE OR SHE WOULD HAVE QUALIFIED HAD THEY NOT SUFFERED SUCH INJURY; AND

(III) TO AUDIT THE BOOKS AND RECORDS OF THE PROGRAM.

S 4. This act shall take effect immediately; provided, however, payment of premiums shall begin no later than 60 days following the approval by the gaming commission of a memorandum of understanding establishing a plan of operation as required by section 221-a of the racing, pari-mutuel wagering and breeding law, as added by section three of this act.

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

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