

S T A T E O F N E W Y O R K

1826--C

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. CUSICK, THIELE, MARKEY, MALLIOTAKIS, LAVINE, GOLDFEDER, SIMANOWITZ, BROOK-KRASNY, BENEDETTO, CAMARA, KEARNS, HEVE-SI, PERRY, BARRETT, BORELLI, CURRAN, WEPRIN, ROZIC, BRINDISI, CLARK, SKOUFIS, RODRIGUEZ, RUSSELL, DenDEKKER, GJONAJ, MILLER, SKARTADOS, MOSLEY, GANTT, KELLNER, SANTABARBARA, SALADINO, PALUMBO, FITZPATRICK -- Multi-Sponsored by -- M. of A. ARROYO, AUBRY, BLANKENBUSH, BOYLAND, BRAUNSTEIN, BUTLER, COLTON, COOK, CORWIN, CRESPO, CROUCH, CYMBROWITZ, DAVILA, DiPIETRO, FARRELL, FINCH, GARBARINO, GIGLIO, GOODELL, GRAF, HAWLEY, HEASTIE, HENNESSEY, HIKIND, HOOPER, JACOBS, KATZ, KIM, KOLB, LALOR, LENTOL, P. LOPEZ, MAGEE, McDONALD, McDONOUGH, McLAUGHLIN, MONTESANO, MOYA, NOJAY, OAKS, ORTIZ, OTIS, PALMESANO, PEOPLES-STOKES, PRETLOW, RA, RIVERA, ROSA, SCHIMEL, SCHIMMINGER, SIMOTAS, SOLAGES, STEC, SWEENEY, TENNEY, TITONE, TITUS, WALTER, WEINSTEIN, WEISENBERG, WRIGHT -- 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 -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law and the education law, in relation to enacting the "education investment tax credit act"

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "education investment tax credit act".
3 S 2. Legislative findings and intent. The legislature hereby finds and
4 declares that:

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

LBD00834-27-4

1 a. The education of the children of this state is one of the founda-
2 tions of a strong society that requires an academically robust and
3 financially sound school system, both public and non-public;

4 b. At a time when the state is considering ways of reducing the tax
5 burden for New York state residents and educators are seeking an expan-
6 sion of financial resources, charitable giving for educational purposes
7 should be encouraged;

8 c. Permitting public education entities such as school districts and
9 individual public schools to accept and receive voluntary cash contrib-
10 utions will be beneficial to taxpayers and educators;

11 d. Encouraging voluntary support for education, without prejudice for
12 or against any state-sanctioned educational enterprise, promotes the
13 state's interest in providing the highest quality education to all chil-
14 dren in the state;

15 e. The tax credit provided in this act is merely one of many credits
16 available to New York taxpayers;

17 f. The intended beneficiaries of the tax credits provided in this act
18 are the students who attend public schools, students who further their
19 educations using tuition scholarships from educational scholarship
20 organizations, and teachers who purchase with personal funds to supply
21 their students and classrooms, and who seek charitable donations for
22 classroom projects and initiatives;

23 g. Permitting educators to claim a credit for the purchase of class-
24 room instructional materials and supplies will insure a wider availabil-
25 ity of such materials and supplies for all students.

26 S 3. The tax law is amended by adding a new section 41 to read as
27 follows:

28 S 41. EDUCATION INVESTMENT TAX CREDIT. (A) DEFINITIONS. FOR THE
29 PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING
30 MEANINGS:

31 1. "AUTHORIZED CONTRIBUTION" MEANS THE CONTRIBUTION AMOUNT THAT IS
32 LISTED ON THE CONTRIBUTION AUTHORIZATION CERTIFICATE ISSUED TO THE
33 TAXPAYER.

34 2. "AVAILABLE CREDIT" SHALL MEAN THE AMOUNT OF CREDIT AUTHORIZED FOR
35 THE TAXABLE YEAR PURSUANT TO SUBDIVISION (J) OF THIS SECTION MINUS THE
36 SUM OF THE AMOUNTS LISTED IN THE CONTRIBUTION AUTHORIZATION CERTIFICATES
37 ISSUED BY THE DEPARTMENT FOR THE CALENDAR YEAR.

38 3. "CONTRIBUTION" MEANS A DONATION PAID BY CASH, CHECK, ELECTRONIC
39 FUNDS TRANSFER, DEBIT CARD OR CREDIT CARD THAT IS MADE BY THE TAXPAYER
40 DURING THE TAXABLE YEAR.

41 4. "EDUCATIONAL PROGRAM" MEANS AN ACADEMIC OR SIMILAR PROGRAM OF A
42 PUBLIC SCHOOL THAT ENHANCES THE CURRICULUM OR ACADEMIC PROGRAM OF THE
43 PUBLIC SCHOOL, OR PROVIDES A PRE-KINDERGARTEN PROGRAM TO THE PUBLIC
44 SCHOOL. FOR PURPOSES OF THIS DEFINITION, THE INSTRUCTION, MATERIALS,
45 PROGRAMS AND OTHER ACTIVITIES OFFERED BY OR THROUGH AN EDUCATIONAL
46 PROGRAM MAY INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING FEATURES: (I)
47 INSTRUCTION OR MATERIALS PROMOTING HEALTH, PHYSICAL EDUCATION, AND FAMI-
48 LY AND CONSUMER SCIENCES; LITERARY, PERFORMING AND VISUAL ARTS; MATH-
49 EMATICS, SOCIAL STUDIES, TECHNOLOGY AND SCIENTIFIC ACHIEVEMENT; (II)
50 INSTRUCTION OR PROGRAMMING TO MEET THE EDUCATION NEEDS OF AT-RISK
51 STUDENTS OR STUDENTS WITH DISABILITIES, INCLUDING TUTORING OR COUN-
52 SELING; (III) INSTRUCTION OR PROGRAMMING BEFORE OR AFTER PUBLIC SCHOOL
53 HOURS, OR ON WEEKENDS THAT IMPROVES STUDENT ACADEMIC ACHIEVEMENT INCLUD-
54 ING PREPARATION FOR COLLEGE OR A CAREER; OR (IV) THE USE OF SPECIALIZED
55 INSTRUCTIONAL MATERIALS, INSTRUCTORS OR INSTRUCTION NOT PROVIDED BY A
56 PUBLIC SCHOOL.

1 5. "EDUCATIONAL SCHOLARSHIP ORGANIZATION" MEANS A NOT-FOR-PROFIT ENTI-
2 TY THAT (I) IS EXEMPT FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION
3 (C) OF SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, (II) USES
4 OR DESIGNATES AT LEAST NINETY PERCENT OF THE QUALIFIED CONTRIBUTIONS
5 RECEIVED DURING THE LAST MONTH OF THE IMMEDIATELY PRECEDING CALENDAR
6 YEAR AND THE FIRST ELEVEN MONTHS OF THE CALENDAR YEAR AND ANY INCOME
7 DERIVED FROM SUCH QUALIFIED CONTRIBUTIONS DURING SUCH MONTHS FOR SCHOL-
8 ARSHIPS, (III) PROVIDES SCHOLARSHIPS TO ELIGIBLE PUPILS FOR USE AT NOT
9 FEWER THAN THREE QUALIFIED SCHOOLS, (IV) DEPOSITS AND HOLDS QUALIFIED
10 CONTRIBUTIONS AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS IN AN
11 ACCOUNT THAT IS SEPARATE FROM THE ORGANIZATION'S OPERATING OR OTHER
12 FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR
13 USE, AND (V) IS APPROVED TO RECEIVE AUTHORIZED CONTRIBUTIONS AND ISSUE
14 CERTIFICATES OF RECEIPT PURSUANT TO ARTICLE TWENTY-FIVE OF THE EDUCATION
15 LAW.

16 6. "ELIGIBLE PUPIL" MEANS A CHILD WHO IS (I) A RESIDENT OF THIS STATE,
17 (II) OF SCHOOL AGE IN ACCORDANCE WITH SUBDIVISION ONE OF SECTION THIR-
18 TY-TWO HUNDRED TWO OF THE EDUCATION LAW OR WHO IS FOUR YEARS OF AGE ON
19 OR BEFORE DECEMBER FIRST OF THE YEAR IN WHICH SUCH CHILD IS ENROLLED IN
20 A PRE-KINDERGARTEN PROGRAM, (III) ATTENDS OR IS ABOUT TO ATTEND A QUALI-
21 FIED SCHOOL, AND (IV) WHOSE HOUSEHOLD'S ADJUSTED GROSS INCOME SHALL NOT
22 EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS, PROVIDED HOWEVER, THAT SUCH
23 INCOME LEVEL SHALL BE INCREASED FOR AN ELIGIBLE PUPIL BY TEN THOUSAND
24 DOLLARS FOR EACH DEPENDENT CHILD ABOVE TWO CHILDREN IN SUCH HOUSEHOLD,
25 NOT TO EXCEED AN ADDITIONAL FIFTY THOUSAND DOLLARS.

26 7. "LOCAL EDUCATION FUND" MEANS A NOT-FOR-PROFIT ENTITY WHICH (I) IS
27 EXEMPT FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION (C) OF SECTION
28 FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, (II) IS ESTABLISHED FOR
29 THE PURPOSE OF SUPPORTING AT LEAST ONE PUBLIC SCHOOL OR A PUBLIC SCHOOL
30 DISTRICT LOCATED IN THIS STATE, (III) USES AT LEAST NINETY PERCENT OF
31 THE QUALIFIED CONTRIBUTIONS RECEIVED DURING THE LAST MONTH OF THE IMME-
32 DIATELY PRECEDING CALENDAR YEAR AND THE FIRST ELEVEN MONTHS OF THE
33 CALENDAR YEAR AND ANY INCOME DERIVED FROM SUCH QUALIFIED CONTRIBUTIONS
34 DURING SUCH MONTHS TO SUPPORT THE PUBLIC SCHOOL OR SCHOOLS OR PUBLIC
35 SCHOOL DISTRICT OR DISTRICTS THAT SUCH FUND HAS BEEN ESTABLISHED TO
36 SUPPORT, (IV) DEPOSITS AND HOLDS QUALIFIED CONTRIBUTIONS AND ANY INCOME
37 DERIVED FROM QUALIFIED CONTRIBUTIONS IN AN ACCOUNT THAT IS SEPARATE FROM
38 THE FUND'S OPERATING OR OTHER FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS
39 OR INCOME ARE WITHDRAWN FOR USE, AND (V) IS APPROVED TO RECEIVE AUTHOR-
40 IZED CONTRIBUTIONS AND ISSUE CERTIFICATES OF RECEIPT PURSUANT TO ARTICLE
41 TWENTY-FIVE OF THE EDUCATION LAW.

42 8. "NON-PUBLIC SCHOOL" MEANS ANY NOT-FOR-PROFIT PRE-KINDERGARTEN
43 PROGRAM OR ELEMENTARY OR SECONDARY SECTARIAN OR NONSECTARIAN SCHOOL IN
44 THIS STATE, OTHER THAN A PUBLIC SCHOOL, THAT PROVIDES INSTRUCTION AT ONE
45 OR MORE LOCATIONS TO ELIGIBLE PUPILS IN ACCORDANCE WITH SUBDIVISION TWO
46 OF SECTION THIRTY-TWO HUNDRED FOUR OF THE EDUCATION LAW.

47 9. "PUBLIC EDUCATION ENTITY" MEANS (I) A SCHOOL DISTRICT IN THIS
48 STATE, (II) A PUBLIC SCHOOL IN THIS STATE, PROVIDED THAT SUCH SCHOOL
49 DISTRICT OR PUBLIC SCHOOL DEPOSITS AND HOLDS QUALIFIED CONTRIBUTIONS AND
50 ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS IN AN ACCOUNT THAT IS
51 SEPARATE FROM THE PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT'S OPERATING OR
52 OTHER FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS OR INCOME ARE WITHDRAWN
53 FOR USE FROM OPERATING OR OTHER FUNDS AND IS APPROVED TO RECEIVE AUTHOR-
54 IZED CONTRIBUTIONS AND ISSUE CERTIFICATES OF RECEIPT PURSUANT TO ARTICLE
55 TWENTY-FIVE OF THE EDUCATION LAW.

1 10. "PUBLIC SCHOOL" MEANS ANY FREE ELEMENTARY OR SECONDARY SCHOOL IN
2 THIS STATE PURSUANT TO ARTICLE ELEVEN OF THE CONSTITUTION, BUT SHALL NOT
3 INCLUDE A CHARTER SCHOOL AUTHORIZED BY ARTICLE FIFTY-SIX OF THE EDUCA-
4 TION LAW.

5 11. "PUBLIC SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT DESCRIBED IN
6 ARTICLE THIRTY-ONE OR THIRTY-SEVEN OF THE EDUCATION LAW.

7 12. "QUALIFIED CONTRIBUTION" MEANS THE AUTHORIZED CONTRIBUTION MADE BY
8 A TAXPAYER TO A PUBLIC EDUCATION ENTITY, LOCAL EDUCATION FUND, OR EDUCA-
9 TIONAL SCHOLARSHIP ORGANIZATION LISTED IN THE CONTRIBUTION AUTHORIZATION
10 CERTIFICATE ISSUED TO THE TAXPAYER FOR WHICH THE TAXPAYER HAS RECEIVED A
11 CERTIFICATE OF RECEIPT FROM SUCH ENTITY, FUND OR ORGANIZATION.

12 13. "QUALIFIED EDUCATOR" MEANS AN INDIVIDUAL WHO IS A TEACHER,
13 INSTRUCTOR, COUNSELOR, PRINCIPAL, OR AIDE IN A QUALIFIED SCHOOL FOR AT
14 LEAST NINE HUNDRED HOURS DURING A SCHOOL YEAR.

15 14. "QUALIFIED SCHOOL" MEANS A PUBLIC SCHOOL OR NON-PUBLIC SCHOOL
16 LOCATED IN THIS STATE.

17 15. "SCHOLARSHIP" MEANS AN EDUCATIONAL SCHOLARSHIP OR TUITION GRANT
18 AWARDED TO AN ELIGIBLE PUPIL TO ATTEND A QUALIFIED SCHOOL IN AN AMOUNT
19 NOT TO EXCEED THE TUITION NECESSARY TO ATTEND SUCH SCHOOL; PROVIDED,
20 HOWEVER, IN THE CASE OF AN ELIGIBLE PUPIL ATTENDING A PUBLIC SCHOOL IN A
21 DISTRICT OF WHICH SUCH PUPIL IS NOT A RESIDENT, THE AMOUNT OF THE EDUCA-
22 TIONAL SCHOLARSHIP OR TUITION GRANT AWARDED MAY NOT EXCEED THE TUITION
23 CHARGED BY THE PUBLIC SCHOOL PURSUANT TO PARAGRAPH D OF SUBDIVISION FOUR
24 OF SECTION THIRTY-TWO HUNDRED TWO OF THE EDUCATION LAW, BUT ONLY IF THE
25 SCHOOL DISTRICT OF WHICH SUCH PUPIL IS A RESIDENT IS NOT REQUIRED TO PAY
26 FOR SUCH TUITION.

27 16. "SCHOOL IMPROVEMENT ORGANIZATION" MEANS A NOT-FOR-PROFIT ENTITY
28 WHICH (I) IS EXEMPT FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION
29 (C) OF SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, (II) USES
30 AT LEAST NINETY PERCENT OF THE QUALIFIED CONTRIBUTIONS RECEIVED DURING
31 THE LAST MONTH OF THE IMMEDIATELY PRECEDING CALENDAR YEAR AND THE FIRST
32 ELEVEN MONTHS OF THE CALENDAR YEAR AND ANY INCOME DERIVED FROM QUALIFIED
33 CONTRIBUTIONS DURING SUCH MONTHS TO ASSIST PUBLIC SCHOOLS OR PUBLIC
34 SCHOOL DISTRICTS LOCATED IN THIS STATE IN THEIR PROVISION OF EDUCATIONAL
35 PROGRAMS, EITHER BY MAKING CONTRIBUTIONS TO ONE OR MORE PUBLIC SCHOOLS
36 OR PUBLIC SCHOOL DISTRICTS LOCATED IN THIS STATE OR PROVIDING EDUCA-
37 TIONAL PROGRAMS TO, OR IN CONJUNCTION WITH, ONE OR MORE PUBLIC SCHOOLS
38 OR PUBLIC SCHOOL DISTRICTS LOCATED IN THIS STATE, (III) DEPOSITS AND
39 HOLDS QUALIFIED CONTRIBUTIONS AND ANY INCOME DERIVED FROM QUALIFIED
40 CONTRIBUTIONS IN AN ACCOUNT THAT IS SEPARATE FROM THE ORGANIZATION'S
41 OPERATING OR OTHER FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS OR INCOME
42 ARE WITHDRAWN FOR USE, AND (IV) IS APPROVED TO RECEIVE AUTHORIZED
43 CONTRIBUTIONS AND ISSUE CERTIFICATES OF RECEIPT PURSUANT TO ARTICLE
44 TWENTY-FIVE OF THE EDUCATION LAW. SUCH TERM INCLUDES A PRE-KINDERGARTEN
45 PROGRAM OR NOT-FOR-PROFIT ENTITY THAT ALLOWS THE TAXPAYER TO CHOOSE TO
46 DONATE TO A PROGRAM, PROJECT OR INITIATIVE IDENTIFIED BY A QUALIFIED
47 EDUCATOR FOR USE IN A PUBLIC SCHOOL.

48 (B) ALLOWANCE OF CREDIT. A TAXPAYER SUBJECT TO TAX UNDER ARTICLE
49 NINE-A, TWENTY-TWO, THIRTY-TWO, OR THIRTY-THREE OF THIS CHAPTER SHALL BE
50 ALLOWED AN EDUCATION INVESTMENT TAX CREDIT AGAINST SUCH TAX, PURSUANT TO
51 THE PROVISIONS REFERENCED IN SUBDIVISION (M) OF THIS SECTION, WITH
52 RESPECT TO QUALIFIED CONTRIBUTIONS FOR WHICH THE APPLICATION REQUIRE-
53 MENTS OF SUBDIVISION (F) AND THE CERTIFICATION REQUIREMENTS OF SUBDIVI-
54 SIONS (G) AND (H) OF THIS SECTION HAVE BEEN MET; PROVIDED, HOWEVER, THAT
55 IF THE TAXPAYER ELECTS TO CLAIM AN ITEMIZED DEDUCTION PURSUANT TO
56 SECTION SIX HUNDRED FIFTEEN OF THIS CHAPTER FOR CHARITABLE CONTRIBUTIONS

1 UNDER SECTION ONE HUNDRED SEVENTY OF THE INTERNAL REVENUE CODE, OR A
2 DEDUCTION PURSUANT TO ARTICLES NINE-A, THIRTY-TWO OR THIRTY-THREE OF
3 THIS CHAPTER FOR SUCH QUALIFIED CONTRIBUTIONS, THE TAXPAYER SHALL NOT BE
4 ALLOWED TO CLAIM BOTH AN EDUCATION INVESTMENT TAX CREDIT AND A DEDUCTION
5 FOR SUCH QUALIFIED CONTRIBUTIONS. THE COMMISSIONER SHALL MAINTAIN A
6 LIST OF THE PUBLIC EDUCATION ENTITIES, LOCAL EDUCATION FUNDS AND EDUCA-
7 TIONAL SCHOLARSHIP ORGANIZATIONS THAT ARE AUTHORIZED TO ISSUE CERTIF-
8 ICATES OF RECEIPT PURSUANT TO ARTICLE TWENTY-FIVE OF THE EDUCATION LAW.

9 (C) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL EQUAL THE SUM OF
10 THE CREDIT COMPONENTS SPECIFIED IN PARAGRAPHS ONE, TWO AND THREE OF
11 SUBDIVISION (D) OF THIS SECTION FOR THE TAXABLE YEAR; PROVIDED, HOWEVER,
12 THAT THE AMOUNT OF CREDIT FOR QUALIFIED CONTRIBUTIONS SHALL NOT EXCEED
13 THE LESSER OF (I) THE SUM OF SUCH CREDIT COMPONENTS, OR (II) THE CREDIT
14 LIMITATION PRESCRIBED BY SUBDIVISIONS (I) AND (J) OF THIS SECTION. WHEN
15 A QUALIFIED CONTRIBUTION IS MADE BY A PARTNERSHIP, ANY DIRECT OR INDI-
16 RECT PARTNER IN SUCH PARTNERSHIP WHO OR WHICH IS TAXABLE UNDER ARTICLE
17 NINE-A, TWENTY-TWO, THIRTY-TWO OR THIRTY-THREE OF THIS CHAPTER SHALL BE
18 A TAXPAYER UNDER THIS PARAGRAPH AND ALLOWED A PRO RATA SHARE OF THE
19 CREDIT AGAINST SUCH TAX. WHEN A QUALIFIED CONTRIBUTION IS MADE BY A NEW
20 YORK S CORPORATION, ANY SHAREHOLDER IN SUCH NEW YORK S CORPORATION WHO
21 IS TAXABLE UNDER ARTICLE TWENTY-TWO OF THIS CHAPTER SHALL BE A TAXPAYER
22 UNDER THIS PARAGRAPH AND ALLOWED A PRO RATA SHARE OF THE CREDIT AGAINST
23 SUCH TAX.

24 (D) CREDIT COMPONENTS. 1. PUBLIC EDUCATION ENTITY CREDIT COMPONENT.
25 THE PUBLIC EDUCATION ENTITY CREDIT COMPONENT SHALL EQUAL THE SUM OF THE
26 QUALIFIED CONTRIBUTIONS MADE TO A PUBLIC EDUCATION ENTITY OR SCHOOL
27 IMPROVEMENT ORGANIZATION BY THE TAXPAYER DURING THE TAXABLE YEAR, AS
28 LISTED ON THE CERTIFICATE OR CERTIFICATES OF RECEIPT PROVIDED TO THE
29 TAXPAYER, FOR WHICH THE TAXPAYER HAS RECEIVED A CONTRIBUTION AUTHORI-
30 ZATION CERTIFICATE; PROVIDED, HOWEVER, THAT A TAXPAYER SHALL NOT BE
31 ALLOWED CREDIT FOR ANY QUALIFIED CONTRIBUTIONS IF THE TAXPAYER DESIG-
32 NATES THE CONTRIBUTIONS FOR THE DIRECT BENEFIT OF ANY PARTICULAR
33 STUDENT; AND, PROVIDED FURTHER THAT THE TAXPAYER SHALL NOT BE ALLOWED
34 CREDIT FOR QUALIFIED CONTRIBUTIONS FOR WHICH THE TAXPAYER CLAIMED A
35 FEDERAL ITEMIZED DEDUCTION UNLESS THE TAXPAYER ADDS BACK THE AMOUNT OF
36 THE ITEMIZED DEDUCTION PURSUANT TO SECTION TWO HUNDRED EIGHT, SIX
37 HUNDRED TWELVE, FOURTEEN HUNDRED FIFTY-THREE OR FIFTEEN HUNDRED THREE OF
38 THIS CHAPTER.

39 2. LOCAL EDUCATION FUND CREDIT COMPONENT. THE LOCAL EDUCATION FUND
40 CREDIT COMPONENT SHALL EQUAL THE SUM OF THE QUALIFIED CONTRIBUTIONS MADE
41 TO A LOCAL EDUCATION FUND OR FUNDS BY THE TAXPAYER DURING THE TAXABLE
42 YEAR, AS LISTED ON THE CERTIFICATE OR CERTIFICATES OF RECEIPT PROVIDED
43 TO THE TAXPAYER, FOR WHICH THE TAXPAYER HAS RECEIVED A CONTRIBUTION
44 AUTHORIZATION CERTIFICATE; PROVIDED, HOWEVER, THAT A TAXPAYER SHALL NOT
45 BE ALLOWED CREDIT FOR ANY QUALIFIED CONTRIBUTIONS IF THE TAXPAYER DESIG-
46 NATES THE CONTRIBUTIONS FOR THE DIRECT BENEFIT OF ANY PARTICULAR
47 STUDENT; AND, PROVIDED FURTHER THAT THE TAXPAYER SHALL NOT BE ALLOWED
48 CREDIT FOR QUALIFIED CONTRIBUTIONS FOR WHICH THE TAXPAYER CLAIMED A
49 FEDERAL ITEMIZED DEDUCTION UNLESS THE TAXPAYER ADDS BACK THE AMOUNT OF
50 THE ITEMIZED DEDUCTION PURSUANT TO SECTION TWO HUNDRED EIGHT, SIX
51 HUNDRED TWELVE, FOURTEEN HUNDRED FIFTY-THREE OR FIFTEEN HUNDRED THREE OF
52 THIS CHAPTER.

53 3. EDUCATIONAL SCHOLARSHIP ORGANIZATION CREDIT COMPONENT. THE EDUCA-
54 TIONAL SCHOLARSHIP ORGANIZATION CREDIT COMPONENT SHALL BE THE SUM OF
55 QUALIFIED CONTRIBUTIONS MADE TO AN EDUCATIONAL SCHOLARSHIP ORGANIZATION
56 OR ORGANIZATIONS BY THE TAXPAYER DURING THE TAXABLE YEAR, AS LISTED ON

1 THE CERTIFICATE OR CERTIFICATES OF RECEIPT PROVIDED TO THE TAXPAYER, FOR
2 WHICH THE TAXPAYER HAS RECEIVED A CONTRIBUTION AUTHORIZATION CERTIF-
3 ICATE; PROVIDED, HOWEVER, THAT A TAXPAYER SHALL NOT BE ALLOWED CREDIT
4 FOR ANY QUALIFIED CONTRIBUTIONS THAT ARE FOR THE DIRECT BENEFIT OF ANY
5 PARTICULAR STUDENT; AND, PROVIDED FURTHER THAT THE TAXPAYER SHALL NOT BE
6 ALLOWED A CREDIT FOR QUALIFIED CONTRIBUTIONS FOR WHICH THE TAXPAYER
7 CLAIMED A FEDERAL ITEMIZED DEDUCTION UNLESS THE TAXPAYER ADDS BACK THE
8 AMOUNT OF THE ITEMIZED DEDUCTION PURSUANT TO SECTION TWO HUNDRED EIGHT,
9 SIX HUNDRED TWELVE, FOURTEEN HUNDRED FIFTY-THREE OR FIFTEEN HUNDRED
10 THREE OF THIS CHAPTER.

11 (E) CONTRIBUTION AUTHORIZATION CERTIFICATE; REQUIREMENT. A TAXPAYER
12 SHALL NOT BE ALLOWED A CREDIT PURSUANT TO THIS SECTION FOR ANY CONTRIB-
13 UTION MADE BY THE TAXPAYER TO A PUBLIC EDUCATION ENTITY, SCHOOL IMPROVE-
14 MENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP
15 ORGANIZATION THAT WAS MADE PRIOR TO THE DEPARTMENT'S ISSUANCE OF A
16 CONTRIBUTION AUTHORIZATION CERTIFICATE FOR SUCH CONTRIBUTION. A TAXPAYER
17 MAY BE ISSUED MULTIPLE CONTRIBUTION AUTHORIZATION CERTIFICATES BY THE
18 DEPARTMENT, PROVIDED THAT THE TAXPAYER MAKES AN APPLICATION FOR EACH
19 SUCH CERTIFICATE.

20 (F) APPLICATIONS FOR CONTRIBUTION AUTHORIZATION CERTIFICATES. PRIOR TO
21 MAKING A CONTRIBUTION TO A PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT
22 ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZA-
23 TION, THE TAXPAYER SHALL APPLY FOR A CONTRIBUTION AUTHORIZATION CERTIF-
24 ICATE FOR SUCH CONTRIBUTION. TAXPAYERS THAT WANT TO MAKE MORE THAN ONE
25 CONTRIBUTION TO A PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZA-
26 TION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION OR
27 CONTRIBUTE TO MORE THAN ONE PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT
28 ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZA-
29 TION, MUST MAKE A SEPARATE APPLICATION FOR EACH SUCH CONTRIBUTION
30 AUTHORIZATION CERTIFICATE. SUCH APPLICATION SHALL BE IN THE FORM AND
31 MANNER PRESCRIBED BY THE DEPARTMENT, PROVIDED THAT SUCH APPLICATION
32 INCLUDES (I) THE TAXPAYER'S NAME AND ADDRESS, (II) THE NAME AND ADDRESS
33 OF EACH PUBLIC EDUCATION ENTITY, LOCAL EDUCATION FUND, OR EDUCATIONAL
34 SCHOLARSHIP ORGANIZATION THAT WILL RECEIVE A CONTRIBUTION FROM THE
35 TAXPAYER, (III) THE AMOUNT THAT THE TAXPAYER WILL CONTRIBUTE TO SUCH
36 ENTITY, FUND OR ORGANIZATION, AND (IV) ANY OTHER INFORMATION THAT THE
37 COMMISSIONER DEEMS NECESSARY; PROVIDED, HOWEVER, THAT THE AGGREGATE
38 AMOUNT OF CREDIT FOR WHICH A TAXPAYER MAY APPLY CANNOT EXCEED FIVE
39 PERCENT OF ONE HALF OF THE CREDIT CAP SET FORTH IN SUBDIVISION (J) OF
40 THIS SECTION. THE DEPARTMENT MAY ALLOW TAXPAYERS TO MAKE MULTIPLE APPLI-
41 CATIONS ON THE SAME FORM, PROVIDED THAT EACH APPLICATION SHALL BE TREAT-
42 ED AS A SEPARATE APPLICATION.

43 (G) CONTRIBUTION AUTHORIZATION CERTIFICATES. 1. ISSUANCE OF CERTIF-
44 ICATES. THE COMMISSIONER SHALL ISSUE CONTRIBUTION AUTHORIZATION CERTIF-
45 ICATES IN TWO PHASES IN ACCORDANCE WITH THE CREDIT LIMITATIONS AND CAP
46 SET FORTH IN SUBDIVISIONS (I) AND (J) OF THIS SECTION. IN PHASE ONE, THE
47 APPLICATION PROCESS BEGINS ON THE FIRST DAY OF JANUARY AND ENDS ON THE
48 FOURTEENTH DAY OF JANUARY. DURING THIS APPLICATION PERIOD THE COMMIS-
49 SIONER SHALL NOT ISSUE ANY CONTRIBUTION AUTHORIZATION CERTIFICATES. ON
50 THE FIFTEENTH DAY OF JANUARY, THE COMMISSIONER SHALL ISSUE CREDIT
51 AUTHORIZATION CERTIFICATES FOR APPLICATIONS RECEIVED DURING THE PHASE
52 ONE APPLICATION PERIOD ON A FIRST-COME, FIRST-SERVE BASIS, BASED UPON
53 THE DATE THAT THE DEPARTMENT RECEIVED THE CONTRIBUTION APPLICATION IN
54 ACCORDANCE WITH THE CREDIT LIMITATIONS AND CAP SET FORTH IN SUBDIVISIONS
55 (I) AND (J) OF THIS SECTION, PROVIDED THAT IF THE AGGREGATE TOTAL OF THE
56 CONTRIBUTIONS FOR WHICH APPLICATIONS HAVE BEEN FILED DURING THE PHASE

1 ONE APPLICATION PERIOD EXCEEDS THE CREDIT GAP FOR QUALIFIED CONTRIB-
2 UTIONS AVAILABLE IN ACCORDANCE WITH THE CREDIT LIMITATIONS AND CAP SET
3 FORTH IN SUBDIVISIONS (I) AND (J) OF THIS SECTION, THE AUTHORIZED
4 CONTRIBUTION AMOUNT LISTED IN EACH CONTRIBUTION AUTHORIZATION CERTIF-
5 ICATE SHALL EQUAL THE PRO-RATA SHARE OF THE AVAILABLE CREDIT. IN PHASE
6 TWO, THE APPLICATION PROCESS BEGINS ON THE FIFTEENTH DAY OF JANUARY AND
7 ENDS ON THE THIRTY-FIRST DAY OF DECEMBER. DURING THIS PHASE TWO APPLI-
8 CATION PERIOD, THE COMMISSIONER SHALL ISSUE CONTRIBUTION AUTHORIZATION
9 CERTIFICATES ON A FIRST-COME, FIRST-SERVE BASIS, BASED UPON THE DATE
10 THAT THE DEPARTMENT RECEIVED THE CONTRIBUTOR'S APPLICATION FOR SUCH
11 CONTRIBUTION AUTHORIZATION CERTIFICATE; PROVIDED, HOWEVER, THAT IF ON
12 ANY DAY THE DEPARTMENT RECEIVES APPLICATIONS FOR WHICH THE AGGREGATE
13 TOTAL OF CONTRIBUTIONS FOR WHICH APPLICATIONS HAVE BEEN MADE EXCEEDS THE
14 CREDIT CAP FOR QUALIFIED CONTRIBUTIONS AVAILABLE TO ALL TAXPAYERS AS SET
15 FORTH IN SUBDIVISION (J) OF THIS SECTION, THE AUTHORIZED CONTRIBUTION
16 AMOUNT LISTED IN EACH CONTRIBUTION AUTHORIZATION CERTIFICATE ON SUCH DAY
17 SHALL EQUAL THE PRO-RATA SHARE OF THE AVAILABLE CREDIT. FOR PURPOSES OF
18 DETERMINING A TAXPAYER'S PRO-RATA SHARE OF AVAILABLE CREDIT, THE COMMIS-
19 SIONER SHALL MULTIPLY THE AMOUNT OF AVAILABLE CREDIT BY A FRACTION, THE
20 NUMERATOR OF WHICH EQUALS THE AUTHORIZED CREDIT AMOUNT LISTED ON THE
21 TAXPAYER'S APPLICATION AND THE DENOMINATOR OF WHICH EQUALS THE AGGREGATE
22 AMOUNT OF AUTHORIZED CREDIT SOUGHT IN ALL OF THE AFFECTED APPLICATIONS.

23 2. CONTRIBUTION AUTHORIZATION CERTIFICATE LIMITS. A TAXPAYER'S AGGRE-
24 GATE AUTHORIZED CONTRIBUTION AMOUNT AS LISTED ON ONE OR MORE AUTHORIZED
25 CONTRIBUTION CERTIFICATES ISSUED TO THE TAXPAYER, SHALL NOT EXCEED THE
26 LESSER OF (I) FIVE PERCENT OF ONE HALF OF THE CREDIT CAP SET FORTH IN
27 SUBDIVISION (J) OF THIS SECTION FOR THE CALENDAR YEAR, OR (II) THE
28 AGGREGATE OF THE AMOUNTS LISTED ON THE TAXPAYER'S APPLICATIONS SUBMITTED
29 IN ACCORDANCE WITH SUBDIVISION (F) OF THIS SECTION.

30 3. CONTRIBUTION AUTHORIZATION CERTIFICATE CONTENTS. EACH CONTRIBUTION
31 AUTHORIZATION CERTIFICATE SHALL STATE (I) THE DATE SUCH CERTIFICATE WAS
32 ISSUED, (II) THE DATE BY WHICH THE AUTHORIZED CONTRIBUTIONS LISTED IN
33 THE CERTIFICATE MUST BE MADE, WHICH SHALL BE SIXTY DAYS FROM THE DATE OF
34 THE ISSUANCE OF CREDIT AUTHORIZATION CERTIFICATE, (III) THE FIRST TAXA-
35 BLE YEAR FOR WHICH CREDIT MAY BE CLAIMED BY THE TAXPAYER, (IV) THE TOTAL
36 AMOUNT OF AUTHORIZED CONTRIBUTIONS, (V) THE NAME AND ADDRESS OF THE
37 EDUCATIONAL SCHOLARSHIP ORGANIZATION, PUBLIC EDUCATION ENTITY OR LOCAL
38 EDUCATION FUND TO WHICH THE TAXPAYER MAY MAKE AN AUTHORIZED CONTRIBUTION
39 AND THE AMOUNT OF SUCH AUTHORIZED CONTRIBUTION, AND (VI) ANY OTHER
40 INFORMATION THAT THE COMMISSIONER DEEMS NECESSARY. ISSUED CREDIT AUTHOR-
41 IZATION CERTIFICATES SHALL BE MAILED TO THE APPROPRIATE TAXPAYERS WITHIN
42 THREE BUSINESS DAYS OF THEIR ISSUANCE.

43 4. NOTIFICATION OF THE ISSUANCE OF A CONTRIBUTION AUTHORIZATION
44 CERTIFICATE. WITHIN FIFTEEN DAYS OF THE ISSUANCE OF A CONTRIBUTION
45 AUTHORIZATION CERTIFICATE, THE COMMISSIONER SHALL NOTIFY THE EDUCATIONAL
46 SCHOLARSHIP ORGANIZATION, PUBLIC EDUCATION ENTITY, OR LOCAL EDUCATION
47 FUND OF THE ISSUANCE OF THE CONTRIBUTION AUTHORIZATION CERTIFICATE TO
48 THE TAXPAYER. SUCH NOTIFICATION SHALL INCLUDE (I) THE TAXPAYER'S NAME
49 AND ADDRESS, (II) THE DATE SUCH CERTIFICATE WAS ISSUED, (III) THE DATE
50 BY WHICH THE AUTHORIZED CONTRIBUTION LISTED IN THE NOTIFICATION MUST BE
51 CONTRIBUTED, (IV) THE AMOUNT OF THE AUTHORIZED CONTRIBUTION, AND (V) ANY
52 OTHER INFORMATION THAT THE COMMISSIONER DEEMS NECESSARY.

53 5. DISCLOSURE OF CREDIT AVAILABLE. THE COMMISSIONER SHALL MAINTAIN ON
54 THE DEPARTMENT'S WEBSITE A RUNNING TOTAL OF THE AMOUNT OF CREDITS FOR
55 WHICH TAXPAYERS MAY MAKE APPLICATION FOR CONTRIBUTION AUTHORIZATION
56 CERTIFICATION. SUCH RUNNING TOTAL SHALL BE UPDATED ON A DAILY BASIS.

1 (H) CERTIFICATE OF RECEIPT. 1. IN GENERAL. NO PUBLIC EDUCATION ENTITY,
2 SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL
3 SCHOLARSHIP ORGANIZATION SHALL ISSUE A CERTIFICATE OF RECEIPT FOR ANY
4 CONTRIBUTION MADE BY A TAXPAYER UNLESS SUCH PUBLIC EDUCATION ENTITY,
5 SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL
6 SCHOLARSHIP ORGANIZATION HAS BEEN APPROVED TO ISSUE CERTIFICATES OF
7 RECEIPT PURSUANT TO ARTICLE TWENTY-FIVE OF THE EDUCATION LAW. NO PUBLIC
8 EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND,
9 OR EDUCATIONAL SCHOLARSHIP ORGANIZATION SHALL ISSUE A CERTIFICATE OF
10 RECEIPT FOR A CONTRIBUTION MADE BY A TAXPAYER UNLESS SUCH PUBLIC EDUCA-
11 TION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR
12 EDUCATIONAL SCHOLARSHIP ORGANIZATION HAS RECEIVED NOTICE FROM THE
13 DEPARTMENT THAT THE DEPARTMENT ISSUED A CREDIT AUTHORIZATION CERTIFICATE
14 TO THE TAXPAYER FOR SUCH CONTRIBUTION.

15 2. TIMELY CONTRIBUTION. IF A TAXPAYER MAKES A CONTRIBUTION TO THE
16 PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCA-
17 TION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION SET FORTH ON THE
18 CREDIT AUTHORIZATION CERTIFICATE ISSUED TO THE TAXPAYER BY THE DEPART-
19 MENT PRIOR TO THE DATE BY WHICH SUCH AUTHORIZED CONTRIBUTION SHALL BE
20 MADE, SUCH PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION,
21 LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION SHALL,
22 WITHIN THIRTY DAYS OF RECEIPT OF THE AUTHORIZED CONTRIBUTION, ISSUE TO
23 THE TAXPAYER A WRITTEN CERTIFICATE OF RECEIPT; PROVIDED, HOWEVER, THAT
24 THE AMOUNT OF THE QUALIFIED CONTRIBUTION LISTED ON SUCH CERTIFICATE OF
25 RECEIPT SHALL NOT EXCEED THE LESSER OF THE AUTHORIZED CONTRIBUTION
26 AMOUNT OR THE AMOUNT OF THE CONTRIBUTION; AND PROVIDED, FURTHER, THAT IF
27 THE TAXPAYER HAS BEEN ISSUED MORE THAN ONE CREDIT AUTHORIZATION CERTIF-
28 ICATE FOR SUCH CONTRIBUTIONS, THE AMOUNT OF THE QUALIFIED CONTRIBUTION
29 LISTED ON SUCH CERTIFICATE OF RECEIPT SHALL NOT EXCEED THE LESSER OF THE
30 AGGREGATE OF THE AMOUNT OF THE AUTHORIZED CONTRIBUTIONS OR THE AMOUNT OF
31 CONTRIBUTIONS.

32 3. UNTIMELY CONTRIBUTION. IF A TAXPAYER FAILS TO MAKE A CONTRIBUTION
33 TO THE PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL
34 EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION LISTED IN THE
35 AUTHORIZED CONTRIBUTION CERTIFICATE ISSUED TO THE TAXPAYER IN AN AMOUNT
36 EQUAL TO THE AUTHORIZED CONTRIBUTION AMOUNT LISTED IN SUCH CERTIFICATE
37 PRIOR TO THE DATE BY WHICH SUCH AUTHORIZED CONTRIBUTION IS REQUIRED TO
38 BE MADE, THE TAXPAYER SHALL NOT BE ENTITLED TO A CERTIFICATE OF RECEIPT
39 FOR ANY AMOUNT NOT CONTRIBUTED.

40 4. CERTIFICATE OF RECEIPT CONTENTS. EACH CERTIFICATE OF RECEIPT SHALL
41 STATE (I) THE NAME AND ADDRESS OF THE ISSUING PUBLIC EDUCATION ENTITY,
42 SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL
43 SCHOLARSHIP ORGANIZATION, (II) THE TAXPAYER'S NAME AND ADDRESS, (III)
44 THE DATE FOR EACH QUALIFIED CONTRIBUTION, (IV) THE AMOUNT OF EACH QUALI-
45 FIED CONTRIBUTION AND THE CORRESPONDING CONTRIBUTION AUTHORIZATION
46 CERTIFICATE NUMBER, (V) THE TOTAL AMOUNT OF QUALIFIED CONTRIBUTIONS, AND
47 (VI) ANY OTHER INFORMATION THAT THE COMMISSIONER MAY DEEM NECESSARY.

48 5. NOTIFICATION TO THE DEPARTMENT FOR THE ISSUANCE OF A CERTIFICATE OF
49 RECEIPT. UPON THE ISSUANCE OF A CERTIFICATE OF RECEIPT, THE ISSUING
50 PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCA-
51 TION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION SHALL, WITHIN THIRTY
52 DAYS OF ISSUING THE CERTIFICATE OF RECEIPT, PROVIDE THE DEPARTMENT WITH
53 NOTIFICATION OF THE ISSUANCE OF SUCH CERTIFICATE IN THE FORM AND MANNER
54 PRESCRIBED BY THE DEPARTMENT, PROVIDED THAT SUCH NOTIFICATION SHALL
55 INCLUDE (I) THE TAXPAYER'S NAME AND ADDRESS, (II) THE DATE OF THE ISSU-
56 ANCE OF A CERTIFICATE OF RECEIPT, (III) THE QUALIFIED CONTRIBUTION DATE

1 OR DATES THE AMOUNTS CONTRIBUTED ON SUCH DATES, AND THE CORRESPONDING
2 CONTRIBUTION AUTHORIZATION CERTIFICATE NUMBERS, (IV) THE TOTAL QUALIFIED
3 CONTRIBUTION LISTED ON SUCH CERTIFICATE, (V) THE ISSUING PUBLIC EDUCA-
4 TION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND OR
5 EDUCATIONAL SCHOLARSHIP ORGANIZATION'S NAME AND ADDRESS, AND (VI) ANY
6 OTHER INFORMATION THAT THE COMMISSIONER MAY DEEM NECESSARY.

7 6. NOTIFICATION TO THE DEPARTMENT OF THE NON-ISSUANCE OF A CERTIFICATE
8 OF RECEIPT. EACH PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZA-
9 TION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION THAT
10 RECEIVED NOTIFICATION FROM THE DEPARTMENT PURSUANT TO SUBDIVISION (G) OF
11 THIS SECTION REGARDING THE ISSUANCE OF A CONTRIBUTION AUTHORIZATION
12 CERTIFICATE TO A TAXPAYER SHALL, WITHIN THIRTY DAYS OF THE EXPIRATION
13 DATE FOR SUCH AUTHORIZED CONTRIBUTION, PROVIDE NOTIFICATION TO THE
14 DEPARTMENT FOR EACH TAXPAYER THAT FAILED, IN WHOLE OR IN PART, TO MAKE
15 THE AUTHORIZED CONTRIBUTION TO SUCH PUBLIC EDUCATION ENTITY, SCHOOL
16 IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCATIONAL SCHOLAR-
17 SHIP ORGANIZATION IN THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT;
18 PROVIDED THAT SUCH NOTIFICATION SHALL INCLUDE (I) THE TAXPAYER'S NAME
19 AND ADDRESS, (II) THE DATE THAT THE CONTRIBUTION AUTHORIZATION CERTIF-
20 ICATE WAS ISSUED, (III) THE AUTHORIZED CONTRIBUTION AMOUNT SET FORTH ON
21 SUCH CERTIFICATE, (IV) THE AMOUNT OF ANY QUALIFIED CONTRIBUTION MADE BY
22 THE TAXPAYER AND THE CORRESPONDING CONTRIBUTION AUTHORIZATION CERTIF-
23 ICATE NUMBER, (V) THE AMOUNT OF THE AUTHORIZED CONTRIBUTION FOR WHICH
24 THE TAXPAYER DID NOT MAKE A CONTRIBUTION, (VI) THE PUBLIC EDUCATION
25 ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, OR EDUCA-
26 TIONAL SCHOLARSHIP ORGANIZATION'S NAME AND ADDRESS, AND (VII) ANY OTHER
27 INFORMATION THAT THE COMMISSIONER MAY DEEM NECESSARY.

28 7. FAILURE TO NOTIFY THE DEPARTMENT. UPON DISCOVERY OF THE FAILURE OF
29 ANY PUBLIC EDUCATION ENTITY, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL
30 EDUCATION FUND, OR EDUCATIONAL SCHOLARSHIP ORGANIZATION TO COMPLY WITH
31 THE NOTIFICATION REQUIREMENTS PRESCRIBED BY PARAGRAPHS FIVE AND SIX OF
32 THIS SUBDIVISION, THE COMMISSIONER SHALL ISSUE A NOTICE OF COMPLIANCE
33 FAILURE TO SUCH ENTITY, FUND OR ORGANIZATION. SUCH ENTITY, FUND OR
34 ORGANIZATION SHALL HAVE THIRTY DAYS FROM THE DATE OF SUCH NOTICE TO MAKE
35 THE NOTIFICATIONS PRESCRIBED BY PARAGRAPHS FIVE AND SIX OF THIS SUBDIVI-
36 SION. SUCH PERIOD MAY BE EXTENDED FOR AN ADDITIONAL THIRTY DAYS UPON THE
37 REQUEST OF THE ENTITY, FUND OR ORGANIZATION. UPON THE EXPIRATION OF THE
38 PERIOD FOR COMPLIANCE SET FORTH IN THE NOTICE PRESCRIBED BY THIS PARA-
39 GRAPH, THE COMMISSIONER SHALL NOTIFY THE BOARD OF REGENTS AND THE
40 COMMISSIONER OF EDUCATION OF ANY ENTITY, FUND OR ORGANIZATION THAT FAILS
41 TO MAKE THE NOTIFICATIONS PRESCRIBED BY PARAGRAPHS FIVE AND SIX OF THIS
42 SUBDIVISION.

43 (I) CREDIT LIMITATION. THE MAXIMUM AMOUNT OF CREDIT THAT A TAXPAYER
44 MAY CLAIM FOR A TAXABLE YEAR SHALL NOT EXCEED THE LESSER OF (I) SEVEN-
45 TY-FIVE PERCENT OF THE TAXPAYER'S TAX DUE FOR THE TAXABLE YEAR, AFTER
46 APPLICATION OF ANY OTHER ALLOWABLE CREDITS BY THE TAXPAYER, OR (II) ONE
47 MILLION DOLLARS FOR THE CALENDAR YEAR. PROVIDED, HOWEVER, THE COMMIS-
48 SIONER SHALL DISALLOW THE PORTION OF THE CREDIT EQUAL TO THE AMOUNT
49 SAVED FROM THE FEDERAL TAX LIABILITY OF THE TAXPAYER FROM THE CHARITABLE
50 CONTRIBUTION TO A QUALIFIED ORGANIZATION UNDER PARAGRAPH THREE OF
51 SUBSECTION (C) OF SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE.
52 ANY CREDIT IN EXCESS OF THIS LIMITATION MAY BE CARRIED OVER TO THE
53 FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR
54 SUCH YEAR OR YEARS.

55 (J) CREDIT CAP. THE MAXIMUM PERMITTED CREDITS UNDER THIS SECTION
56 AVAILABLE TO ALL TAXPAYERS FOR QUALIFIED CONTRIBUTIONS TO PUBLIC EDUCA-

1 TION ENTITIES, SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL EDUCATION FUNDS,
2 AND EDUCATIONAL SCHOLARSHIP ORGANIZATIONS FOR CALENDAR YEAR TWO THOUSAND
3 FIFTEEN SHALL BE TWO HUNDRED FIFTY MILLION DOLLARS. IN CALENDAR YEAR TWO
4 THOUSAND SIXTEEN AND THEREAFTER, THE MAXIMUM PERMITTED CREDITS UNDER
5 THIS SECTION AVAILABLE TO ALL TAXPAYERS SHALL BE THREE HUNDRED MILLION,
6 PLUS ANY AMOUNTS THAT ARE REQUIRED TO BE ADDED TO THE CAP PURSUANT TO
7 THIS SUBDIVISION. THE MAXIMUM PERMITTED CREDITS UNDER THIS SECTION FOR
8 QUALIFIED CONTRIBUTIONS SHALL BE ALLOCATED FIFTY PERCENT TO PUBLIC
9 EDUCATION ENTITIES AND LOCAL EDUCATION FUNDS AND FIFTY PERCENT TO EDUCA-
10 TIONAL SCHOLARSHIP ORGANIZATIONS.

11 (K) ADDITIONS TO THE CREDIT CAP. 1. UNISSUED CERTIFICATES OF RECEIPT.
12 ANY AMOUNTS FOR WHICH THE DEPARTMENT RECEIVES NOTIFICATION OF NON-IS-
13 SUANCE OF A CERTIFICATE OF RECEIPT SHALL BE ADDED TO THE CAP PRESCRIBED
14 IN SUBDIVISION (J) OF THIS SECTION FOR THE IMMEDIATELY FOLLOWING YEAR.

15 2. UNCLAIMED CREDIT. UPON THE EXPIRATION OF THE TIME DURING WHICH A
16 TAXPAYER MAY CLAIM CREDIT OR REFUND OF AN OVERPAYMENT OF TAX PURSUANT TO
17 SECTION SIX HUNDRED EIGHTY-SEVEN OF THIS CHAPTER, IN THE CASE OF AN
18 ARTICLE TWENTY-TWO TAXPAYER, OR SECTION ONE THOUSAND EIGHTY-SEVEN OF
19 THIS CHAPTER, IN THE CASE OF AN ARTICLE NINE-A, THIRTY-TWO OR
20 THIRTY-THREE TAXPAYER, ANY AMOUNT FOR WHICH A CERTIFICATE OF RECEIPT WAS
21 ISSUED BY NOT CLAIMED AS A CREDIT BY A TAXPAYER SHALL BE ADDED TO THE
22 CAP PRESCRIBED IN SUBDIVISION (J) OF THIS SECTION FOR THE YEAR IMME-
23 DIATELY FOLLOWING THE YEAR IN WHICH SUCH PERIOD OF TIME EXPIRED.

24 (L) OTHER REQUIREMENTS; MISCELLANEOUS. 1. RECORD KEEPING. EACH TAXPAY-
25 ER SHALL, FOR EACH TAXABLE YEAR FOR WHICH THE EDUCATION INVESTMENT TAX
26 CREDIT PROVIDED FOR UNDER THIS SECTION IS CLAIMED, MAINTAIN RECORDS OF
27 THE FOLLOWING INFORMATION: (I) CONTRIBUTION AUTHORIZATION CERTIFICATES
28 OBTAINED PURSUANT TO SUBDIVISION (G) OF THIS SECTION, AND (II) CERTIF-
29 ICATES OF RECEIPT OBTAINED PURSUANT TO SUBDIVISION (H) OF THIS SECTION.

30 2. REGULATIONS. THE COMMISSIONER IS HEREBY AUTHORIZED TO PROMULGATE
31 AND ADOPT ON AN EMERGENCY BASIS REGULATIONS NECESSARY FOR THE IMPLEMEN-
32 TATION OF THIS SECTION. SUCH REGULATIONS SHALL CONSTRUER THE PROVISIONS
33 OF THIS SECTION IN SUCH A MANNER AS TO ENCOURAGE QUALIFIED CONTRIB-
34 UTIONS, PROVIDED THAT SUCH REGULATIONS SHALL NOT IMPOSE ANY NEW REQUIRE-
35 MENT OR BURDEN ON THE EDUCATIONAL PROGRAM, INSTRUCTION, OR ACTIVITIES OF
36 A PUBLIC OR NON-PUBLIC SCHOOL.

37 (M) REPORTS. 1. REPORTS TO THE COMMISSIONER. ON OR BEFORE THE LAST DAY
38 OF FEBRUARY FOR EACH CALENDAR YEAR, EACH PUBLIC EDUCATION ENTITY, LOCAL
39 EDUCATION FUND, AND EDUCATIONAL SCHOLARSHIP ORGANIZATION THAT ISSUED ONE
40 OR MORE CERTIFICATES OF RECEIPT SHALL REPORT TO THE COMMISSIONER THE
41 NUMBER OF SUCH CERTIFICATES ISSUED AND THE AGGREGATE AMOUNT OF QUALIFIED
42 CONTRIBUTIONS MADE TO SUCH ENTITY, FUND, OR ORGANIZATION DURING THE
43 IMMEDIATELY PRECEDING CALENDAR YEAR.

44 2. JOINT ANNUAL REPORT. ON OR BEFORE THE LAST DAY OF MAY FOR EACH
45 CALENDAR YEAR, FOR THE IMMEDIATELY PRECEDING YEAR, THE COMMISSIONER AND
46 THE COMMISSIONER OF EDUCATION SHALL JOINTLY SUBMIT A WRITTEN REPORT TO
47 THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE
48 ASSEMBLY, THE CHAIRMAN OF THE SENATE FINANCE COMMITTEE AND THE CHAIRMAN
49 OF THE ASSEMBLY WAYS AND MEANS COMMITTEE REGARDING THE EDUCATION INVEST-
50 MENT TAX CREDIT. SUCH REPORT SHALL CONTAIN STATISTICAL INFORMATION, BY
51 TAX TYPE, REGARDING THE NUMBER OF APPLICATIONS RECEIVED, THE NUMBER OF
52 CONTRIBUTION AUTHORIZATION CERTIFICATES ISSUED FOR CONTRIBUTIONS TO
53 PUBLIC EDUCATION ENTITIES AND QUALIFIED LOCAL EDUCATION FUNDS, THE
54 NUMBER OF CONTRIBUTION AUTHORIZATION CERTIFICATES ISSUED FOR AUTHORIZED
55 CONTRIBUTIONS TO QUALIFIED SCHOLARSHIP ORGANIZATIONS, THE AGGREGATE
56 AMOUNT OF AUTHORIZED CONTRIBUTIONS FOR PUBLIC EDUCATION ENTITIES AND

1 QUALIFIED LOCAL EDUCATION FUNDS, THE AGGREGATE AMOUNT OF AUTHORIZED
2 CONTRIBUTIONS FOR EDUCATIONAL SCHOLARSHIP ORGANIZATIONS, THE GEOGRAPH-
3 ICAL DISTRIBUTION BY COUNTY OF THE APPLICATIONS FOR CONTRIBUTION AUTHOR-
4 IZATION CERTIFICATES, THE GEOGRAPHICAL DISTRIBUTION BY COUNTY OF PUBLIC
5 EDUCATION ENTITIES, SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL EDUCATION
6 FUNDS, AND EDUCATIONAL SCHOLARSHIP ORGANIZATIONS FOR WHICH CONTRIBUTION
7 AUTHORIZATION CERTIFICATES WERE ISSUED; INFORMATION, INCLUDING GEOGRAPH-
8 ICAL DISTRIBUTION BY COUNTY, OF THE NUMBER OF ELIGIBLE PUPILS THAT
9 RECEIVED SCHOLARSHIPS, THE NUMBER OF QUALIFIED SCHOOLS ATTENDED BY
10 ELIGIBLE PUPILS THAT RECEIVED SUCH SCHOLARSHIPS, AND THE AVERAGE VALUE
11 OF SCHOLARSHIPS RECEIVED BY SUCH ELIGIBLE PUPILS. THE COMMISSIONER AND
12 DESIGNATED EMPLOYEES OF THE DEPARTMENT, THE BOARD OF REGENTS AND ALL
13 MEMBERS OF THE BOARD OF REGENTS, INCLUDING THE COMMISSIONER OF EDUCATION
14 AND DESIGNATED EMPLOYEES OF THE DEPARTMENT OF EDUCATION, SHALL BE
15 ALLOWED AND ARE DIRECTED TO SHARE AND EXCHANGE INFORMATION REGARDING THE
16 CREDITS APPLIED FOR, ALLOWED OR CLAIMED PURSUANT TO THIS SECTION; THE
17 TAXPAYERS WHO ARE APPLYING FOR CREDITS OR WHO ARE CLAIMING CREDITS,
18 INCLUDING INFORMATION CONTAINED IN OR DERIVED FROM CREDIT CLAIM FORMS
19 SUBMITTED TO THE DEPARTMENT; AND THE PUBLIC EDUCATION ENTITIES, LOCAL
20 EDUCATION FUNDS AND EDUCATIONAL SCHOLARSHIP ORGANIZATIONS THAT APPLIED
21 FOR APPROVAL TO BE AUTHORIZED TO RECEIVE QUALIFIED CONTRIBUTIONS AND WHO
22 WERE APPROVED TO BE AUTHORIZED TO ISSUE CERTIFICATES OF RECEIPT, INCLUD-
23 ING INFORMATION CONTAINED IN OR DERIVED FROM APPLICATION FORMS SUBMITTED
24 TO THE DEPARTMENT OF EDUCATION OR BOARD OF REGENTS.

25 (N) CROSS REFERENCES. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN
26 THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

27 1. ARTICLE 9-A: SECTION 210; SUBDIVISION 48;

28 2. ARTICLE 22: SECTION 606; SUBSECTIONS (I) AND (W); AND SECTION 615;
29 SUBSECTION (G);

30 3. ARTICLE 32: SECTION 1456; SUBSECTION (AA);

31 4. ARTICLE 33: SECTION 1511; SUBDIVISION (DD).

32 S 4. Paragraph (b) of subdivision 9 of section 208 of the tax law is
33 amended by adding a new subparagraph 21 to read as follows:

34 (21) THE AMOUNT OF ANY DEDUCTION ALLOWED PURSUANT TO SECTION ONE
35 HUNDRED SEVENTY OF THE INTERNAL REVENUE CODE FOR WHICH CREDIT IS CLAIMED
36 PURSUANT TO SUBDIVISION FORTY-EIGHT OF SECTION TWO HUNDRED TEN OF THIS
37 ARTICLE.

38 S 5. Section 210 of the tax law is amended by adding a new subdivision
39 48 to read as follows:

40 48. EDUCATION INVESTMENT TAX CREDIT. (A) ALLOWANCE OF CREDIT. A
41 TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN
42 SECTION FORTY-ONE OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTI-
43 CLE.

44 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
45 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR THAT YEAR TO LESS
46 THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) OR (D) OF
47 SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDIT
48 ALLOWED UNDER THIS SUBDIVISION FOR QUALIFIED CONTRIBUTIONS FOR ANY TAXA-
49 BLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT
50 DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE SUCCEEDING
51 FIVE YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR
52 YEARS.

53 S 6. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
54 of the tax law is amended by adding a new clause (xxvii) to read as
55 follows:

(XXXVII) EDUCATION INVESTMENT AMOUNT OF CREDIT UNDER SUBDIVISION
TAX CREDIT UNDER SUBSECTION (XX) FORTY-EIGHT OF SECTION TWO HUNDRED
TEN OR SUBSECTION (AA) OF SECTION
FOURTEEN HUNDRED FIFTY-SIX

S 7. Section 606 of the tax law is amended by adding a new subsection
(w) to read as follows:

(W) INSTRUCTIONAL MATERIALS AND SUPPLIES CREDIT. FOR TAXABLE YEARS
BEGINNING ON AND AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, A TAXPAYER
SHALL BE ALLOWED A CREDIT IN THE AMOUNT PAID BY THE TAXPAYER DURING THE
TAXABLE YEAR FOR INSTRUCTIONAL MATERIALS AND SUPPLIES WITH RESPECT TO
CLASSROOM BASED INSTRUCTION IN A QUALIFIED SCHOOL, OR TWO HUNDRED
DOLLARS, WHICHEVER IS LESS; PROVIDED THAT THE TAXPAYER IS A TEACHER,
INSTRUCTOR, COUNSELOR, PRINCIPAL, OR AIDE IN A QUALIFIED SCHOOL, AS
DEFINED IN SECTION FORTY-ONE OF THIS CHAPTER, FOR AT LEAST NINE HUNDRED
HOURS DURING A SCHOOL YEAR. FOR PURPOSES OF THIS SUBSECTION, THE TERM
"MATERIALS AND SUPPLIES" MEANS AMOUNTS PAID FOR INSTRUCTIONAL MATERIALS
OR SUPPLIES THAT ARE DESIGNATED FOR CLASSROOM USE IN ANY QUALIFIED
SCHOOL.

S 8. Subsections (yy) and (zz) of section 606 of the tax law, as
relettered by section 5 of part H of chapter 1 of the laws of 2003 are
relettered subsections (yyy) and (zzz) and a new subsection (xx) is
added to read as follows:

(XX) EDUCATION INVESTMENT TAX CREDIT. (1) ALLOWANCE OF CREDIT. A
TAXPAYER SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SECTION
FORTY-ONE OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(2) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER
THIS SUBSECTION FOR ANY QUALIFIED CONTRIBUTIONS FOR ANY TAXABLE YEAR
EXCEEDS THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS MAY BE CARRIED OVER
TO THE SUCCEEDING FIVE YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX
FOR SUCH YEAR OR YEARS.

S 9. Subsection (g) of section 615 of the tax law is amended by adding
a new paragraph 3 to read as follows:

(3) WITH RESPECT TO AN INDIVIDUAL WHO HAS CLAIMED THE EDUCATION
INVESTMENT TAX CREDIT FOR QUALIFIED CONTRIBUTIONS PURSUANT TO SUBDIVI-
SION (XX) OF SECTION SIX HUNDRED SIX OF THIS ARTICLE, THE TAXPAYER'S NEW
YORK ITEMIZED DEDUCTION SHALL BE REDUCED BY ANY CHARITABLE CONTRIBUTION
DEDUCTION ALLOWED UNDER SECTION ONE HUNDRED SEVENTY OF THE INTERNAL
REVENUE CODE WITH RESPECT TO SUCH QUALIFIED CONTRIBUTIONS.

S 10. Section 1456 of the tax law is amended by adding a new
subsection (aa) to read as follows:

(AA) EDUCATION INVESTMENT TAX CREDIT. (1) ALLOWANCE OF CREDIT. A
TAXPAYER SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SECTION
FORTY-ONE OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(2) APPLICATION OF CREDIT. IN NO EVENT SHALL THE CREDIT ALLOWED UNDER
THIS SECTION BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX TO LESS
THAN THE MINIMUM TAX FIXED BY SUBSECTION (B) OF SECTION FOURTEEN HUNDRED
FIFTY-FIVE OF THIS ARTICLE. IF, HOWEVER, THE AMOUNT OF CREDIT FOR ANY
QUALIFIED CONTRIBUTIONS FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH
AMOUNT, THE EXCESS MAY BE CARRIED OVER TO THE SUCCEEDING FIVE YEARS AND
MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

S 11. Subsection (b) of section 1453 of the tax law is amended by
adding a new paragraph 16 to read as follows:

(16) THE AMOUNT OF ANY DEDUCTION ALLOWED PURSUANT TO SECTION ONE
HUNDRED SEVENTY OF THE INTERNAL REVENUE CODE FOR WHICH CREDIT IS CLAIMED
PURSUANT TO SECTION FOURTEEN HUNDRED FIFTY-SIX OF THIS ARTICLE.

S 12. Paragraph 2 of subdivision (b) of section 1503 of the tax law is amended by adding a new subparagraph (w) to read as follows:

(w) THE AMOUNT OF ANY DEDUCTION ALLOWED PURSUANT TO SECTION ONE HUNDRED SEVENTY OF THE INTERNAL REVENUE CODE FOR WHICH CREDIT IS CLAIMED PURSUANT TO SECTION FIFTEEN HUNDRED ELEVEN OF THIS ARTICLE.

S 13. Section 1511 of the tax law is amended by adding a new subdivision (dd) to read as follows:

(DD) EDUCATION INVESTMENT TAX CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SECTION FORTY-ONE OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(2) 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 MINIMUM FIXED BY PARAGRAPH FOUR OF SUBDIVISION (A) OF SECTION FIFTEEN HUNDRED TWO OR BY SECTION FIFTEEN HUNDRED TWO-A OF THIS ARTICLE, WHICHEVER IS APPLICABLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY QUALIFIED CONTRIBUTIONS FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, THE EXCESS MAY BE CARRIED OVER TO THE SUCCEEDING FIVE YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

S 14. The education law is amended by adding a new article 25 to read as follows:

ARTICLE 25

EDUCATION INVESTMENT TAX CREDIT PROGRAM

SECTION 1209. SHORT TITLE.

1210. DEFINITIONS.

1211. APPROVAL TO ISSUE CERTIFICATES OF RECEIPT.

1212. APPLICATIONS FOR APPROVAL TO ISSUE CERTIFICATES OF RECEIPT.

1213. APPLICATION APPROVAL.

1214. REVOCATION OF APPROVAL TO ISSUE CERTIFICATES OF RECEIPT.

1215. REPORTING AND RECORDKEEPING.

1216. COMMISSIONER; POWERS.

S 1209. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "EDUCATION INVESTMENT TAX CREDIT PROGRAM".

S 1210. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "AUTHORIZED CONTRIBUTION" MEANS THE CONTRIBUTION AMOUNT LISTED ON THE CONTRIBUTION AUTHORIZATION CERTIFICATE ISSUED TO A TAXPAYER.

2. "CONTRIBUTION" MEANS A DONATION PAID BY CASH, CHECK, ELECTRONIC FUNDS TRANSFER, DEBIT CARD OR CREDIT CARD MADE BY THE TAXPAYER DURING THE TAX YEAR.

3. "EDUCATIONAL PROGRAM" MEANS AN ACADEMIC OR SIMILAR PROGRAM OF A PUBLIC SCHOOL THAT ENHANCES THE CURRICULUM OR ACADEMIC PROGRAM OF THE PUBLIC SCHOOL, OR PROVIDES A PRE-KINDERGARTEN PROGRAM TO THE PUBLIC SCHOOL. FOR PURPOSES OF THIS DEFINITION, THE INSTRUCTION, MATERIALS, PROGRAMS OR OTHER ACTIVITIES OFFERED BY OR THROUGH AN EDUCATIONAL PROGRAM MAY INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING FEATURES: (A) INSTRUCTION OR MATERIALS PROMOTING HEALTH, PHYSICAL EDUCATION, AND FAMILY AND CONSUMER SCIENCES; LITERARY, PERFORMING AND VISUAL ARTS; MATHEMATICS, SOCIAL STUDIES, TECHNOLOGY AND SCIENTIFIC ACHIEVEMENT; (B) INSTRUCTION OR PROGRAMMING TO MEET THE EDUCATION NEEDS OF AT-RISK STUDENTS OR STUDENTS WITH DISABILITIES, INCLUDING TUTORING OR COUNSELING; (C) INSTRUCTION OR PROGRAMMING BEFORE OR AFTER PUBLIC SCHOOL HOURS, OR ON WEEKENDS THAT IMPROVES STUDENT ACADEMIC ACHIEVEMENT INCLUDING PREPARATION FOR COLLEGE OR A CAREER; OR (D) USE OF SPECIALIZED

1 INSTRUCTIONAL MATERIALS, INSTRUCTORS OR INSTRUCTION NOT PROVIDED BY A
2 PUBLIC SCHOOL.

3 4. "EDUCATIONAL SCHOLARSHIP ORGANIZATION" MEANS A NOT-FOR-PROFIT ENTI-
4 TY WHICH (I) IS EXEMPT FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION
5 (C) OF SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, (II) USES
6 OR DESIGNATES AT LEAST NINETY PERCENT OF THE REVENUE FROM QUALIFIED
7 CONTRIBUTIONS RECEIVED DURING THE LAST MONTH OF THE IMMEDIATELY PRECED-
8 ING CALENDAR YEAR AND THE FIRST ELEVEN MONTHS OF THE CALENDAR YEAR AND
9 ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS DURING SUCH MONTHS FOR
10 SCHOLARSHIPS, (III) DEPOSITS AND HOLDS QUALIFIED CONTRIBUTIONS AND ANY
11 INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS IN AN ACCOUNT THAT IS SEPA-
12 RATE FROM THE ORGANIZATION'S OPERATING OR OTHER FUNDS UNTIL SUCH QUALI-
13 FIED CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR USE, (IV) PROVIDES SCHOL-
14 ARSHIPS TO ONLY ELIGIBLE PUPILS FOR USE AT NOT FEWER THAN THREE
15 QUALIFIED SCHOOLS, AND (V) IS APPROVED TO RECEIVE AUTHORIZED CONTRIB-
16 UTIONS AND ISSUE CERTIFICATES OF RECEIPT PURSUANT TO THIS ARTICLE.

17 5. "ELIGIBLE PUPIL" MEANS A CHILD WHO (I) IS A RESIDENT OF THIS STATE,
18 (II) IS SCHOOL AGE IN ACCORDANCE WITH SUBDIVISION ONE OF SECTION THIR-
19 TY-TWO HUNDRED TWO OF THIS CHAPTER OR WHO IS FOUR YEARS OF AGE ON OR
20 BEFORE DECEMBER FIRST OF THE YEAR IN WHICH THEY ARE ENROLLED IN A
21 PRE-KINDERGARTEN PROGRAM, (III) ATTENDS OR IS ABOUT TO ATTEND A QUALI-
22 FIED SCHOOL, AND (IV) WHOSE HOUSEHOLD'S ANNUAL ADJUSTED GROSS INCOME
23 SHALL NOT EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS, PROVIDED HOWEVER,
24 THAT SUCH INCOME LEVEL SHALL BE INCREASED FOR AN ELIGIBLE PUPIL BY TEN
25 THOUSAND DOLLARS FOR EACH DEPENDENT CHILD ABOVE TWO CHILDREN IN SUCH
26 HOUSEHOLD, NOT TO EXCEED AN ADDITIONAL FIFTY THOUSAND DOLLARS.

27 6. "LOCAL EDUCATION FUND" MEANS A NOT-FOR-PROFIT ENTITY WHICH (I) IS
28 EXEMPT FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION (C) OF SECTION
29 FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, (II) IS ESTABLISHED FOR
30 THE PURPOSE OF SUPPORTING AT LEAST ONE PUBLIC SCHOOL, OR A PUBLIC SCHOOL
31 DISTRICT LOCATED IN THIS STATE, (III) USES AT LEAST NINETY PERCENT OF
32 THE QUALIFIED CONTRIBUTIONS RECEIVED DURING THE LAST MONTH OF THE IMME-
33 DIATELY PRECEDING CALENDAR YEAR AND THE FIRST ELEVEN MONTHS OF THE
34 CALENDAR YEAR AND ANY INCOME DERIVED FROM SUCH QUALIFIED CONTRIBUTIONS
35 DURING SUCH MONTHS TO SUPPORT THE PUBLIC SCHOOL OR SCHOOLS OR PUBLIC
36 SCHOOL DISTRICT OR DISTRICTS THAT SUCH FUND HAS BEEN ESTABLISHED TO
37 SUPPORT, (IV) DEPOSITS AND HOLDS QUALIFIED CONTRIBUTIONS AND ANY INCOME
38 DERIVED FROM QUALIFIED CONTRIBUTIONS IN AN ACCOUNT THAT IS SEPARATE FROM
39 THE FUND'S OPERATING OR OTHER FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS
40 OR INCOME ARE WITHDRAWN FOR USE, AND (V) IS APPROVED TO RECEIVE AUTHOR-
41 IZED CONTRIBUTIONS AND ISSUE CERTIFICATES OF RECEIPT PURSUANT TO THIS
42 ARTICLE.

43 7. "NONPUBLIC SCHOOL" MEANS ANY NOT-FOR-PROFIT PRE-KINDERGARTEN
44 PROGRAM OR ELEMENTARY, SECONDARY SECTARIAN OR NONSECTARIAN SCHOOL, OTHER
45 THAN A PUBLIC SCHOOL, THAT IS PROVIDING INSTRUCTION AT ONE OR MORE
46 LOCATIONS TO AN ELIGIBLE PUPIL IN ACCORDANCE WITH SUBDIVISION TWO OF
47 SECTION THIRTY-TWO HUNDRED FOUR OF THIS CHAPTER.

48 8. "PUBLIC EDUCATION ENTITY" MEANS A PUBLIC SCHOOL DISTRICT IN THIS
49 STATE, OR A PUBLIC SCHOOL IN THIS STATE, PROVIDED THAT SUCH PUBLIC
50 SCHOOL DISTRICT OR PUBLIC SCHOOL DEPOSITS AND HOLDS QUALIFIED CONTRIB-
51 UTIONS AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS IN AN ACCOUNT
52 THAT IS SEPARATE FROM THE PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT'S
53 OPERATING OR OTHER FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS OR INCOME
54 ARE WITHDRAWN FOR USE FROM OPERATING OR OTHER FUNDS AND IS APPROVED TO
55 RECEIVE AUTHORIZED CONTRIBUTIONS AND ISSUE CERTIFICATES OF RECEIPT
56 PURSUANT TO THIS ARTICLE.

1 9. "PUBLIC SCHOOL" MEANS ANY FREE ELEMENTARY OR SECONDARY SCHOOL IN
2 THIS STATE PURSUANT TO ARTICLE ELEVEN OF THE NEW YORK CONSTITUTION, BUT
3 SHALL NOT INCLUDE A CHARTER SCHOOL AUTHORIZED BY ARTICLE FIFTY-SIX OF
4 THIS CHAPTER.

5 10. "PUBLIC SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT DESCRIBED IN
6 ARTICLE THIRTY-ONE OR THIRTY-SEVEN OF THIS CHAPTER.

7 11. "QUALIFIED CONTRIBUTION" MEANS THE AUTHORIZED CONTRIBUTION MADE BY
8 A TAXPAYER TO A PUBLIC EDUCATION ENTITY, LOCAL EDUCATION FUND, OR EDUCA-
9 TIONAL SCHOLARSHIP ORGANIZATION LISTED IN THE CONTRIBUTION AUTHORIZATION
10 CERTIFICATE ISSUED TO THE TAXPAYER FOR WHICH THE TAXPAYER HAS RECEIVED A
11 CERTIFICATE OF RECEIPT FROM SUCH ENTITY, FUND, OR ORGANIZATION.

12 12. "QUALIFIED EDUCATOR" MEANS AN INDIVIDUAL WHO IS A TEACHER,
13 INSTRUCTOR, COUNSELOR, PRINCIPAL, OR AIDE IN A QUALIFIED SCHOOL FOR AT
14 LEAST NINE HUNDRED HOURS DURING A SCHOOL YEAR.

15 13. "QUALIFIED SCHOOL" MEANS A PUBLIC SCHOOL OR NONPUBLIC SCHOOL
16 LOCATED IN THIS STATE.

17 14. "REPORTING YEAR" SHALL MEAN THE FIRST ELEVEN MONTHS OF THE IMME-
18 DIATELY PRECEDING CALENDAR YEAR AND THE LAST MONTH OF THE CALENDAR YEAR
19 IMMEDIATELY PRECEDING SUCH YEAR.

20 15. "SCHOLARSHIP" MEANS AN EDUCATIONAL SCHOLARSHIP OR TUITION GRANT
21 AWARDED TO AN ELIGIBLE PUPIL TO ATTEND A QUALIFIED SCHOOL IN AN AMOUNT
22 NOT TO EXCEED THE TUITION NECESSARY TO ATTEND SUCH SCHOOL; PROVIDED,
23 HOWEVER, IN THE CASE OF AN ELIGIBLE PUPIL ATTENDING A PUBLIC SCHOOL IN A
24 DISTRICT OF WHICH SUCH PUPIL IS NOT A RESIDENT, THE AMOUNT OF THE EDUCA-
25 TIONAL SCHOLARSHIP OR TUITION GRANT AWARDED MAY NOT EXCEED THE TUITION
26 CHARGED BY THE PUBLIC SCHOOL PURSUANT TO PARAGRAPH D OF SUBDIVISION FOUR
27 OF SECTION THIRTY-TWO HUNDRED TWO OF THIS CHAPTER, BUT ONLY IF THE
28 SCHOOL DISTRICT OF WHICH SUCH PUPIL IS A RESIDENT IS NOT REQUIRED TO PAY
29 FOR SUCH TUITION.

30 16. "SCHOOL IMPROVEMENT ORGANIZATION" MEANS A NOT-FOR-PROFIT ENTITY
31 THAT (I) IS EXEMPT FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION (C)
32 OF SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, (II) USES AT
33 LEAST NINETY PERCENT OF THE QUALIFIED CONTRIBUTIONS RECEIVED DURING THE
34 LAST MONTH OF THE IMMEDIATELY PRECEDING CALENDAR YEAR AND THE FIRST
35 ELEVEN MONTHS OF THE CALENDAR YEAR AND ANY INCOME DERIVED FROM QUALIFIED
36 CONTRIBUTIONS DURING SUCH MONTHS TO ASSIST PUBLIC SCHOOLS OR PUBLIC
37 SCHOOL DISTRICTS LOCATED IN THIS STATE IN THEIR PROVISION OF EDUCATIONAL
38 PROGRAMS, EITHER BY MAKING CONTRIBUTIONS TO ONE OR MORE PUBLIC SCHOOLS
39 OR PUBLIC SCHOOL DISTRICTS LOCATED IN THIS STATE OR PROVIDING EDUCA-
40 TIONAL PROGRAMS TO, OR IN CONJUNCTION WITH, ONE OR MORE PUBLIC SCHOOLS
41 OR PUBLIC SCHOOL DISTRICTS LOCATED IN THIS STATE, (III) DEPOSITS AND
42 HOLDS QUALIFIED CONTRIBUTIONS AND ANY INCOME DERIVED FROM QUALIFIED
43 CONTRIBUTIONS IN AN ACCOUNT THAT IS SEPARATE FROM THE ORGANIZATION'S
44 OPERATING OR OTHER FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS OR INCOME
45 ARE WITHDRAWN FOR USE, AND (IV) IS APPROVED TO RECEIVE AUTHORIZED
46 CONTRIBUTIONS AND ISSUE CERTIFICATES OF RECEIPT PURSUANT TO THIS ARTI-
47 CLE. SUCH TERM INCLUDES A PRE-KINDERGARTEN PROGRAM OR NOT-FOR-PROFIT
48 ENTITY THAT ALLOWS THE TAXPAYER TO CHOOSE TO DONATE TO A PROGRAM,
49 PROJECT OR INITIATIVE IDENTIFIED BY A QUALIFIED EDUCATOR FOR USE IN A
50 PUBLIC SCHOOL.

51 S 1211. APPROVAL TO ISSUE CERTIFICATES OF RECEIPT. 1. PUBLIC SCHOOLS
52 AND PUBLIC SCHOOL DISTRICTS. ALL PUBLIC SCHOOLS AND PUBLIC SCHOOL
53 DISTRICTS SHALL BE APPROVED TO ISSUE CERTIFICATES OF RECEIPT FOR QUALI-
54 FIED CONTRIBUTIONS IN ACCORDANCE WITH SECTION FORTY-ONE OF THE TAX LAW,
55 PROVIDED, THAT SUCH PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT SHALL NOT BE
56 APPROVED IF EITHER (I) SUCH PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT

1 FAILS TO DEPOSIT AND HOLD QUALIFIED CONTRIBUTIONS AND ANY INCOME DERIVED
2 FROM QUALIFIED CONTRIBUTIONS IN AN ACCOUNT THAT IS SEPARATE FROM THE
3 SCHOOL OR SCHOOL DISTRICT'S OPERATING OR OTHER FUNDS UNTIL SUCH QUALI-
4 FIED CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR USE, OR (II) THE COMMIS-
5 SIONER HAS NOT REVOKED SUCH APPROVAL FOR SUCH PUBLIC SCHOOL OR PUBLIC
6 SCHOOL DISTRICT PURSUANT TO SECTION TWELVE HUNDRED SIXTEEN OF THIS ARTI-
7 CLE.

8 2. SCHOOL IMPROVEMENT ORGANIZATIONS, EDUCATIONAL SCHOLARSHIP ORGANIZA-
9 TIONS AND LOCAL EDUCATION FUNDS. NO SCHOOL IMPROVEMENT ORGANIZATION,
10 EDUCATIONAL SCHOLARSHIP ORGANIZATION OR LOCAL EDUCATION FUND SHALL ISSUE
11 ANY CERTIFICATES OF RECEIPT WITHOUT FILING AN APPLICATION PURSUANT TO
12 SECTION TWELVE HUNDRED TWELVE AND RECEIVING APPROVAL PURSUANT TO SECTION
13 TWELVE HUNDRED THIRTEEN OF THIS ARTICLE.

14 S 1212. APPLICATIONS FOR APPROVAL TO ISSUE CERTIFICATES OF RECEIPT.
15 1. SCHOOL IMPROVEMENT ORGANIZATIONS. A SCHOOL IMPROVEMENT ORGANIZATION
16 SHALL SUBMIT AN APPLICATION FOR APPROVAL TO ISSUE CERTIFICATES OF
17 RECEIPT IN THE FORM AND MANNER PRESCRIBED BY THE COMMISSIONER, PROVIDED
18 THAT SUCH APPLICATION SHALL INCLUDE (I) SUBMISSION OF DOCUMENTARY
19 EVIDENCE THAT SUCH SCHOOL IMPROVEMENT ORGANIZATION HAS BEEN GRANTED
20 EXEMPTION FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION (C) OF
21 SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, (II) CERTIF-
22 ICATION THAT ALL QUALIFIED CONTRIBUTIONS AND ANY INCOME DERIVED FROM
23 QUALIFIED CONTRIBUTIONS ARE DEPOSITED AND HELD IN AN ACCOUNT THAT IS
24 SEPARATE FROM THE FUND'S OPERATING OR OTHER FUNDS UNTIL SUCH QUALIFIED
25 CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR USE, (III) CERTIFICATION THAT
26 SUCH SCHOOL IMPROVEMENT ORGANIZATION WILL USE AT LEAST NINETY PERCENT OF
27 THE QUALIFIED CONTRIBUTIONS RECEIVED DURING THE LAST MONTH OF THE IMME-
28 DIATELY PRECEDING CALENDAR YEAR AND THE FIRST ELEVEN MONTHS OF THE
29 CALENDAR YEAR AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS DURING
30 SUCH MONTHS TO ASSIST PUBLIC SCHOOLS OR PUBLIC SCHOOL DISTRICTS IN THIS
31 STATE IN THE PROVISION OF THEIR EDUCATIONAL PROGRAMS BY MAKING CONTRIB-
32 UCTIONS TO ONE OR MORE PUBLIC SCHOOLS OR PUBLIC SCHOOL DISTRICTS, OR
33 PROVIDING EDUCATIONAL PROGRAMS TO, OR IN CONJUNCTION WITH, ONE OR MORE
34 PUBLIC SCHOOLS OR PUBLIC SCHOOL DISTRICTS LOCATED IN THIS STATE, AND
35 (IV) A LIST OF THE NAMES AND ADDRESSES OF ALL MEMBERS OF THE GOVERNING
36 BOARD OF THE SCHOOL IMPROVEMENT ORGANIZATION.

37 2. EDUCATIONAL SCHOLARSHIP ORGANIZATIONS. AN EDUCATIONAL SCHOLARSHIP
38 ORGANIZATION SHALL SUBMIT AN APPLICATION FOR APPROVAL TO ISSUE CERTIF-
39 ICATES OF RECEIPT IN THE FORM AND MANNER PRESCRIBED BY THE COMMISSIONER,
40 PROVIDED THAT SUCH APPLICATION SHALL INCLUDE (I) SUBMISSION OF DOCUMEN-
41 TARY EVIDENCE THAT SUCH EDUCATIONAL SCHOLARSHIP ORGANIZATION HAS BEEN
42 GRANTED EXEMPTION FROM TAXATION UNDER PARAGRAPH THREE OF SUBSECTION (C)
43 OF SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, (II) CERTIF-
44 ICATION THAT ALL QUALIFIED CONTRIBUTIONS AND ANY INCOME DERIVED FROM
45 QUALIFIED CONTRIBUTIONS ARE DEPOSITED AND HELD IN AN ACCOUNT THAT IS
46 SEPARATE FROM THE FUND'S OPERATING OR OTHER FUNDS UNTIL SUCH QUALIFIED
47 CONTRIBUTIONS OR INCOME ARE WITHDRAWN FOR USE, (III) CERTIFICATION THAT
48 SUCH ORGANIZATION WILL USE OR DESIGNATE AT LEAST NINETY PERCENT OF ITS
49 ANNUAL REVENUE FROM QUALIFIED CONTRIBUTIONS RECEIVED DURING THE LAST
50 MONTH OF THE IMMEDIATELY PRECEDING CALENDAR YEAR AND THE FIRST ELEVEN
51 MONTHS OF THE CALENDAR YEAR AND ANY INCOME DERIVED FROM QUALIFIED
52 CONTRIBUTIONS DURING SUCH MONTHS FOR SCHOLARSHIPS, (IV) CERTIFICATION
53 THAT SUCH ORGANIZATION WILL PROVIDE SCHOLARSHIPS TO ELIGIBLE PUPILS FOR
54 USE AT NOT FEWER THAN THREE QUALIFIED SCHOOLS, AND (V) A LIST OF THE
55 NAMES AND ADDRESSES OF ALL MEMBERS OF THE GOVERNING BOARD OF SUCH EDUCA-
56 TIONAL SCHOLARSHIP ORGANIZATION.

1 3. LOCAL EDUCATION FUNDS. A LOCAL EDUCATION FUND SHALL SUBMIT AN
2 APPLICATION FOR APPROVAL TO ISSUE CERTIFICATES OF RECEIPT IN THE FORM
3 AND MANNER PRESCRIBED BY THE COMMISSIONER, PROVIDED THAT SUCH APPLICA-
4 TION SHALL INCLUDE (I) SUBMISSION OF DOCUMENTARY EVIDENCE THAT SUCH
5 LOCAL EDUCATIONAL FUND HAS BEEN GRANTED EXEMPTION FROM TAXATION UNDER
6 PARAGRAPH THREE OF SUBSECTION (C) OF SECTION FIVE HUNDRED ONE OF THE
7 INTERNAL REVENUE CODE, (II) DOCUMENTATION THAT SUCH LOCAL EDUCATION FUND
8 HAS BEEN ESTABLISHED TO SUPPORT AT LEAST ONE PUBLIC SCHOOL OR PUBLIC
9 SCHOOL DISTRICT, (III) THE NAME OF EACH PUBLIC SCHOOL OR PUBLIC SCHOOL
10 DISTRICT THAT IS EITHER SUPPORTED BY OR WILL BE SUPPORTED BY SUCH LOCAL
11 EDUCATION FUND, (IV) CERTIFICATION THAT SUCH FUND WILL USE AT LEAST
12 NINETY PERCENT OF THE QUALIFIED CONTRIBUTIONS RECEIVED DURING THE LAST
13 MONTH OF THE IMMEDIATELY PRECEDING CALENDAR YEAR AND THE FIRST ELEVEN
14 MONTHS OF THE CALENDAR YEAR AND ANY INCOME DERIVED FROM QUALIFIED
15 CONTRIBUTIONS DURING SUCH MONTHS TO SUPPORT THE PUBLIC SCHOOL OR SCHOOLS
16 OR PUBLIC SCHOOL DISTRICT OR DISTRICTS THAT SUCH FUND HAS BEEN ESTAB-
17 LISHED TO SUPPORT, (V) CERTIFICATION THAT SUCH FUND WILL DEPOSIT AND
18 HOLD QUALIFIED CONTRIBUTIONS AND ANY INCOME DERIVED FROM QUALIFIED
19 CONTRIBUTIONS IN AN ACCOUNT THAT IS SEPARATE FROM THE FUND'S OPERATING
20 OR OTHER FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS OR INCOME ARE WITH-
21 DRAWN FOR USE, AND (VI) A LIST OF THE NAMES AND ADDRESSES OF ALL MEMBERS
22 OF THE GOVERNING BOARD OF SUCH LOCAL EDUCATION FUND.

23 S 1213. APPLICATION APPROVAL. 1. IN GENERAL. THE BOARD OF REGENTS
24 SHALL REVIEW EACH APPLICATION TO DETERMINE WHETHER THE APPLICANT SHALL
25 BE ENTITLED TO APPROVAL TO ISSUE CERTIFICATES OF RECEIPT PURSUANT TO
26 THIS ARTICLE. APPROVAL OR DENIAL OF AN APPLICATION SHALL BE MADE AT THE
27 NEXT SCHEDULED MEETING OF THE BOARD OF REGENTS, PROVIDED, HOWEVER THAT
28 IF IT IS NOT PRACTICABLE FOR THE BOARD TO REVIEW AN APPLICATION THAT IS
29 RECEIVED FEWER THAN THREE DAYS BEFORE A SCHEDULED MEETING, THE BOARD MAY
30 REVIEW SUCH AN APPLICATION AT THE IMMEDIATELY FOLLOWING SCHEDULED MEET-
31 ING.

32 2. NOTIFICATION. APPLICANTS SHALL BE NOTIFIED OF THE BOARD OF REGENTS'
33 DETERMINATION WITHIN THREE BUSINESS DAYS OF THE BOARD'S DETERMINATION.

34 S 1214. REVOCATION OF APPROVAL TO ISSUE CERTIFICATES OF RECEIPT. THE
35 BOARD OF REGENTS, IN CONSULTATION WITH THE COMMISSIONER OF TAXATION AND
36 FINANCE, MAY REVOKE THE APPROVAL OF A SCHOOL IMPROVEMENT ORGANIZATION,
37 EDUCATIONAL SCHOLARSHIP ORGANIZATION, LOCAL EDUCATION FUND, PUBLIC
38 SCHOOL OR PUBLIC SCHOOL DISTRICT TO ISSUE CERTIFICATES OF RECEIPT UPON A
39 FINDING THAT SUCH ORGANIZATION, FUND, SCHOOL OR SCHOOL DISTRICT HAS
40 COMMITTED MATERIAL AND SUBSTANTIAL VIOLATION OF THIS ARTICLE OR SECTION
41 FORTY-ONE OF THE TAX LAW. THESE VIOLATIONS SHALL INCLUDE, BUT NOT BE
42 LIMITED TO, ANY OF THE FOLLOWING: (1) FAILURE TO MEET THE REQUIREMENTS
43 OF THIS ARTICLE, (2) THE FAILURE TO MAINTAIN FULL AND ADEQUATE RECORDS
44 WITH RESPECT TO THE RECEIPT OF QUALIFIED CONTRIBUTIONS, (3) THE FAILURE
45 TO SUPPLY SUCH RECORDS TO THE DEPARTMENT OR THE BOARD OF REGENTS, OR (4)
46 THE FAILURE TO PROVIDE NOTICE TO THE DEPARTMENT OF TAXATION AND FINANCE
47 OF THE ISSUANCE OF CERTIFICATES OF RECEIPT PURSUANT TO SECTION FORTY-ONE
48 OF THE TAX LAW; PROVIDED, HOWEVER, THAT THE BOARD OF REGENTS SHALL NOT
49 REVOKE APPROVAL PURSUANT TO THIS SECTION BASED UPON A VIOLATION OF TAX
50 LAW UNLESS THE COMMISSIONER OF TAXATION AND FINANCE AGREES THAT REVOCATION
51 IS WARRANTED; AND PROVIDED FURTHER THAT THE BOARD OF REGENTS SHALL
52 NOT REVOKE APPROVAL PURSUANT TO THIS SECTION WHEN THE FAILURE TO COMPLY
53 IS DUE TO CLERICAL ERROR AND NOT NEGLIGENCE OR INTENTIONAL DISREGARD FOR
54 THE LAW. WITHIN FIVE DAYS OF THE DETERMINATION REVOKING APPROVAL, THE
55 COMMISSIONER SHALL PROVIDE NOTICE OF SUCH REVOCATION TO THE EDUCATIONAL
56 SCHOLARSHIP ORGANIZATION, SCHOOL IMPROVEMENT ORGANIZATION, LOCAL EDUCA-

1 TION FUND, PUBLIC SCHOOL, OR PUBLIC SCHOOL DISTRICT AND TO THE DEPART-
2 MENT OF TAXATION AND FINANCE.

3 S 1215. REPORTING AND RECORDKEEPING. 1. REPORTING. (A) EDUCATIONAL
4 SCHOLARSHIP ORGANIZATIONS, SCHOOL IMPROVEMENT ORGANIZATIONS, LOCAL
5 EDUCATION FUNDS, PUBLIC SCHOOLS AND PUBLIC SCHOOL DISTRICTS.

6 (I) AN EDUCATIONAL SCHOLARSHIP ORGANIZATION THAT RECEIVES QUALIFIED
7 CONTRIBUTIONS SHALL REPORT TO THE DEPARTMENT OR THE BOARD OF REGENTS, ON
8 A FORM PRESCRIBED BY THE COMMISSIONER BY JANUARY THIRTY-FIRST OF EACH
9 CALENDAR YEAR. SUCH REPORT SHALL INCLUDE: (A) THE NAME AND ADDRESS OF
10 THE MEMBERS AND THE CHAIRPERSON OF THE GOVERNING BOARD OF THE ORGANIZA-
11 TION, (B) THE TOTAL NUMBER OF CERTIFICATES OF RECEIPT ISSUED DURING THE
12 IMMEDIATELY PRECEDING CALENDAR YEAR, (C) THE TOTAL DOLLAR AMOUNT OF
13 QUALIFIED CONTRIBUTIONS RECEIVED, AS SET FORTH IN CERTIFICATES OF
14 RECEIPT ISSUED DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR, (D) THE
15 TOTAL NUMBER OF ELIGIBLE PUPILS UTILIZING SCHOLARSHIPS FOR THE IMME-
16 DIATELY PRECEDING CALENDAR YEAR AND THE SCHOOL YEAR IN PROGRESS AND THE
17 TOTAL DOLLAR VALUE OF THE SCHOLARSHIPS, (E) THE NAME AND ADDRESS OF EACH
18 QUALIFIED SCHOOL AT WHICH SCHOLARSHIPS ARE CURRENTLY BEING UTILIZED,
19 DETAILING THE NUMBER OF ELIGIBLE PUPILS AND THE TOTAL DOLLAR VALUE OF
20 SCHOLARSHIPS BEING UTILIZED AT EACH QUALIFIED SCHOOL, AND (F) ANY ADDI-
21 TIONAL RELATED INFORMATION REQUESTED BY THE COMMISSIONER.

22 (II) A SCHOOL IMPROVEMENT ORGANIZATION THAT RECEIVES QUALIFIED
23 CONTRIBUTIONS SHALL REPORT TO THE DEPARTMENT OR BOARD OF REGENTS, ON A
24 FORM PRESCRIBED BY THE COMMISSIONER BY JANUARY THIRTY-FIRST OF EACH
25 CALENDAR YEAR. SUCH REPORT SHALL INCLUDE: (A) THE NAME AND ADDRESS OF
26 THE MEMBERS AND THE CHAIRPERSON OF THE GOVERNING BOARD OF THE ORGANIZA-
27 TION, (B) THE TOTAL NUMBER OF CERTIFICATES OF RECEIPT ISSUED DURING THE
28 IMMEDIATELY PRECEDING CALENDAR YEAR, (C) THE TOTAL DOLLAR AMOUNT OF
29 QUALIFIED CONTRIBUTIONS RECEIVED, AS SET FORTH IN THE CERTIFICATES OF
30 RECEIPT ISSUED DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR, (D) A
31 LIST OF THE EDUCATIONAL PROGRAMS THAT WERE PROVIDED TO PUBLIC SCHOOLS OR
32 PUBLIC SCHOOL DISTRICTS DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR
33 THROUGH QUALIFIED CONTRIBUTIONS, INCLUDING THE GEOGRAPHIC LOCATION OF
34 SUCH PROGRAMS BY COUNTY, AND (E) ANY ADDITIONAL RELATED INFORMATION
35 REQUESTED BY THE COMMISSIONER.

36 (III) A LOCAL EDUCATION FUND THAT RECEIVES QUALIFIED CONTRIBUTIONS
37 PURSUANT TO THIS ARTICLE SHALL REPORT TO THE DEPARTMENT OR THE BOARD OF
38 REGENTS, ON A FORM PRESCRIBED BY THE COMMISSIONER BY JANUARY
39 THIRTY-FIRST OF EACH CALENDAR YEAR. SUCH REPORT SHALL INCLUDE: (A) THE
40 NAME AND ADDRESS OF THE MEMBERS AND THE CHAIRPERSON OF THE GOVERNING
41 BOARD OF THE ORGANIZATION, (B) THE TOTAL NUMBER OF CERTIFICATES OF
42 RECEIPT ISSUED DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR, (C) THE
43 TOTAL DOLLAR AMOUNT OF QUALIFIED CONTRIBUTIONS RECEIVED AS SET FORTH IN
44 THE CERTIFICATES OF RECEIPT ISSUED DURING THE IMMEDIATELY PRECEDING
45 CALENDAR YEAR, (D) THE NAME AND ADDRESS OF THE PUBLIC SCHOOLS OR PUBLIC
46 SCHOOL DISTRICTS THAT THE LOCAL EDUCATION FUND SUPPORTED DURING THE
47 IMMEDIATELY PRECEDING CALENDAR YEAR, AND (E) ANY ADDITIONAL RELATED
48 INFORMATION REQUESTED BY THE COMMISSIONER.

49 (IV) A PUBLIC SCHOOL DISTRICT OR PUBLIC SCHOOL THAT RECEIVES QUALIFIED
50 CONTRIBUTIONS SHALL REPORT TO THE COMMISSIONER OR BOARD OF REGENTS, ON A
51 FORM PRESCRIBED BY THE COMMISSIONER BY JANUARY THIRTY-FIRST OF EACH
52 CALENDAR YEAR. SUCH REPORT SHALL INCLUDE: (A) THE TOTAL NUMBER OF
53 CERTIFICATES OF RECEIPT ISSUED DURING THE IMMEDIATELY PRECEDING CALENDAR
54 YEAR, (B) THE TOTAL DOLLAR AMOUNT OF QUALIFIED CONTRIBUTIONS RECEIVED AS
55 SET FORTH IN THE CERTIFICATES OF RECEIPT ISSUED DURING THE PREVIOUS

1 CALENDAR YEAR, AND (C) ANY ADDITIONAL RELATED INFORMATION REQUESTED BY
2 THE COMMISSIONER.

3 (B) SUCH REPORT REQUIRED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION
4 FOR A SCHOOL IMPROVEMENT ORGANIZATION, EDUCATIONAL SCHOLARSHIP FUND, OR
5 LOCAL EDUCATION FUND ALSO SHALL INCLUDE: (I) CERTIFICATION FROM THE
6 DIRECTOR OR CHIEF EXECUTIVE OFFICER OF THE ORGANIZATION OR ENTITY THAT
7 SUCH ORGANIZATION OR ENTITY HAS COMPLIED WITH THE APPLICABLE REPORTING
8 REQUIREMENTS OF SUBDIVISION (M) OF SECTION FORTY-ONE OF THE TAX LAW,
9 (II) A COPY OF THE ORGANIZATION OR FUND'S FEDERAL FORM 990 OR OTHER
10 FEDERAL FORM INDICATING TAX STATUS OF THE ORGANIZATION OR FUND FOR
11 FEDERAL TAX PURPOSES, (III) CERTIFICATION THAT SUCH ORGANIZATION OR FUND
12 USED, OR IN THE CASE OF EDUCATIONAL SCHOLARSHIP ORGANIZATIONS, USED OR
13 DESIGNATED, AT LEAST NINETY PERCENT OF THE QUALIFIED CONTRIBUTIONS
14 RECEIVED DURING THE REPORTING YEAR AND ANY INCOME DERIVED FROM QUALIFIED
15 CONTRIBUTIONS DURING SUCH MONTHS TO, IN THE CASE OF A SCHOOL IMPROVEMENT
16 ORGANIZATION, ASSIST IN THE PROVISION OF EDUCATIONAL PROGRAMS IN AT
17 LEAST ONE PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT, OR IN THE CASE OF AN
18 EDUCATIONAL SCHOLARSHIP ORGANIZATION, PROVIDE SCHOLARSHIPS TO ELIGIBLE
19 STUDENTS, OR IN THE CASE OF A LOCAL EDUCATION FUND, SUPPORT AT LEAST ONE
20 PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT, (IV) CERTIFICATION THAT SUCH
21 ORGANIZATION OR FUND DEPOSITED AND HELD ALL QUALIFIED CONTRIBUTIONS AND
22 ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS ARE DEPOSITED AND HELD
23 IN AN ACCOUNT THAT IS SEPARATE FROM THE ORGANIZATION OR FUND'S OPERATING
24 OR OTHER FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS OR INCOME ARE WITH-
25 DRAWN FOR USE, AND (V) A COPY OF THE ORGANIZATION'S CURRENT FINANCIAL
26 STATEMENTS.

27 (C) SUCH REPORT REQUIRED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION
28 FOR A PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT ALSO SHALL INCLUDE (I)
29 CERTIFICATION THAT SUCH PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT HAS
30 COMPLIED WITH THE APPLICABLE REPORTING REQUIREMENTS OF SUBDIVISION (M)
31 OF SECTION FORTY-ONE OF THE TAX LAW, AND (II) CERTIFICATION THAT SUCH
32 PUBLIC SCHOOL OR PUBLIC SCHOOL DISTRICT DEPOSITS AND HOLDS QUALIFIED
33 CONTRIBUTIONS AND ANY INCOME DERIVED FROM QUALIFIED CONTRIBUTIONS IN AN
34 ACCOUNT THAT IS SEPARATE FROM THE PUBLIC SCHOOL OR PUBLIC SCHOOL
35 DISTRICT'S OPERATING OR OTHER FUNDS UNTIL SUCH QUALIFIED CONTRIBUTIONS
36 OR INCOME ARE WITHDRAWN FOR USE.

37 (D) JOINT ANNUAL REPORT. ON OR BEFORE THE LAST DAY OF MAY FOR EACH
38 CALENDAR YEAR, THE COMMISSIONER OF TAXATION AND FINANCE AND THE COMMIS-
39 SIONER, JOINTLY, SHALL SUBMIT A WRITTEN REPORT AS PROVIDED IN PARAGRAPH
40 TWO OF SUBDIVISION (M) OF SECTION FORTY-ONE OF THE TAX LAW.

41 2. RECORDKEEPING. EACH EDUCATIONAL SCHOLARSHIP ORGANIZATION, SCHOOL
42 IMPROVEMENT ORGANIZATION, LOCAL EDUCATION FUND, PUBLIC SCHOOL AND PUBLIC
43 SCHOOL DISTRICT THAT IS AUTHORIZED TO ISSUE CERTIFICATES OF RECEIPT
44 SHALL MAINTAIN FULL AND ADEQUATE RECORDS OF THE FOLLOWING INFORMATION:
45 (A) CREDIT AUTHORIZATION CERTIFICATES RECEIVED IN ACCORDANCE WITH
46 SECTION FORTY-ONE OF THE TAX LAW, (B) THE CERTIFICATES OF RECEIPT ISSUED
47 TO TAXPAYERS IN ACCORDANCE WITH SECTION FORTY-ONE OF THE TAX LAW, AND
48 (C) ANY INFORMATION AS THE COMMISSIONER OR THE BOARD OF REGENTS MAY
49 PRESCRIBE.

50 S 1216. COMMISSIONER; POWERS. THE COMMISSIONER SHALL PROMULGATE ON AN
51 EMERGENCY BASIS REGULATIONS NECESSARY FOR THE IMPLEMENTATION OF THIS
52 SECTION. SUCH REGULATIONS SHALL CONSTRUER THE PROVISIONS OF THIS SECTION
53 IN SUCH A MANNER AS TO ENCOURAGE QUALIFIED CONTRIBUTIONS; PROVIDED,
54 HOWEVER, THAT SUCH REGULATIONS SHALL NOT IMPOSE ANY NEW REQUIREMENT OR
55 BURDEN ON THE EDUCATIONAL PROGRAM, INSTRUCTION OR ACTIVITIES OF A PUBLIC
56 OR NON-PUBLIC SCHOOL; AND PROVIDED, FURTHER, THAT THE COMMISSIONER SHALL

1 MAKE ANY APPLICATION REQUIRED TO BE FILED PURSUANT TO THIS ARTICLE
2 AVAILABLE TO APPLICANTS WITHIN SIXTY DAYS OF THE EFFECTIVE DATE OF THIS
3 ARTICLE.

4 S 15. The education law is amended by adding a new section 1503-a to
5 read as follows:

6 S 1503-A. POWER TO ACCEPT AND SOLICIT GIFTS AND DONATIONS. 1. ALL
7 SCHOOL DISTRICTS ORGANIZED BY SPECIAL LAWS OR PURSUANT TO THE PROVISIONS
8 OF A GENERAL LAW ARE HEREBY AUTHORIZED AND EMPOWERED TO ACCEPT GIFTS,
9 DONATIONS, AND CONTRIBUTIONS TO THE DISTRICT AND TO SOLICIT THE SAME.

10 2. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER OR OF ANY OTHER
11 GENERAL OR SPECIAL LAW TO THE CONTRARY, THE RECEIPT OF SUCH GIFTS,
12 DONATIONS, CONTRIBUTIONS AND OTHER FUNDS, AND ANY INCOME DERIVED THERE-
13 FROM, SHALL BE DISREGARDED FOR THE PURPOSES OF ALL APPORTIONMENTS,
14 COMPUTATIONS, AND DETERMINATIONS OF STATE AID.

15 S 16. This act shall not be construed to authorize the commissioner of
16 education or the commissioner of taxation and finance to impose any
17 regulation or requirement on the educational program, instruction or
18 activities of a public education entity, school improvement organiza-
19 tion, local education fund or educational scholarship organization that
20 receives charitable contributions pursuant to this act, or a non-public
21 school with an eligible pupil who receives funding from an educational
22 scholarship organization pursuant to this act, unless specifically
23 authorized by this act.

24 S 17. Severability. If any provision of this section or the applica-
25 tion thereof to any person or circumstances is held invalid, such inva-
26 lidity shall not affect other provisions or applications of the section
27 which can be given effect without the invalid provision or application,
28 and to this end the provisions of this section are declared to be sever-
29 able.

30 S 18. This act shall take effect immediately and shall apply to taxa-
31 ble years beginning after December 31, 2014.