

5238

2013-2014 Regular Sessions

I N   S E N A T E

May 15, 2013

---

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to authorizing any city having a population of one million or more to provide an angel investor credit against the unincorporated business tax and personal income tax of such city for certain qualified emerging companies and medical technology companies

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

1     Section 1. Section 1201-a of the tax law is amended by adding a new  
2     subdivision (e) to read as follows:  
3     (E) ANGEL INVESTOR CREDIT. 1. ANY CITY IN THIS STATE HAVING A POPU-  
4     LATION OF ONE MILLION OR MORE, ACTING THROUGH ITS LOCAL LEGISLATIVE  
5     BODY, IS HEREBY AUTHORIZED TO ADOPT AND AMEND LOCAL LAWS TO ALLOW AN  
6     ANGEL INVESTOR CREDIT AGAINST THE UNINCORPORATED BUSINESS TAX IMPOSED  
7     PURSUANT TO THE AUTHORITY OF CHAPTER SEVEN HUNDRED SEVENTY-TWO OF THE  
8     LAWS OF NINETEEN HUNDRED SIXTY-SIX TO AN ELIGIBLE TAXPAYER THAT: (A) IS  
9     AN ACCREDITED INVESTOR AS DEFINED IN RULE 501 OF REGULATION D OF THE  
10    SECURITIES AND EXCHANGE COMMISSION OF THE UNITED STATES PURSUANT TO THE  
11    SECURITIES EXCHANGE ACT OF 1933, AS AMENDED; (B) MAKES A QUALIFIED  
12    INVESTMENT IN A QUALIFIED EMERGING TECHNOLOGY COMPANY, AS DEFINED IN  
13    PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION THIRTY-ONE HUNDRED TWO-E OF  
14    THE PUBLIC AUTHORITIES LAW, EXCEPT THAT SUCH COMPANY SHALL MEAN A COMPA-  
15    NY LOCATED IN SUCH CITY, THAT ENGAGES IN THE ACTIVITIES REFERENCED IN  
16    SUBPARAGRAPH FIVE OF PARAGRAPH B OF SUBDIVISION ONE OF SECTION  
17    THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW, OR MAKES A QUAL-  
18    IFIED INVESTMENT IN A COMPANY THAT ENGAGES IN MEDICAL TECHNOLOGY, AS  
19    DEFINED IN PARTS 3345 AND 3394 OF THE NORTH AMERICAN INDUSTRY CLASSI-  
20    FICATION SYSTEM; (C) HAS NO MORE THAN ONE HUNDRED FULL-TIME EMPLOYEES,  
21    OF WHICH AT LEAST SEVENTY-FIVE PERCENT ARE EMPLOYED IN SUCH CITY, HAS A

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

LBD02754-01-3

1 RATIO OF RESEARCH AND DEVELOPMENT FUNDS TO NET SALES, AS REFERRED TO IN  
2 SECTION THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW, WHICH  
3 EQUALS OR EXCEEDS SIX PERCENT DURING ITS TAXABLE YEAR, AND HAS GROSS  
4 REVENUES, ALONG WITH THE GROSS REVENUES OF ITS AFFILIATES AND RELATED  
5 MEMBERS, NOT EXCEEDING TWENTY MILLION DOLLARS FOR THE TAXABLE YEAR IMME-  
6 DIATELY PRECEDING THE YEAR THE TAXPAYER IS ALLOWED A CREDIT UNDER THIS  
7 SUBDIVISION; AND (D) OWNS LESS THAN FIFTY PERCENT OF THE QUALIFIED  
8 EMERGING TECHNOLOGY COMPANY OR MEDICAL TECHNOLOGY COMPANY AFTER THE  
9 QUALIFIED INVESTMENT; PROVIDED, HOWEVER, NO CREDIT AUTHORIZED BY THIS  
10 SUBDIVISION FOR A QUALIFIED INVESTMENT SHALL BE GRANTED TO A TAXPAYER IF  
11 SUCH TAXPAYER IS GRANTED AN ANGEL INVESTOR CREDIT AGAINST THE TAXES  
12 IMPOSED PURSUANT TO ARTICLE THIRTY OF THIS CHAPTER FOR SUCH QUALIFIED  
13 INVESTMENT. THE AMOUNT OF THE CREDIT SHALL BE EQUAL TO THE SUM OF THE  
14 AMOUNTS SPECIFIED IN PARAGRAPH TWO OF THIS SUBDIVISION. FOR THE PURPOSES  
15 OF THIS SUBDIVISION, A "QUALIFIED INVESTMENT" SHALL MEAN THE CONTRIB-  
16 UTION OF PROPERTY TO A CORPORATION IN EXCHANGE FOR ORIGINAL ISSUE CAPI-  
17 TAL STOCK OR OTHER OWNERSHIP INTEREST, THE CONTRIBUTION OF PROPERTY TO A  
18 PARTNERSHIP IN EXCHANGE FOR AN INTEREST IN THE PARTNERSHIP, AND SIMILAR  
19 CONTRIBUTIONS IN THE CASE OF A BUSINESS ENTITY NOT IN CORPORATE OR PART-  
20 NERSHIP FORM IN EXCHANGE FOR AN OWNERSHIP INTEREST IN SUCH ENTITY;  
21 PROVIDED, HOWEVER, A QUALIFIED INVESTMENT SHALL NOT INCLUDE INVESTMENTS  
22 MADE BY OR ON BEHALF OF AN OWNER OF THE BUSINESS, INCLUDING, BUT NOT  
23 LIMITED TO, A STOCKHOLDER, PARTNER OR SOLE PROPRIETOR, OR ANY RELATED  
24 PERSON, AS DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH THREE OF SUBSECTION  
25 (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF THE INTERNAL REVENUE CODE. FOR  
26 PURPOSES OF THIS SUBDIVISION, THE TERM "RELATED MEMBER" SHALL MEAN A  
27 PERSON, CORPORATION, OR OTHER ENTITY, INCLUDING AN ENTITY THAT IS TREAT-  
28 ED AS A PARTNERSHIP OR OTHER PASS-THROUGH VEHICLE FOR PURPOSES OF FEDER-  
29 AL TAXATION, WHETHER SUCH PERSON, CORPORATION OR ENTITY IS A TAXPAYER OR  
30 NOT, WHERE ONE SUCH PERSON, CORPORATION, OR ENTITY, OR SET OF RELATED  
31 PERSONS, CORPORATIONS OR ENTITIES, DIRECTLY OR INDIRECTLY OWNS OR  
32 CONTROLS A CONTROLLING INTEREST IN ANOTHER ENTITY. SUCH ENTITY OR ENTI-  
33 TIES MAY INCLUDE ALL TAXPAYERS UNDER ARTICLES NINE, NINE-A, THIRTEEN,  
34 TWENTY-TWO, THIRTY-TWO, THIRTY-THREE OR THIRTY-THREE-A OF THIS CHAPTER.  
35 FOR PURPOSES OF THIS SUBDIVISION, THE TERM "AFFILIATES" SHALL MEAN THOSE  
36 CORPORATIONS THAT ARE MEMBERS OF THE SAME AFFILIATED GROUP, AS DEFINED  
37 IN SECTION FIFTEEN HUNDRED FOUR OF THE INTERNAL REVENUE CODE, AS THE  
38 TAXPAYER.

39 2. (A) THE PERCENTAGE OF THE CREDIT ALLOWED TO A TAXPAYER UNDER THIS  
40 SUBDIVISION SHALL BE TWO PERCENT PER EACH QUALIFIED INVESTMENT MADE  
41 DURING THE TAXABLE YEAR AND THE SUCCEEDING FOUR YEARS PROVIDED THE CRED-  
42 IT IS PROPERLY CLAIMED PURSUANT TO THE RULES ESTABLISHED BY THE NEW YORK  
43 CITY DEPARTMENT OF FINANCE, UP TO A MAXIMUM ALLOWED CREDIT OF TWENTY  
44 THOUSAND DOLLARS PER TAXABLE YEAR. THE TOTAL AMOUNT OF CREDIT ALLOWABLE  
45 TO A TAXPAYER UNDER THIS SUBDIVISION FOR ALL YEARS, TAKEN IN THE AGGRE-  
46 GATE, SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS. IF THE TAXPAYER IS  
47 A PARTNER IN A PARTNERSHIP OR MEMBER IN AN UNINCORPORATED BUSINESS, THEN  
48 THE LIMIT IMPOSED BY THE PRECEDING SENTENCE SHALL BE APPLIED AT THE  
49 ENTITY LEVEL, SO THAT THE AGGREGATE CREDIT ALLOWED TO ALL THE PARTNERS  
50 IN SUCH PARTNERSHIP OR MEMBERS IN SUCH UNINCORPORATED BUSINESS IN ANY  
51 TAXABLE YEAR DOES NOT EXCEED TWENTY THOUSAND DOLLARS, AND THE TOTAL  
52 AMOUNT OF CREDIT ALLOWABLE TO ALL THE PARTNERS IN SUCH PARTNERSHIP OR  
53 MEMBERS IN SUCH UNINCORPORATED BUSINESS FOR ALL YEARS, TAKEN IN THE  
54 AGGREGATE, SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS. THE CREDIT  
55 ALLOWED UNDER THIS SUBDIVISION SHALL NOT BE ALLOWED TO A TAXPAYER WITH  
56 RESPECT TO ANY UNINCORPORATED BUSINESS TAX PAID FOR ANY TAXABLE YEAR

BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND FOURTEEN. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL BE DEEMED TO BE AN OVERPAYMENT OF TAX BY THE TAXPAYER TO BE CREDITED OR REFUNDED, WITHOUT INTEREST, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 11-526 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK.

(B) IF, AT ANY TIME DURING THE FIVE YEAR PERIOD BEGINNING ON THE DATE THAT THE QUALIFIED INVESTMENT IS MADE BY THE TAXPAYER THERE IS A RECAPTURE EVENT WITH RESPECT TO SUCH INVESTMENT, THEN THE UNINCORPORATED TAX OWED BY SUCH TAXPAYER FOR THE TAXABLE YEAR IN WHICH SUCH EVENT OCCURS SHALL BE INCREASED BY THE CREDIT RECAPTURE AMOUNT.

(1) FOR PURPOSES OF THIS SUBPARAGRAPH, THE CREDIT RECAPTURE AMOUNT IS AN AMOUNT EQUAL TO THE SUM OF: (I) THE AGGREGATE DECREASE IN THE CREDITS ALLOWED TO THE TAXPAYER UNDER THIS SUBDIVISION FOR ALL PRIOR TAXABLE YEARS WHICH WOULD HAVE RESULTED IF NO CREDIT HAD BEEN DETERMINED UNDER THIS SUBDIVISION WITH RESPECT TO SUCH QUALIFIED INVESTMENT, PLUS (II) INTEREST AT THE UNDERPAYMENT RATE ESTABLISHED BY THE NEW YORK CITY DEPARTMENT OF FINANCE FOR EACH PRIOR TAXABLE YEAR FOR THE PERIOD BEGINNING ON THE DUE DATE FOR FILING THE RETURN FOR THE PRIOR TAXABLE YEAR INVOLVED.

(2) FOR PURPOSES OF THIS SUBPARAGRAPH, A RECAPTURE EVENT SHALL MEAN IF AT THE CLOSE OF ANY TAXABLE YEAR IN THE FIVE-YEAR PERIOD: (I) THE QUALIFIED EMERGING TECHNOLOGY COMPANY OR MEDICAL TECHNOLOGY COMPANY NO LONGER QUALIFIES AS A QUALIFIED EMERGING TECHNOLOGY COMPANY OR MEDICAL TECHNOLOGY COMPANY; (II) THE QUALIFIED EMERGING TECHNOLOGY COMPANY OR MEDICAL TECHNOLOGY COMPANY HAS BEEN SOLD BY THE TAXPAYER INVESTING IN SUCH COMPANY; OR (III) THE TAXPAYER HAS WITHDRAWN THE TAXPAYER'S INVESTMENT WHOLLY OR PARTIALLY FROM THE QUALIFIED EMERGING TECHNOLOGY COMPANY OR MEDICAL TECHNOLOGY COMPANY.

3. THE NEW YORK CITY DEPARTMENT OF FINANCE SHALL ESTABLISH BY RULE BY OCTOBER THIRTY-FIRST, TWO THOUSAND THIRTEEN PROCEDURES FOR THE ALLOCATION OF TAX CREDITS AS REQUIRED BY PARAGRAPH TWO OF THIS SUBDIVISION. SUCH RULES SHALL INCLUDE PROVISIONS DESCRIBING THE APPLICATION PROCESS, THE DUE DATES FOR SUCH APPLICATIONS, THE STANDARDS THAT SHALL BE USED TO EVALUATE THE APPLICATIONS, THE DOCUMENTATION THAT WILL BE PROVIDED TO TAXPAYERS TO SUBSTANTIATE THE AMOUNT OF TAX CREDITS ALLOCATED TO SUCH TAXPAYERS, AND SUCH OTHER PROVISIONS AS DEEMED NECESSARY AND APPROPRIATE.

4. ANY LOCAL LAW ADOPTED PURSUANT TO THIS SUBDIVISION MAY PROVIDE FOR A CREDIT AS AUTHORIZED BY THIS SUBDIVISION FOR A MAXIMUM OF THREE CONSECUTIVE CALENDAR YEARS, PROVIDED, HOWEVER, THAT ANY SUCH CREDIT MAY NOT APPLY TO TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND FOURTEEN OR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN.

S 2. Section 1310 of the tax law is amended by adding a new subsection (g) to read as follows:

(G) ANGEL INVESTOR CREDIT. (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED AND EMPOWERED TO ADOPT AND AMEND LOCAL LAWS GRANTING IN ANY SUCH CITY, AN ANGEL INVESTOR CREDIT AGAINST THE TAXES AUTHORIZED IN THIS ARTICLE TO AN ELIGIBLE TAXPAYER THAT: (A) IS AN ACCREDITED INVESTOR AS DEFINED IN RULE 501 OF REGULATION D OF THE SECURITIES AND EXCHANGE COMMISSION OF THE UNITED STATES PURSUANT TO THE SECURITIES EXCHANGE ACT OF 1933, AS AMENDED; (B) MAKES A QUALIFIED INVESTMENT IN A QUALIFIED EMERGING TECHNOLOGY COMPANY, AS DEFINED IN PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW, EXCEPT THAT SUCH COMPANY SHALL MEAN A COMPANY LOCATED IN SUCH CITY, THAT

1 ENGAGES IN THE ACTIVITIES REFERENCED IN SUBPARAGRAPH FIVE OF PARAGRAPH B  
2 OF SUBDIVISION ONE OF SECTION THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC  
3 AUTHORITIES LAW, OR MAKES A QUALIFIED INVESTMENT IN A COMPANY THAT  
4 ENGAGES IN MEDICAL TECHNOLOGY, AS DEFINED IN PARTS 3345 AND 3394 OF THE  
5 NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM; (C) HAS NO MORE THAN ONE  
6 HUNDRED FULL-TIME EMPLOYEES, OF WHICH AT LEAST SEVENTY-FIVE PERCENT ARE  
7 EMPLOYED IN SUCH CITY, HAS A RATIO OF RESEARCH AND DEVELOPMENT FUNDS TO  
8 NET SALES, AS REFERRED TO IN SECTION THIRTY-ONE HUNDRED TWO-E OF THE  
9 PUBLIC AUTHORITIES LAW, WHICH EQUALS OR EXCEEDS SIX PERCENT DURING ITS  
10 TAXABLE YEAR, AND HAS GROSS REVENUES, ALONG WITH THE GROSS REVENUES OF  
11 ITS AFFILIATES AND RELATED MEMBERS, NOT EXCEEDING TWENTY MILLION DOLLARS  
12 FOR THE TAXABLE YEAR IMMEDIATELY PRECEDING THE YEAR THE TAXPAYER IS  
13 ALLOWED A CREDIT UNDER THIS SUBSECTION; AND (D) OWNS LESS THAN FIFTY  
14 PERCENT OF THE QUALIFIED EMERGING TECHNOLOGY COMPANY OR MEDICAL TECHNOL-  
15 OGY COMPANY AFTER THEIR QUALIFIED INVESTMENT; PROVIDED, HOWEVER, NO  
16 CREDIT AUTHORIZED BY THIS SUBSECTION FOR A QUALIFIED INVESTMENT SHALL BE  
17 GRANTED TO A TAXPAYER IF SUCH TAXPAYER IS GRANTED AN ANGEL INVESTOR  
18 CREDIT AGAINST THE UNINCORPORATED BUSINESS TAX IMPOSED PURSUANT TO THE  
19 AUTHORITY OF CHAPTER SEVEN HUNDRED SEVENTY-TWO OF THE LAWS OF NINETEEN  
20 HUNDRED SIXTY-SIX FOR SUCH QUALIFIED INVESTMENT. THE AMOUNT OF THE CRED-  
21 IT SHALL BE EQUAL TO THE SUM OF THE AMOUNTS SPECIFIED IN PARAGRAPH TWO  
22 OF THIS SUBSECTION SUBJECT TO THE LIMITATIONS IN PARAGRAPHS THREE AND  
23 FOUR OF THIS SUBSECTION. FOR PURPOSES OF THIS SUBSECTION, A "QUALIFIED  
24 INVESTMENT" SHALL MEAN THE CONTRIBUTION OF PROPERTY TO A CORPORATION IN  
25 EXCHANGE FOR ORIGINAL ISSUE CAPITAL STOCK OR OTHER OWNERSHIP INTEREST,  
26 THE CONTRIBUTION OF PROPERTY TO A PARTNERSHIP IN EXCHANGE FOR AN INTER-  
27 EST IN THE PARTNERSHIP, AND SIMILAR CONTRIBUTIONS IN THE CASE OF A BUSI-  
28 NESS ENTITY NOT IN CORPORATE OR PARTNERSHIP FORM IN EXCHANGE FOR AN  
29 OWNERSHIP INTEREST IN SUCH ENTITY; PROVIDED, HOWEVER, A QUALIFIED  
30 INVESTMENT SHALL NOT INCLUDE INVESTMENTS MADE BY OR ON BEHALF OF AN  
31 OWNER OF THE BUSINESS, INCLUDING, BUT NOT LIMITED TO, A STOCKHOLDER,  
32 PARTNER OR SOLE PROPRIETOR, OR ANY RELATED PERSON, AS DEFINED IN SUBPAR-  
33 AGRAPH (C) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED  
34 SIXTY-FIVE OF THE INTERNAL REVENUE CODE. FOR PURPOSES OF THIS SUBSECTION  
35 A "RELATED MEMBER" SHALL MEAN A PERSON, CORPORATION, OR OTHER ENTITY,  
36 INCLUDING AN ENTITY THAT IS TREATED AS A PARTNERSHIP OR OTHER  
37 PASS-THROUGH VEHICLE FOR PURPOSES OF FEDERAL TAXATION, WHETHER SUCH  
38 PERSON, CORPORATION OR ENTITY IS A TAXPAYER OR NOT, WHERE ONE SUCH  
39 PERSON, CORPORATION, OR ENTITY, OR SET OF RELATED PERSONS, CORPORATIONS  
40 OR ENTITIES, DIRECTLY OR INDIRECTLY OWNS OR CONTROLS A CONTROLLING  
41 INTEREST IN ANOTHER ENTITY. SUCH ENTITY OR ENTITIES MAY INCLUDE ALL  
42 TAXPAYERS UNDER ARTICLES NINE, NINE-A, THIRTEEN, TWENTY-TWO, THIRTY-TWO,  
43 THIRTY-THREE OR THIRTY-THREE-A OF THIS CHAPTER. FOR PURPOSES OF THIS  
44 SUBSECTION, "AFFILIATES" SHALL MEAN THOSE CORPORATIONS THAT ARE MEMBERS  
45 OF THE SAME AFFILIATED GROUP, AS DEFINED IN SECTION FIFTEEN HUNDRED FOUR  
46 OF THE INTERNAL REVENUE CODE, AS THE TAXPAYER.

47 (2) (A) THE PERCENTAGE OF THE CREDIT ALLOWED TO A TAXPAYER UNDER THIS  
48 SUBSECTION SHALL BE TWO PERCENT PER EACH QUALIFIED INVESTMENT MADE  
49 DURING THE TAXABLE YEAR AND THE SUCCEEDING FOUR YEARS PROVIDED THE CRED-  
50 IT IS PROPERLY CLAIMED PURSUANT TO THE RULES ESTABLISHED BY THE NEW YORK  
51 CITY DEPARTMENT OF FINANCE, UP TO A MAXIMUM ALLOWED CREDIT OF TWENTY  
52 THOUSAND DOLLARS PER TAXABLE YEAR. THE TOTAL AMOUNT OF CREDIT ALLOWABLE  
53 TO A TAXPAYER UNDER THIS SUBSECTION FOR ALL YEARS, TAKEN IN THE AGGRE-  
54 GATE, SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS. IF THE TAXPAYER IS  
55 A PARTNER IN A PARTNERSHIP OR MEMBER IN AN UNINCORPORATED BUSINESS, THEN  
56 THE LIMIT IMPOSED BY THE PRECEDING SENTENCE SHALL BE APPLIED AT THE

1 ENTITY LEVEL, SO THAT THE AGGREGATE CREDIT ALLOWED TO ALL THE PARTNERS  
2 IN SUCH PARTNERSHIP OR MEMBERS IN SUCH UNINCORPORATED BUSINESS IN ANY  
3 TAXABLE YEAR DOES NOT EXCEED TWENTY THOUSAND DOLLARS, AND THE TOTAL  
4 AMOUNT OF CREDIT ALLOWABLE TO ALL THE PARTNERS IN SUCH PARTNERSHIP OR  
5 MEMBERS IN SUCH UNINCORPORATED BUSINESS FOR ALL YEARS, TAKEN IN THE  
6 AGGREGATE, SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS. THE CREDIT  
7 ALLOWED UNDER THIS SUBSECTION SHALL NOT BE ALLOWED TO A TAXPAYER WITH  
8 RESPECT TO ANY CITY PERSONAL INCOME TAX IMPOSED UNDER THIS ARTICLE PAID  
9 FOR ANY TAXABLE YEAR BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND FOUR-  
10 TEEN.

11 (B) IF, AT ANY TIME DURING THE FIVE YEAR PERIOD BEGINNING ON THE DATE  
12 THAT THE QUALIFIED INVESTMENT IS MADE BY THE TAXPAYER THERE IS A RECAP-  
13 TURE EVENT WITH RESPECT TO SUCH INVESTMENT, THEN THE CITY PERSONAL  
14 INCOME TAX OWED BY SUCH TAXPAYER FOR THE TAXABLE YEAR IN WHICH SUCH  
15 EVENT OCCURS SHALL BE INCREASED BY THE CREDIT RECAPTURE AMOUNT. FOR  
16 PURPOSES OF THIS SUBPARAGRAPH, THE CREDIT RECAPTURE AMOUNT IS AN AMOUNT  
17 EQUAL TO THE SUM OF: (I) THE AGGREGATE DECREASE IN THE CREDITS ALLOWED  
18 TO THE TAXPAYER UNDER THIS SUBSECTION FOR ALL PRIOR TAXABLE YEARS WHICH  
19 WOULD HAVE RESULTED IF NO CREDIT HAD BEEN DETERMINED UNDER THIS  
20 SUBSECTION WITH RESPECT TO SUCH QUALIFIED INVESTMENT, PLUS (II) INTEREST  
21 AT THE UNDERPAYMENT RATE ESTABLISHED BY THE NEW YORK CITY DEPARTMENT OF  
22 FINANCE FOR EACH PRIOR TAXABLE YEAR FOR THE PERIOD BEGINNING ON THE DUE  
23 DATE FOR FILING THE RETURN FOR THE PRIOR TAXABLE YEAR INVOLVED. FOR  
24 PURPOSES OF THIS SUBPARAGRAPH, A "RECAPTURE EVENT" SHALL MEAN IF AT THE  
25 CLOSE OF ANY TAXABLE YEAR IN THE FIVE-YEAR PERIOD: (I) THE QUALIFIED  
26 EMERGING TECHNOLOGY COMPANY OR MEDICAL TECHNOLOGY COMPANY NO LONGER  
27 QUALIFIES AS A QUALIFIED EMERGING TECHNOLOGY COMPANY OR A MEDICAL TECH-  
28 NOLOGY COMPANY; (II) THE QUALIFIED EMERGING TECHNOLOGY COMPANY OR THE  
29 MEDICAL TECHNOLOGY COMPANY HAS BEEN SOLD BY THE TAXPAYER INVESTING IN  
30 SUCH COMPANY; OR (III) THE TAXPAYER HAS WITHDRAWN THE TAXPAYER'S INVEST-  
31 MENT WHOLLY OR PARTIALLY FROM THE QUALIFIED EMERGING TECHNOLOGY COMPANY  
32 OR THE MEDICAL TECHNOLOGY COMPANY.

33 (3) IN THE CASE OF A RESIDENT TAXPAYER, THE CREDIT PROVIDED BY LOCAL  
34 LAW ADOPTED PURSUANT TO THIS SUBSECTION SHALL BE ALLOWED AGAINST THE  
35 TAXES AUTHORIZED BY THIS ARTICLE FOR THE TAXABLE YEAR REDUCED BY THE  
36 CREDITS PERMITTED BY THIS ARTICLE. IF THE CREDIT EXCEEDS THE TAX AS SO  
37 REDUCED, THE TAXPAYER MAY RECEIVE, AND THE COMPTROLLER, SUBJECT TO A  
38 CERTIFICATE OF THE COMMISSIONER OF THE NEW YORK CITY DEPARTMENT OF  
39 FINANCE, SHALL PAY AS AN OVERPAYMENT, WITHOUT INTEREST, THE AMOUNT OF  
40 SUCH EXCESS.

41 (4) IF A TAXPAYER CHANGES STATUS DURING THE TAXABLE YEAR FROM RESIDENT  
42 TO NONRESIDENT, OR FROM NONRESIDENT TO RESIDENT, THE CREDIT SHALL BE  
43 PRORATED ACCORDING TO THE NUMBER OF MONTHS IN THE PERIOD OF RESIDENCE.

44 (5) SUBJECT TO THE PROVISIONS OF PARAGRAPH THREE OF THIS SUBSECTION,  
45 IN THE CASE OF A HUSBAND AND WIFE WHO FILE A JOINT RETURN, BUT WHO ARE  
46 REQUIRED TO DETERMINE THEIR CITY PERSONAL INCOME TAXES SEPARATELY, THE  
47 CREDIT AUTHORIZED PURSUANT TO THIS SUBSECTION MAY BE APPLIED AGAINST THE  
48 TAX OF EITHER OR DIVIDED BETWEEN THEM AS THEY MAY ELECT. IN THE CASE OF  
49 A HUSBAND AND WIFE WHO ARE NOT REQUIRED TO FILE A FEDERAL RETURN, THE  
50 CREDIT UNDER THIS SUBSECTION SHALL BE ALLOWED ONLY IF SUCH TAXPAYERS  
51 FILE A JOINT CITY PERSONAL INCOME TAX RETURN.

52 (6) THE NEW YORK CITY DEPARTMENT OF FINANCE SHALL ESTABLISH BY RULE BY  
53 OCTOBER THIRTY-FIRST, TWO THOUSAND THIRTEEN PROCEDURES FOR THE ALLO-  
54 CATION OF TAX CREDITS AS REQUIRED BY PARAGRAPHS TWO AND THREE OF THIS  
55 SUBSECTION. SUCH RULES SHALL INCLUDE PROVISIONS DESCRIBING THE APPLICA-  
56 TION PROCESS, THE DUE DATES FOR SUCH APPLICATIONS, THE STANDARDS THAT

1 SHALL BE USED TO EVALUATE THE APPLICATIONS, THE DOCUMENTATION THAT WILL  
2 BE PROVIDED TO TAXPAYERS TO SUBSTANTIATE THE AMOUNT OF TAX CREDITS ALLO-  
3 CATED TO SUCH TAXPAYERS, AND SUCH OTHER PROVISIONS AS DEEMED NECESSARY  
4 AND APPROPRIATE.

5 (7) ANY LOCAL LAW ADOPTED PURSUANT TO THIS SUBSECTION MAY PROVIDE FOR  
6 A CREDIT AS AUTHORIZED BY THIS SUBSECTION FOR A MAXIMUM OF THREE CONSEC-  
7 UTIVE CALENDAR YEARS, PROVIDED, HOWEVER, THAT ANY SUCH CREDIT MAY NOT  
8 APPLY TO TAXABLE YEARS BEGINNING JANUARY FIRST, TWO THOUSAND FOURTEEN OR  
9 BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN.

10 S 3. The aggregate amount of tax credits allowed under this act in any  
11 calendar year shall be up to three million dollars. Such aggregate  
12 amount of credits shall be allocated by the New York city department of  
13 finance among taxpayers in order of priority based upon the date of  
14 filing an application for allocation of an angel investor credit with  
15 such department. If the total amount of allocated credits applied for in  
16 any particular year exceeds the aggregate amount of tax credits allowed  
17 for such year, such excess shall be treated as having been applied for  
18 on the first day of the subsequent year.

19 S 4. A certified copy of the local law enacted pursuant to this act  
20 shall be mailed by registered mail to the state department of taxation  
21 and finance at its office in Albany within fifteen days of its enact-  
22 ment. However, the state department of taxation and finance may allow  
23 additional time for such certified copy to be mailed if it deems such  
24 action to be consistent with its duties under this act.

25 S 5. This act shall take effect immediately.